



Public Participation in National Forest Management: The Sierra Nevada Framework for Conservation and Collaboration And the Quincy Library Group

Our challenge as resource professionals is to bring people together to define a shared vision for management of publicly owned resources.

– Michael Dombeck, Chief, U.S. Forest Service, January, 1997.

[One problem in public interaction with the Forest Service], as yet entirely unresolved, is the appropriate balance to strike in weighing local interests against the broader regional or national interests . . . This has been a continuing problem that may be incapable of general solutions.

– *National Forest Resource Management*, Stanford Environmental Law Society, September, 1978.

The peculiarities of the American political system, bolstered by the pragmatic approach to policy decisions, have introduced into resource programs and policies an almost pathological emphasis on local factors, local development, local benefits, at the expense of a larger national view of the public interest.

– Norman Wengert, in “Foresters’ Views of Interest Group Positions on Forest Policy,” *Journal of Forestry*, January, 1972.

Josh Eagle prepared this case study, under the editorial guidance of Professor Barton H. (“Buzz”) Thompson, Jr., Robert E. Paradise Professor of Natural Resources Law, Stanford Law School, solely for educational purposes rather than to illustrate either effective or ineffective handling of an environmental matter. Some or all of the characters or events may have been fictionalized for pedagogical purposes. Copyright © 1998 by the Board of Trustees of the Leland Stanford Junior University. To request permission to use or reproduce case materials, write to Environmental and Natural Resources Law and Policy Program, Stanford Law School, 559 Nathan Abbott Way, Stanford, CA 94305 or visit www.stanford.edu/group/law/library/casestudies/lawschool.shtml

Introduction

As the Regional Forester for the Pacific Southwest Region (Region Five) of the United States Forest Service (“Service”), you are responsible for overseeing the management of 20 million acres of land in California. These 18 National Forests represent an enormous area, about one-fifth of the total land in California, and larger than 11 states. Management of this land has economic, cultural and ecological implications on scales ranging from the local community to the entire continent.

The National Forest Management Act (“NFMA”), passed in 1976, required that the Service develop broad Land and Resource Management Plans (“forest plans”) for each National Forest (“forest”) by the end of 1985. See 16 U.S.C. §§1600 et seq. These forest plans were to remain in effect for ten to fifteen years before renewal, but could be revised or amended “whenever conditions or demands in the area covered by the plan have changed significantly.” 36 C.F.R. §219.10.

Conditions and demands in the 11 forests of the Sierra region began to change significantly just a short time after the initial forest plans had been adopted in the mid- to late 1980's. There were ecological changes: scientific studies of certain species – forest carnivores, the California spotted owl, anadromous fish, and amphibians – showed dramatically declining trends in population. There were also cultural, demographic and socioeconomic changes taking place. Human population density was rapidly increasing in towns near the forests. More important, the public was in the process of reordering the relative values that it assigned to the wide range of forest products and services, including recreation, wildlife, biological diversity, timber, and water.

As the Service became aware of these changes, through research, public input, political pressure and litigation, it made attempts to adjust its policies and actions accordingly. After a lengthy and convoluted process, these attempts evolved by spring of 1998 into something called the Sierra Nevada Framework for Conservation and Collaboration (“the Framework”). Your office has divided the Framework into four “tasks”:

- Task One: Analyze current forest plans and Forest Service land management strategy;
- Task Two: Review and synthesize newly available scientific information concerning Sierra wildlife, land, and water;
- Task Three: Develop and adopt forest plan amendments incorporating this information; and,
- Task Four: Improve collaboration “between all responsible government agencies and affected publics in the Sierra to achieve conservation goals in the Sierra Nevada.”

Tasks One and Two were completed this past summer. See Exhibits A and B;

<http://www.r5.fs.fed.us/sncf/index.html>; <http://www.psw.fs.fed.us/sierra/task2.html>. In August, your office began to work on Task Three. On August 10, the Service opened a dialogue with the public, asking for suggestions on how to rewrite 11 Sierra Nevada forest plans using the newly obtained scientific and socioeconomic information. As part of this process, members of your staff conducted more than 35 public workshops throughout California and constructed a “virtual workshop” website on the Internet through which the public could comment. See <http://www.fs.fed.us/forums/eco/get/sncf.html>.

In early October, your staff began drafting a “notice of intent” to prepare an environmental impact statement (“EIS”) under the National Environmental Policy Act (“NEPA”). NEPA requires that an EIS be prepared by any federal agency proposing a major action significantly affecting the environment. The notice would give the public the chance to help shape the EIS process: What possible environmental impacts should be evaluated? What alternatives should be considered for the future management of the Sierra forests? The hope was to begin drafting the EIS in January of 1999 and to have the EIS process completed by July of 1999.

On October 21, 1998, a new twist was added to the Framework EIS process: the Herger-Feinstein Quincy Library Group Forest Recovery Act (“the Quincy bill”). See Exhibit C. Passed as an amendment to the 1999 Department of the Interior appropriations bill, the Quincy bill required the Service to apply a specific management strategy to a significant part of the Framework forests – 2.5 million acres in the Plumas, Lassen and Tahoe National Forests. Congress has mandated that the Service prepare an EIS on the Quincy bill by June of 1999.

Thus, you and your staff are obligated to finalize not one, but two EIS’s by next summer. Together with your staff, you pondered how the Framework EIS process and the Quincy bill EIS process should proceed simultaneously: Should they be entirely separate, linked, or tiered? On November 16, 1998, your office published its NEPA notice of intent. See Exhibit D. It contained the following request:

We would like comments from the public and interested groups concerning the relationship between the two environmental impact statements.

In the mean time, you and your staff must begin to resolve this issue. It would be a difficult chore even if there were only legal considerations. However, this is far more than a legal issue: in addressing it, you must take into account politics, ecology, budget limitations and public relations.

You must also consider the final results. What will you do if the two EIS processes reveal that the management strategy required by the Quincy bill is inconsistent with the best management strategy for the Framework forests as a whole? As regional forester, the EIS’s will guide you, but ultimately you must select the best legal alternative for management of all of the forests in Region 5.

Sierra Nevada Resources

The Framework covers ten Sierra Nevada forests and one “management unit”: the Humboldt-Toiyabe, Modoc, Lassen, Plumas, Tahoe, Eldorado, Stanislaus, Sierra, Inyo and Sequoia National Forests and the Lake Tahoe Basin Management Unit. See Figure 1.

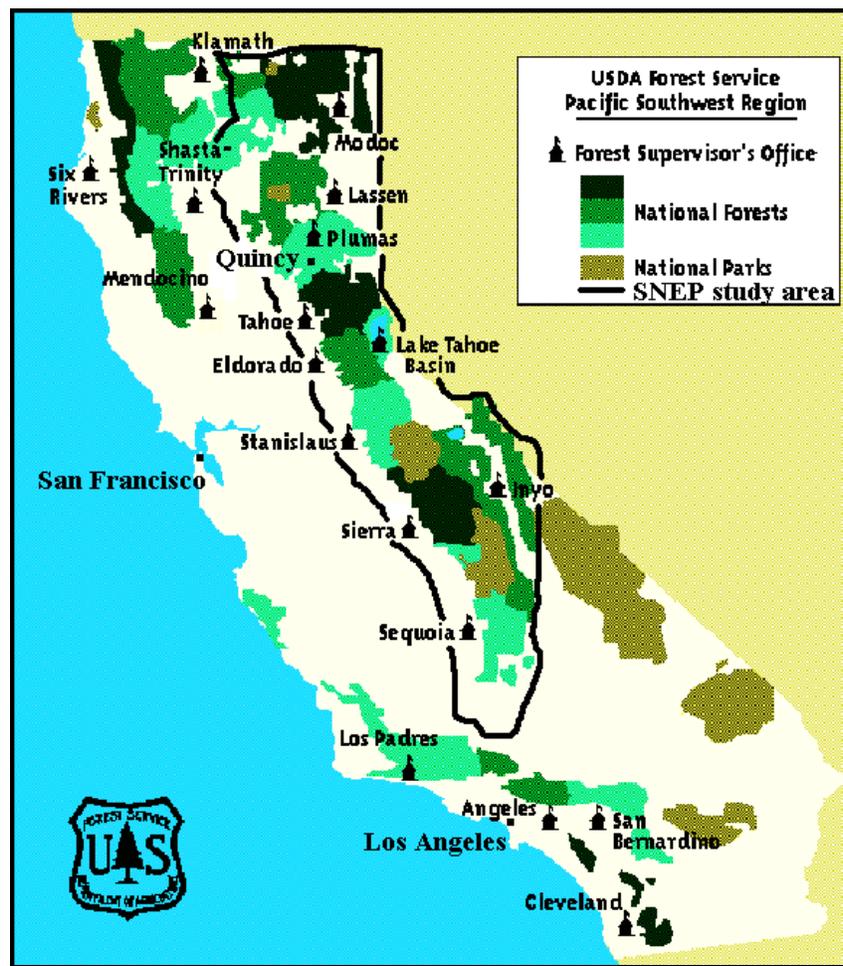


Figure 1. Forests of Nevada.

National the Sierra

Although considered to be within one Sierra “ecoregion,” these forests are characterized by wide variation in local conditions. Precipitation is as low as ten inches *per* year in some areas, and as high as 90 inches *per* year in other areas. Growing seasons range from 10 to 200 days. These variations occur not only as a function of latitude, but can occur within areas of similar latitude due to differences in elevation. Within the entire region,

elevation varies from 1,000 to almost 15,000 feet. (For a detailed description of the ecology of the region and the subregions, see <http://www.r5fs.fed.us/ecoregions>.)

These 11 forests generate a diversity of products and services, including recreation, biological diversity, timber, grazing, ecosystem services and water. The economic value of some of these products, *e.g.*, biological diversity or ecosystem services such as water purification or carbon sequestration, is not easily measured. The direct economic value of other products and services, such as water, timber and recreation, is quantifiable and has been estimated at more than \$1.7 billion annually. Although all of these resources have economic value, only some of them generate cash flow. Timber and recreation generate revenue for the United States. Water generally does not. Some forest products generate negative cash flow. For example, 600,000 animal unit months are produced by the forests for cattle grazing each year, resulting in a net loss of approximately seven million dollars.

Recreation

California's National Forests provide approximately 80 million user-days of recreation annually to Californians, other Americans, and international visitors. Recreational activities range from primitive to commercial, and include hiking, camping, skiing, fishing, hunting, wildlife viewing, and boating. The economic benefits of forest recreation accrue to participants, nearby communities, manufacturers of outdoor equipment and others, and represent about 10 percent of the total annual value of Sierra products and services.

Timber

Timber accounts for about seven percent of Sierra forest resource value, producing over \$120 million annually. The amount of timber harvested in the Sierra forests has declined dramatically over recent years, for various reasons that are discussed below. The economic benefits of timber harvest go to timber companies, employees of those companies, and end users of wood products. In addition, by federal law, 25 percent of the revenue collected by the Service from timber sales is returned to the county where the forest is located. This money must be spent by the county on schools or roads.

Water

In terms of economic value, water is probably the most important commodity produced by Sierra Nevada ecosystems, representing about 61 percent of the annual total resource value. The 11 forests in the Framework yield approximately 13.5 million acre feet of water *per* year, representing more than a third of California's water use. Activities on the forests directly impact the quality and quantity of this water supply and the timing of runoff. For example, certain timber practices and road building activities can lead to high levels of erosion. This erosion causes sedimentation of streams, which can harm aquatic wildlife and negatively impact downstream water users. Fires, in particular the uncontrolled, high

temperature variety, can also lead to erosion and water pollution. Certain grazing practices destroy riparian vegetation, causing erosion and the loss of native plants and wildlife habitat. Finally, abandoned mines on the forests leach heavy metals such as copper, mercury, zinc and lead into the water supply. See <http://www.r5.fs.fed.us/waterresources/index.html>.

Wildlife and Biological Diversity

The Sierra forests are high in biological diversity. More than 600 of the 800 species of fish and wildlife in California live in these forests, making the Forest Service the single largest habitat manager in the state. In addition, national forests are home for nearly 4,000 of the 6,500 native plants in California. Recovery programs under the Endangered Species Act include protection of critical habitat for threatened and endangered species such as the California condor, the California bighorn sheep, and the northern spotted owl. Other species of concern include the California spotted owl, northern goshawk, and forest carnivores such as the fisher, marten, and wolverine.

A Brief, Recent History of National Forest Management in the Sierra Nevada

The first NFMA forest plans for the Framework forests were adopted in the mid- to late 1980's. Forest plans are generally broad plans for land management, leaving significant room for discretion at the ranger district level. For example, while a plan may establish a forest-wide goal of annual timber harvest, the locations and timing of actual timber sales are not set by the plan. Because of the broad language of a plan, it is difficult for groups opposed to its directives to challenge it within administrative procedures or in court.

However, once a plan has been adopted and the district ranger begins to make decisions about when and where to cut timber and build roads, there are significant opportunities for opposition to be voiced. Timber may be harvested from National Forest lands only if the sale would not violate NEPA, NFMA, or other applicable laws, such as the Endangered Species Act or the Clean Water Act.

In the late 1980's, large numbers of proposed timber sales in the Sierra forests were challenged by groups or individuals. The grounds for these contests varied, although it soon became clear that there were significant public concerns about the extent to which the Forest Service was abiding by NFMA, and in particular, whether the Service was complying with the law's requirement that forest management "provide for diversity of plant and animal communities." 16 U.S.C. §1604(g)(2)(B); see also 36 C.F.R. §219.19.

Box 1:
Organization of the Forest Service

There are four levels of national forest offices:

Ranger District: There are more than 600 ranger districts in the entire National Forest System. Each district has a staff of 10 to 100 people. The districts vary in size from 50,000 acres (20,000 hectares) to more than 1 million acres (400,000 hectares). Many on-the-ground activities occur on the ranger districts, including trail construction and maintenance, operation of campgrounds, and management of vegetation and wildlife habitat.

National Forest: There are 155 national forests and 20 grasslands. Each forest is composed of several ranger districts. The person in charge of a national forest is called the forest supervisor. The district rangers from the districts within a forest work for the forest supervisor. The headquarters of a national forest is called the supervisor's office. This level coordinates activities between districts, allocates the budget, and provides technical support to each district.

Region: There are 9 regions, numbered 1 through 10 (Region 7 was eliminated some years ago). The regions are broad geographic areas, usually including several States. The person in charge is called the regional forester. Forest supervisors of the national forests within a region report to the regional forester. The regional office staff coordinates activities between national forests, monitors activities on national forests to ensure quality operations, provides guidance for forest plans, and allocates budgets to the forests.

National Level: This is commonly called the Washington Office. The person who oversees the entire Forest Service is called the Chief. The Chief is a federal employee who reports to the Under Secretary for Natural Resources and Environment in the U.S. Department of Agriculture. The Chief's staff provides broad policy and direction for the agency, works with the President's Administration to develop a budget to submit to Congress, provides information to Congress on accomplishments, and monitors activities of the agency.

Source: U.S. Forest Service.

The numerous timber sale challenges gave rise to significant delays, often followed by cancellation or redesign of sales. These actions opened the door for legal action against the Service by affected timber companies. This pattern created tension within the Service and between the Service and its various constituencies, such as timber companies and environmental groups. There was also a great deal of antipathy generated between the constituent groups, as loggers blamed environmental groups for taking jobs away, and environmentalists accused the timber industry of blithely destroying complex and valuable

ecosystems. Both of these groups accused the Service of colluding with their opponents.

Making matters worse, these conflicts arose at a time when Congress was reducing the Service's annual budget. The impact of budget cuts was immediately felt at the forest and ranger levels. For example, the Plumas forest budget was cut by about 40% during this time, resulting in the loss of more than 200 full-time employees.

The budget cuts and the litigation led to a decline in the amount of timber coming off the forests. On the Lassen, for example, annual harvest fell from 200 million board feet in 1987 to 117 million in 1993. See Exhibit E.

The Service's response to the situation was to begin studying the various species and ecosystem issues in the Sierra forests, so that it could fulfill all of its obligations under the relevant laws.

Box 2:

**The Forest Service's View of the Changing Context
Of Forest Management**

The Forest Service cited the following reasons for beginning the reevaluation of Sierra forest plans in the 1990's:

*Demography and socioeconomics continue to evolve in the Sierra. In some regions, there is a shift away from strong dependency on raw material extraction towards a socioeconomy based on a mix of recreation, education, land development, retirement, and computer technology. In other regions, like the northern Sierra, there remains a primary dependency on raw material extraction.

* Population growth -- with associated shifts in ethnic and socioeconomic attributes -- occurring in the Central Valley and on the western and eastern borders of Sierran national forests are changing the form and intensity of use within the forests and the goods and services that can be generated from national forest ecosystems.

* The influence of the 35 Native American tribes in the Sierra is growing. Interaction between the tribes and county and state governments over land acquisition and use is often intense and fosters controversy. Federal land agencies are required to establish formal relations with tribal governments. The different mandates and authorities of federal, state, and tribal governments often overlap on the same piece of ground.

* Land managers are being asked to anticipate population, demographic, and socioeconomic changes in choosing management strategies, in setting priorities, and

in constructing collaborative arrangements. This requires planning across traditional jurisdictional boundaries, particularly when managing ecosystems.

* Public and agency demands for biophysical and socioeconomic information are increasing while assessments by science and policy-oriented metascience are clarifying the limits of knowledge and the complexities of ecosystems. These assessments, and the limits to knowledge, are forcing shifts in land management strategies and tactics, and are providing new educational opportunities for formal and informal learning organizations.

* New concepts and methods of ecosystem management, public and agency collaboration, science-management cooperation, environmental justice, and adaptive management are being developed and tested in the national forest system and in cooperating land-management agencies. These concepts require institutional investment and modification, and have implications for the well-being of Sierran communities and the dispersed and distant Sierran communities of interest.

* Recognition of the probabilities of extended Sierran drought combined with high rates of statewide population growth, pending dam relicensing, and considerations of water revenues for Sierran watershed reinvestment, all foster potential conflicts over the role of water storage in the Sierra, water pricing and allocation, institutional power and authority, and population growth management.

* Settlement patterns and shifts in socioeconomics are creating new regions within and near the Sierra that govern the flux of people, money, power, and knowledge. This regionalization produces a dynamic network that must be identified, understood, and considered in attempts to manage Sierran ecosystems.

Source: U.S. Forest Service

In 1991, an interagency technical team was formed to review the status, habitat requirements, and population trends of the California spotted owl in the forests later included in the Framework process. The team's findings are documented in what is known as the "CASPO [California spotted owl] Report," released in July of 1992. While not finding evidence to suggest that owl populations had declined locally or regionally in the Sierra Nevada, the team concluded that the owl's long-term survival was dependent upon the continued existence of a wide range of habitat types, most notably old-growth forests. The team's two greatest concerns were "the rapid disappearance of the large, old, and generally decadent trees that are the focus of nesting by spotted owls," and the increasing risk of severe, uncontrollable fires capable of destroying owl habitat.

The technical team recommended a series of short-term measures to maintain the population and distribution of spotted owls, including the preservation of large trees and snags in owl habitat and the thinning of certain forest areas to reduce the risk of severe fires.

(Snags are downed or partially downed dead trees.) These recommendations were adopted by the Service as “interim guidelines” and incorporated into the Sierra forest plans by amendment in January of 1993.

The “Owl EIS” Process

Shortly thereafter, in April of 1993, an “interdisciplinary planning team” was formed to develop the long-term strategy that would eventually replace the interim guidelines. The draft EIS prepared by the team analyzed a number of alternative strategies and was released for public comment in February of 1995.

The draft EIS analyzed a number of alternatives “ranging from a network of large reserves with virtually no logging to an active management proposal with extensive use of timber harvests and prescribed fire.” The preferred alternative differed from both existing forest plans and the CASPO interim guidelines. According to the Service, the preferred alternative

was intended to maintain and restore key ecosystem elements that would provide habitat to support viable populations of the owl and other species. It placed both commodity production, *e.g.*, timber and water, and spotted owl management in a broader Sierra Nevada ecosystem context and provided for fuels management to reduce the risk of high-severity fires.

The public review and comment period for the draft EIS closed July 10, 1995. The team made modifications to the EIS based on comments and, in August, 1996, prepared a revised draft EIS for management's review in anticipation of a public comment period and subsequent final EIS and Record of Decision.

The Sierra Nevada Ecosystem Project

The Sierra Nevada Ecosystem Project (“SNEP”) assessment was directed by Congress in the Conference Report of the Interior and Related Agencies Appropriations Act for Fiscal Year 1993. The law called for the “... scientific review of the remaining old-growth in the national forests of the Sierra Nevada in California, and for a study of the entire Sierra Nevada ecosystem by an independent panel of scientists, with expertise in diverse areas related to this issue.”

The SNEP assessment area encompassed 25.6 million acres, over twice the area that the Owl EIS and the Framework cover, and was carried out by a group of independent scientists. The goals for this study included

providing a social overview of the Sierra Nevada area; determining old

growth and late successional forest conditions including a special examination of Giant Sequoia groves; evaluating the health conditions and sustainability of the ecosystems within the Sierra Nevada; providing an evaluation of ecological processes; determining economic conditions of the current market and non-market economic indicators of historic, current and future management options for the area; and providing an assessment of the watersheds, including the condition of the aquatic ecosystems.

The SNEP assessment was delivered to Congress in June, 1996, and made public in July, 1996. For more information on SNEP and its findings, see <http://ceres.ca.gov/snep/>.

The Relationship Between the Owl EIS process and SNEP

The two planning documents, SNEP and the revised draft Owl EIS, were thus completed within a two month period. The SNEP findings were in some ways very similar to those in the revised draft Owl EIS. Both documents highlighted the need for reducing the risk of catastrophic fire (fuels reduction) and for increased protection and restoration of aquatic and riparian systems. Both documents noted the importance of managing for diverse wildlife habitats, including the old growth forests required by the owl.

However, as the two documents were being reviewed by the Service, it was determined that there were “possible inconsistencies” between them that could “affect the integrity” of the Owl EIS analysis.

The Framework process, Tasks One through Four, is the Service’s attempt to reconcile these inconsistencies and move forward toward a comprehensive plan for the Sierra Nevada ecoregion.

(For a time-line chronology of Sierra Nevada forest management, see <http://www.r5.fs.us/sncf/chronology.html>.)

The Quincy Library Group

While the Service was formulating potential forest plan changes through the Owl EIS and SNEP processes, a small group of people in the northern California town of Quincy was formulating its own plan for managing the three national forests that surround the town: the Plumas, Lassen, and the Tahoe.

The roots of the Quincy bill can be traced back to the early 1980's. At that time, a small group of local environmental activists came together to form Friends of the Plumas Wilderness (“FPW”). The group’s first project, undertaken during 1982 and 1983, was to lobby Congress for the designation of an area known as Buck’s Lake as a statutory

“wilderness area.”

In 1985, during the first round of NFMA planning for the Plumas National Forest, FPW decided that it should submit a “conservationist alternative” to the various forest plans being considered by the Plumas forest supervisor . A steering committee was appointed, and a plan was written that substituted group selection (small-scale, two- to three-acre clearcuts) for 40-acre clearcuts, protected certain roadless areas from timber harvest, and called for increased protection for riparian zones.

Although the conservationist alternative would have allowed almost as much timber harvest as the preferred alternative (241 million board feet *versus* 265 million board feet), and although it was deemed environmentally superior by the Service, the conservationist alternative was eventually rejected by the forest supervisor. The supervisor’s view was that group selection had not yet been proven as an effective technique for timber harvest. In 1988, the forest supervisor issued his Record of Decision for the EIS on the Plumas forest plan, and explained his selection of the preferred alternative.

FPW appealed the decision of the forest supervisor on the ground that he did not correctly evaluate the FPW alternative. The appeal went to the regional level where it was denied in 1989 by the regional forester. That decision was then appealed to the national level.

The appeal was still pending in July of 1992 when the CASPO technical report was issued. Around this same time, Bill Coates, the elected Plumas County Supervisor, called Michael Jackson, a Quincy attorney who had been filing the FPW timber sale appeals on the Plumas. Coates suggested to Jackson that they meet with Tom Nelson, the chief forester of Sierra Pacific Industries (“SPI”), the largest timber company in the Quincy region.

According to Jackson, Coates said: “Remember that old plan [the 1986 conservationist alternative]? Would you be willing to talk to Tom and me about that?”

Between the mid-1980's and the time of Coates’ call, the amount of timber coming off the three local forests had dropped significantly. After the release of the CASPO report, things looked even worse for the timber industry and the members of the local community who worked in the woods and in the mills. According to Jackson, these were the circumstances that brought the timber industry to the table.

The general tenor of the first meeting between the three men, according to Jackson, was that the 1986 conservationist alternative was a forest plan with which all sides could agree. The plan would have to be updated, taking into account new information about the land base. It would have to be widened in scope to include the Lassen and the Sierraville ranger district of the Tahoe. It would be limited to a five-year test period. All three men considered an expanded, updated conservationist alternative to be a workable compromise.

They felt that if they could convince the Forest Service to accept the plan, it would protect the forests while providing jobs for the local community and predictability for timber companies such as SPI.

At the end of this meeting, the three men agreed on the need to widen the discussion to include other members of the community. At the next meeting, held in the Plumas County Library (“the Quincy Library”), about 10 to 15 people showed up, including several members of FPW, two or three management-level employees of SPI, and a few loggers with their spouses.

The participants talked about the potential benefits of reviving the conservationist alternative. The plan was simple, according to Jackson. Certain land – sensitive areas, old-growth and riparian zones – would be “off-base,” that is, unavailable for timber harvest. Even without this land, there would be plenty of timber to take out of the forest. This timber would be removed in a way that would restore the forests to their pre-settlement conditions – open forest with not a lot of underbrush.

According to Jackson, ninety years of fire suppression and “high grading” (the targeted harvest of large trees) had changed the ecological profile of the forest. In 1906, the forests were 12 percent white fir and incense cedar; in 1990, these trees constituted 60 percent of the forest. Forestry practices used during these ninety years had also resulted in the dangerous and unhealthy build-up of fuels. The smaller trees that made up these fuels could be sold off the forests and processed into a variety of products. This timber supply meant jobs for the community.

The meetings became a regular event at the library, and the attendees became known as the Quincy Library Group (“Library group”). Because the group was meant to be the center of a consensus process, discussions were focused on identifying broad concepts that could be agreed upon by the previously antagonistic camps of “timber” and “environment”.

According to local environmentalist John Preschutti, an original FPW and Library group member who later withdrew from the process, “nobody talked about specifics because they knew they wouldn’t be able to agree on specifics.”

Notably absent from the Library group meetings were Forest Service employees. As the largest local employer, the Service had a high-profile presence in the Quincy area, and some Service employees did attend Library group meetings in a personal capacity. However, the Service did not officially participate in the process. According to Michael Jackson, the Service was purposefully excluded from the Library group “because Quincy was a sick town [owing to the timber/environment conflict], and we needed to heal this sickness before we brought the Forest Service in.” Another Library group member, Linda Blum, saw the Forest Service as part of the problem, not part of the solution. According to Blum, “Forest Service culture encouraged its employees to divide the public into multiple publics, playing each one off against the other and working the polarization to excuse bureaucratic behaviors.”

After about six months of Library group meetings, the group finalized a proposal based on the expanded, updated conservationist alternative. The group advertised that a large, public meeting would be held at the Quincy movie theater to vote on the proposal.

The June, 1993 movie theater meeting was attended by several hundred people. After presenting the agreement to the audience, Jackson, Coates and Nelson called for a vote by show of hands. According to Jackson, “almost everyone” voted “yes”; there were only a few “no” votes, which he characterized as “two on the far right and two on the far left.” Neil Dion, a local forest activist who opposed the Library group plan, recalled in a 1998 interview that “only three environmental types and no timber people” voted against the agreement. Dion said that he voted against it because he felt the proposals were too vague, and that the forests would be better off under the CASPO interim guidelines.

After the movie theater vote, the Library group published a document known as the Quincy Library Group Community Stability Proposal (“Proposal”). See Exhibit F. The Library group called the document “a proposed five year management plan for [] three affected national forests, Lassen, Plumas and Sierraville Ranger district of the Tahoe National Forest.” Most notably, the Proposal posited that timber harvest in the forests should be allowed by thinning and group selection only, and that certain riparian zones and roadless areas should be off-limits to such timber harvest. Also on the list of suggestions was the establishment of a “working circle,” whereby companies that cut timber from the three National Forests would be required to process the wood at local mills.

The Proposal closed with the following paragraph:

We realize that our opinion is simply an educated opinion and may not be appropriate in the eyes of others. All other opinions have a reasonable possibility of being right. We also believe that we represent a very diverse group of local interests, each with a shared stake in the outcome of these actions. We recommend this method of management for these forests be implemented for five years while the Regional EIS for CASPO is being prepared, decided, appealed, and litigated. We would further propose that any working circle established as a result of our plan sunset five years after installation of that plan.

In the fall of 1993, the Library group submitted the Proposal to the Forest Service, and requested that the Service begin the process of amending the three forest plans. The Library group tried to convince the Service that changed circumstances, budget reductions, and significant new information (the triggers in the NFMA regulations) all mandated that the forest plans be amended. The Library group wanted its Proposal to be considered as an alternative during the amendment process.

The Service, however, declined to commence that process. According to Linda Blum, the Service offered a number of reasons for its reluctance, namely lack of money and staff, and the need for prior national level approval. According to Blum, the Service told the Library group that “if you go to Washington and get the money, we’ll do it.”

In February of 1994, 43 Library group members went to Washington to meet with members of Congress, Forest Service Chief Jack Ward Thomas and Assistant Secretary of Agriculture Jim Lyons.

As a result of the lobbying effort, Congress eventually appropriated funds to implement the Proposal on a small scale. The Service used the extra appropriations – between one and five million dollars a year from 1995 through 1997 – for testing the forestry techniques included in the Proposal on limited areas within the forests.

The Library group wanted more. Thus, in 1996 it began an effort to have the Proposal, minus the “working circle” concept, enacted into law. H.R. 858, a bill incorporating the provisions of the Proposal, albeit in slightly modified form, was introduced in the U.S. House of Representatives by Congressman Wally Herger on February 27, 1997. (To view the full text of this bill, go to <http://thomas.loc.gov/home/thomas2.html> and enter “H.R. 858”.) After debate, the bill passed the House on July 15, 1997 by a vote of 429 to 1.

Another version of the bill, S. 1028, was introduced in the U.S. Senate by California Senators Boxer and Feinstein on July 17, 1997. (To view the full text of this bill, go to <http://thomas.loc.gov/home/thomas2.html> and enter “S. 1028”.) On July 24, 1997, the Senate Subcommittee on Forests and Public Land Management held a hearing on the two bills. On October 22, 1997, the Senate Committee on Energy and Natural Resources recommended that the Senate pass the bill.

In December of 1997, Senator Boxer announced that she would no longer support the Quincy bill. In a December 3, 1997 letter to the *San Francisco Bay Guardian*, Boxer argued that the “the bill does not include specific language to protect the most sensitive old growth areas identified by the [SNEP] Report.” Boxer also cited concerns that the law would conflict with other environmental laws, particularly NEPA, and that it would increase the level of logging in the three forests.

Boxer’s letter echoed the concerns that had been previously voiced by members of the “environmental community.” National environmental groups, such as the Sierra Club, the Wilderness Society, and the National Audubon Society, as well as many smaller groups throughout California and the United States, opposed the Quincy bill. See Exhibit G. These groups objected to both the substance and the process of the Quincy bill. In September of 1997, Dan Beard, Vice President of National Audubon, summarized the concerns:

Opposition to the [the Quincy bill] can be broken into three categories. First, the bill[] minimize[s] important environmental laws and regulations and public participation opportunities. Second, [it sets] bad precedents for inconsistent and unreliable public participation in public resource management, and for legislating individual forest plans around the country. Finally, the logging aspects of the plan are untested and costly and will not likely reduce the chance of fire but will damage resources. [The Quincy bill] short circuit[s] environmental laws and public participation.

Comments will still be allowed on the [the Quincy bill's] forest management plan, but [the bill] undermine[s] the purpose of environmental law and public participation by pre-determining the NEPA process. [It tells] the Forest Service to go through the motions of public participation, but mandate[s] that the final result must be the [Library group's] plan. Alternative plans, the cornerstone of the NEPA's public involvement, are not allowed. Thus, opportunities for true public participation are eliminated.

Some environmentalists who lived near Quincy were also opposed to the Quincy bill. Neil Dion and John Preschutti, residents of nearby Blairsden, were unconvinced that the management prescriptions proposed in the law would be good for the forests. According to Dion, the thinning advocated by the Library group would “take one unnatural situation and turn it into another unnatural situation. It will end up looking like a tree plantation.” In a 1997 interview, Preschutti wondered about whether other forest plan alternatives would be evaluated fairly after the Quincy bill passed: “[T]he law will mandate the Quincy Library Group plan. So one group has been placed above another. We local people have been sidestepped.”

According to Michael Jackson, the national environmental groups were worried about losing their grip on power. “Their attitude is ‘we know best in Washington,’ and to me, that’s undemocratic,” Jackson said in 1998. In 1997, Linda Blum wrote:

We in QLG [the Library Group] consciously incorporated what we thought were the national environmental interests: preservation and protection of roadless areas and ancient forests; restoration and increased protection of aquatic ecosystems; use of credible science and accurate information; sustainable use of resources. I've been to a lot of ancient forest alliance meetings over the years; this has always been the wishlist . . . If you believe that nothing but QLG can be adopted if the bill passes, I would ask you to look closely and think deeply about the many details and alternative designs that this program could take, all within the general program designs specified by the QLG agreement.

The Quincy bill never came to the Senate floor as a stand-alone bill. It was added, in

its S. 1028 form, to the 1999 Department of the Interior appropriations bill as an amendment. That bill became law on October 21, 1998.

(For full documentation of the Library group proposal and its history, as well as information on opposing viewpoints, see <http://www.qlg.org>.)

The Regional Forester's Decision

As the regional forester, you must decide how to proceed from here. You must carefully weigh the language of the Quincy bill and the requirements of NEPA, further described in the Council of Environmental Quality's NEPA regulations, Forest Service regulations and the Forest Service Manual. See, e.g., Exhibit H. The House and Senate reports on the Quincy bill may also provide some valuable guidance. See Exhibit I.

Case Study Exhibits

- Exhibit A: May 1, 1998 letter from Regional Forester Lynn Sprague to Forest Supervisors in Region 5.
- Exhibit B: August 10, 1998 U.S. Forest Service press release regarding the Sierra Nevada Science Review.
- Exhibit C: The Herger-Feinstein Quincy Library Group Forest Recovery Act.
- Exhibit D: Notice of intent to prepare an environmental impact statement.
- Exhibit E: Overview of budgets, staff and outputs, Lassen, Plumas and Tahoe National Forests, 1987-1996.
- Exhibit F: Quincy Library Group Community Stability Proposal.
- Exhibit G: Position papers of environmental groups opposed to the Quincy Library Group bill.
- Exhibit H: Selected NEPA and Forest Service regulations and Forest Service Manual provisions.
- Exhibit I: House and Senate Committee Reports regarding Quincy Library Group legislation.