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**Testimony before the House Natural Resources Committee**  
**Subcommittee on National Parks, Forests and Public Lands**  
**Hearing on “Management by Exclusion: The Forest Service Use of Categorical**  
**Exclusion from NEPA”**  
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Mister Chairman and members of the subcommittee, I want to thank you for the opportunity to submit testimony for the record of this hearing. My name is Barry Noon—I am a professor in the Department of Fish, Wildlife and Conservation Biology at Colorado State University. I have worked on land management and wildlife conservation issues for the past 33 years, 15 of those years as federal research scientist. For 10 years, I directed a Forest Service Wildlife Research Program in the Pacific Northwest and in 1995, I served as Chief Scientist of the National Biological Service, Department of the Interior.

I am not an expert on the National Environmental Policy Act; however, I have contributed to the land management planning process under NEPA requirements on several occasions, including the Northwest Forest Plan, the Sierra Nevada Framework, and a Forest Service commissioned Committee of Scientists tasked with evaluating the National Forest Management Act (NFMA) regulations in 1997. My comments today reflect, in part, my experiences on the Committee of Scientists—but, I do not speak for the Committee—only for myself.

The purpose of my testimony is to comment on the importance of retaining a transparent, thorough, deliberate, and science-based process to evaluate the ecological impacts of land management activities on Forest Service lands. In addition to my relevant experience as a COS member, I will address 4 issues that arise naturally in the NEPA process and are crucial to transparent and science-based planning on the National Forests:

- (1) A consideration of management alternatives which brings into focus the unavoidable tradeoffs among competing objectives;
- (2) The cumulative effects of multiple land-use projects;
- (3) Accountability achieved by means of science-based ecological monitoring programs;
- (4) How the absence of the vertebrate species viability requirement from the current National Forest Management Act regulations increases the need to retain NEPA analyses.

**Committee of Scientists and Ecological Sustainability**

When Congress enacted the National Forest Management Act (NFMA) of 1976, it adopted a provision to create a Committee of Scientists to advise the Forest Service on

the drafting of regulations to implement the Act. The original Committee of Scientists, convened in 1979, had a significant impact on biodiversity conservation on Forest Service lands. Their recommendations, which eventually appeared in the 1982 regulations to implement the Act, included a commitment to the viability of all vertebrate species in accordance with the NFMA requirement to provide for a diversity of plant and animal communities.

The charge to the second Committee of Scientists was to develop management principles and guidelines for the sustainable use and conservation of Forest Service lands. The committee produced a report, delivered to the executive and Congressional branches of government, entitled “Sustaining the People’s Land: Recommendations for Stewardship of Our National Forest and Grasslands Into the Twenty-first Century.” Similar to the first COS report, the second report led to a new set of NFMA regulations, enacted in November 2000.

A defining characteristic of the second Committee of Scientists report was its assertion that the primary responsibility of Forest Service managers was to sustain the integrity of all ecological systems on Forest Service lands, and that ecological sustainability was an essential prerequisite to economic and social sustainability. As such, the report implicitly supported the continuation of rigorous environmental assessments, including NEPA. Continuing full NEPA disclosure is important for the following reasons.

### **1) Consideration of Land Management Alternatives in Forest Planning Decisions Is Important for Balancing Competing Demands on Natural Resources**

Projects such as timber harvest, installation of dams, exploitation of mineral deposits, and the construction of roads are proposed to achieve specific land management objectives. Because such activities always result in at least short-term environmental impacts, they are appropriately accompanied by environmental impact analyses. The NEPA process requires the Forest Service to propose and evaluate alternative ways of achieving these objectives to reduce or mitigate adverse consequences to the environment, including the alternative of no action. In my experience, this structured process makes explicit the inescapable tradeoffs between social, economic, and environmental objectives.

Constructing alternative scenarios requires planners to take a big picture perspective to land management. Alternatives are often portrayed as maps, which allow planners (and the public) to view fully the spatial location and extent of proposed actions. This process is particularly important because of the rapid land use change that is occurring on private lands adjacent to our national forests, which are often the last place to conserve natural resources at meaningful scales. To the extent that essential environmental goods and services are diminished on private lands, the need for public lands to compensate for those losses becomes more pronounced.

### **2) Assessing Cumulative Effects of Land-Use Practices Is Critical To Reducing Impacts to the Environment**

The impacts of land management activities accumulate across space and time, and, in terms of meaningful human time frames, may lead to irreversible changes. The reality is that it is impossible to evaluate the ultimate effect of any proposed project without also considering the synergistic effects of past management actions and other proposed changes in land use.

In 1978 the Council on Environmental Quality defined cumulative effects as

*the impact on the environment resulting from the incremental impact of the action when added to other past, present, and reasonably foreseeable actions regardless of what person or agency undertakes such actions*

This definition is useful, but no longer sufficient, to guide relevant cumulative effects analyses. The reason is that it assumes that effects are simply additive and it fails to acknowledge the interaction between natural disturbance processes and land management. Additivity is no longer tenable because we now know that stresses to ecological systems are often multiplicative leading to non-linear relationships and steep threshold responses

We now also recognize that natural disturbance events commonly interact with management to produce unexpected outcomes. Examples provided in the Committee of Scientists report include, the decision not to thin an overstocked forest that has high fuel loads may result in significant watershed effects if a wildfire occurs; a poorly designed road may not be a problem until after a large storm when numerous road-related landslides occur; and overgrazing in riparian areas may not result in loss of woody plants until after a drought has occurred.

These and other cumulative effects are often only considered and evaluated in process of land management planning (e.g., the forest plans) and are triggered by NEPA requirements. Individual project assessments often fail to address cumulative effects and are not a substitute for the comprehensive evaluations that characterize environmental impact assessments.

### **3) Accountability Through Ecological Monitoring Is Needed To Address Broad Changes To The Environment**

When NEPA was first enacted in 1970 it required each agency to “identify and develop methods and procedures ... which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations”. This purpose can be addressed in an environmental impact statement by identifying objective measurable criteria that can be used to judge the success of the forest plans in terms of environmental stewardship and other management objectives. In my experience, environmental impacts have been addressed in forest plans by the development of science-based monitoring programs to assess broad scale changes in environmental attributes (e.g., vegetation community types and their successional stages) and the direct monitoring of a small number of focal or

management indicator species. Current NFMA regulations do not require the direct monitoring of any plant or animal species and it may now be that the only time when wildlife and fish are directly assessed is during NEPA analyses of land management plans. Excluding forest management from NEPA would eliminate a key process that could prevent the listing of still more species as threatened or in danger of extinction.

#### **4) Loss of the Species Viability Requirement Compromises Environmental Stewardship**

Based on recommendations of the most recent Committee of Scientists report, the 2000 NFMA regulations proposed a focal species approach to biodiversity assessment as a sensible compromise to the requirement to assess the viability of all vertebrate species as required in the 1982 regulations. In total, the 2000 regulations increased the federal government's commitment to the protection of biodiversity on U.S. National Forest lands, specified specific criteria for assessment during the NEPA process, and gave the public a meaningful opportunity to offer comment and exert oversight on the implementations of the regulations.

The year 2000 regulations were short-lived. In January 2005, without convening a committee of scientists, the Forest Service issued a new set of regulations (70 Fed. Reg.1022 (January 5, 2005:1022-1061). The 2005 regulations eliminated as a goal the obligatory protection of biological diversity, the requirement to prepare environmental impact statements pursuant to the National Environmental Policy Act (NEPA), and reduced the role and influence of science in the development and implementation of forest plans.

The National Forest Management Act expressly requires that forest plans be developed in compliance with NEPA (16 USC 1604 (g) (1)). The new regulations, which "categorically exempt" future plan amendments and revisions from NEPA analysis, greatly increase the likelihood that significant, adverse environmental impacts will occur on Forest Service lands throughout the United States. As I noted previously, in the absence of NEPA requirements, there will be no mandatory consideration of cumulative impacts or alternative actions when plans are developed or revised. Furthermore, it is my understanding that the Forest Service has separately created a number of other "categorical exemptions" for individual actions, such as fuels reduction and disease control. The net result is that entire categories of actions will not undergo NEPA review, and thus could be implemented without due consideration of the best available science.

#### **Concluding Remarks**

The historic role of the Forest Service has been to sustain the health, diversity, and productivity of the nation's forest and grasslands in order to meet the needs of present and future generations. This mandate is especially relevant today. However, because of accelerating rates of land transformation on private lands??, the invasion of exotic species, the spread of plant and animal diseases, and climate change, for example, fulfilling this mandate is more difficult than ever before. What is needed now is not a

reduction in our government's commitment to environmental stewardship but rather a strengthening of our resolve to conserve species and ecosystems. This will require the use of the best available science and a full disclosure of the environmental tradeoffs that accompany multiple use and resource exploitation.

Unfortunately, in the last few years we have seen increasing priority given to activities that have a long history of compromising ecological sustainability on public lands. These include rollbacks to forest protections in the Northwest, lack of administrative support for the roadless rule, greatly increased levels of oil and gas development in ecologically sensitive areas, and increased access for motorized recreation in our few remaining back country areas. As a result, we have seen decreased consideration given to environmental protection on Forest Service lands at a time when the threats to species and ecosystems on these lands is at all time high. Exempting the forest planning process from the requirements of NEPA decreases the likelihood that environmental protection will be given the priority it deserves in the planning process.