

UNIVERSITY OF COLORADO SCHOOL OF LAW • NATURAL RESOURCES LAW CENTER

Innovations in Forestry: Funding Forest Plans

Introduction

The National Forests Management Act (NFMA) directs the Forest Service to manage the National Forest System lands according to forest plans prepared every 10-15 years. This planning process must, according to NFMA and the National Environmental Policy Act (NEPA), provide for public involvement. In this way environmental, economic, and other concerns of interested parties outside the agency can be incorporated into the plans. While the resulting forest plans are not without controversy, they represent the agency's best informed proposal for integrated resource management of the National Forests.

However, the annual appropriations and budgeting process ultimately controls forest plan implementation and proceeds on a path often unrelated to either the plans or the public concerns reflected in them. Congressional appropriations determine the amount of funding the agency will receive and, to a large extent, how the agency can spend those funds. The annual appropriations bill for the agency is the result of a complicated process involving various parts of the Executive branch, including the Office of the President, the Office of Management and Budget (OMB), the US Department of Agriculture (USDA), and the Forest Service, as well as both chambers of Congress. In determining budgets and funding levels, each of these entities focus on guidelines and priorities that reflect their own agenda and only

indirectly relate to the forest plans.

While appropriations are essential to the implementation of the Forest Service mission and individual forest plans, Congress as a whole does not focus much attention on the forest plans or on agency assessments of how much funding is needed. Often this results in instructions to the agency directing particular activities in specified areas—activities that may not even be discussed in the forest plans and are sometimes contradictory to those plans.

The final appropriations for the Forest Service for fiscal year 1999 were over \$2.6 billion:

- Less than 5% of the amount appropriated to USDA;
- About 0.15% of the annual federal budget of nearly \$1.8 trillion.

Throughout the funding process, the objectives of the Forest Service, the USDA, the OMB, and members of Congress often differ regarding the relative level of appropriations for commodity and non-commodity resource management. In recent years, timber and mineral allocations have been increased during the appropriations process and the allocations to other areas such as recreation and watershed protection, often those emphasized in the Forest Service requests, have been decreased relative to the agency requests.

This may be due to fiscal conservatism, pressure from industries that rely on extraction or harvesting of resources from National Forest lands, or concern for local economies (a concern that the vast majority of Congresspersons share when the National Forests in their districts are at issue).

The Budget Process

THE EXECUTIVE BRANCH

The appropriations and budgeting process begins within the Forest Service. First, the Washington Office provides at least one budget level to each region. Budget allocation criteria, also sent to the regions, are the result of the five year strategic plan developed under the Government Performance and Results Act (GPRA) and the agency's priorities for the fiscal year.

District Rangers and Forest Supervisors then send budget requests to their regional office. The level of involvement and order of participation of each office varies from region to region. The forests' budget requests reflect the agency's perception of what is required to implement the forest plans, the strategic plan, and agency priorities. Each region then develops a series of alternative budgets and goals. These alternatives are sent to the Washington Office which uses them to create multiple potential levels of funding, one of which is designated the "agency request."



Typically in early July, the Washington Office submits the proposed funding levels, including the agency request, to the Secretary of Agriculture where it is examined by the Under Secretary for Natural Resources and Environment. Around mid-September, the Secretary submits a modified budget proposal or "department allowance" to the OMB. The OMB makes additional adjustments to the request based on fiscal and political concerns. In November, the OMB's changes are sent back to the Secretary—an Under Secretary and an OMB Assistant Director then negotiate. Sometime in December, the OMB submits the resulting budget to the President. If approved, it becomes the "President's budget" which is released on the first Monday in February.

"It is the Forest Service's task to protect and manage the national forests; OMB seeks to maximize the efficiency of government spending within overall budget constraints; [and] the Secretary of Agriculture attempts to apply the general philosophies and policies articulated by the President to an array of agricultural programs, only one of which involves the national forests."

V. Alaric Sample in *The Impact of the Federal Budget Process on National Forest Planning*, 1990.

Even after the department allowance passes out of the USDA, the Forest Service is still able to advocate for a budget sufficient to implement its plans. The agency creates a "budget justification" to assist in communicating the President's budget to Congress. These notes accompany the request for funds through the appropriations process, describe the agency's high-priority programs, and can influence the amount of funding that it receives.

IN CONGRESS

The President's budget is passed on to Congress where it is analyzed and adjusted to fit Congressional concerns before the final appropriations bills reach

the floors of the House and the Senate. The appropriations process in Congress involves a number of powerful committees and subcommittees, the full House of Representatives and the Senate, as well as Congressional staff members. The House and Senate Committees on the Budget prescribe an overall spending cap for Congress. The Committees on Appropriations then determine how much each subcommittee is allowed to allocate to the agencies or departments that it oversees. The Subcommittees on Interior are responsible for appropriating funds to the Forest Service as well as the Department of the Interior.

After extensive work by committee staff, the chairs of the Subcommittees on Interior introduce draft appropriations bills in each chamber of Congress and hold hearings which allow for input from individuals, the agency, industry, and other special interest groups. These hearings allow only a short time for each testimony, but they do provide a forum for interested parties to attempt to influence the subcommittee and to become part of the official record.

After the hearings, many important appropriations decisions are made in small private meetings; usually these meetings include the subcommittee chairperson, the ranking minority leader, and their staffs. Only matters they cannot agree on go to the full subcommittee for detailed analysis. Furthermore, they use this draft of the bill as an opportunity to strategize; both leaving in and leaving out items that are intended for future use as bargaining chips in later stages of the appropriations process. This small group's consensus is subject to revision as the bill proceeds through the subcommittee, committee, and the Chamber as a whole. However, in practice, it becomes increasingly unlikely that the subcommittee chairperson's tentative appropriations will be significantly changed as the bill progresses—unless it includes an issue of concern to a large or vocal segment of the voting public.

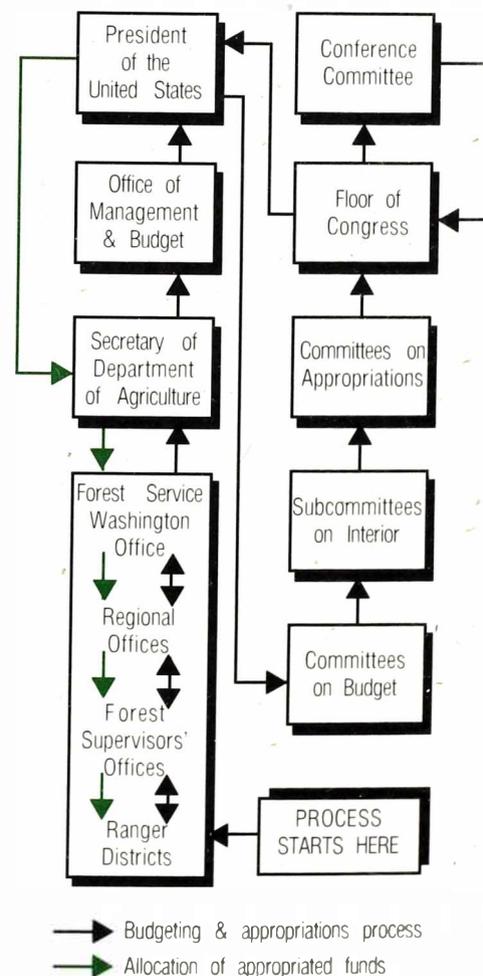
When the House and Senate subcommittees and committees have reached

tentative agreement (around the end of June or beginning of July), the bills are sent to the floors of each chamber for amendments and a vote. Following passage in each chamber, the House and Senate Committees on Appropriations hold a conference committee meeting to reconcile discrepancies between the two bills. Once the differences have been resolved, the compromise appropriations bill is subject to a final vote of Congress.

Once approved, the bill is sent to the President to be signed into law. If the President vetoes the bill, it must be changed to address the areas of concern or re-approved by a two-thirds vote of Congress.



Funding the Forest Plans



Spending the Money

INITIAL ALLOCATIONS

The Forest Service begins an internal allocation process soon after the release of the President's budget. This "initial allocation" to the regions is based on the President's budget. However, the regions must also take into account historical patterns of funding and the voting patterns of current members of Congress (the members of the Subcommittees on Interior and the Committees on Appropriations in particular). With these adjustments in the calculation, the agency then uses its request as a guide for apportioning the anticipated funds and beginning its financial planning process.

Accompanying the initial allocation are tentative goals for resource outputs—for example, construction of new trails, timber cuts, or stream rehabilitation.

At this point, the Regional Foresters have an opportunity to request changes to the initial allocation—these requests are sent to the Chief's Program Development and Budget staff. The Chief generally gives one of four responses to their requests: approval, high priority if funds become available, low priority if funds become available, or disapproval. As of 1990, the majority of requests for changes were for decreases in timber funds and/or target outputs. Most other requests were for an increase in funds. During this time, the agency also takes into account potential appropriations language that will affect its activities for the year (or, in the case of some recent riders, indefinitely).

The process of allocation is repeated in each region as the Regional Forester decides how anticipated funding and targets should be apportioned among the forests in the region. The interaction between the Regional Forester and the Forest Supervisors regarding the initial allocations allow the Forest Supervisors to develop tentative plans for the year's budget.

THE FINAL APPROPRIATIONS

The final appropriations are sent down to the USDA and through the administrative levels of the Forest Service to finance activities designated in the forest plans, strategic plan, and agency priorities. At this time, the agency's initial allocation is adjusted to reflect the appropriations approved by Congress and the President as well as new situations in the field. The Regional Foresters are able to reallocate funds among the forests in their regions. In this process, the Regional Forester must exercise care to ensure that expenditures do not exceed the appropriations for a particular resource program and that the outputs of the National Forests in a region meet the region's target. This results in a year-long process of adjustments between the forests and the regional office.

If the Forest Service is dissatisfied with its appropriation, it has some flexibility. It may reallocate funds from one program (or "budget line") to another (for example: from Rangeland Management to Ecosystem Planning, Inventory, and Monitoring). The amount that the Chief is able to transfer was traditionally only \$250,000 or 10 percent per program area, whichever is less on an annual basis. Since 1995 this amount has been much higher, varying from up to \$3 million or 10 percent whichever is less, back down to \$500,000 or 10 percent of the funds for fiscal year 1998. Most of the budget lines are greater than \$5 million; thus, in most cases the Chief can transfer \$500,000 in each category.

In order to reallocate funds above this transfer limit, the Secretary and the OMB must submit a reallocation request to the House and Senate Committees on Appropriations. Requests for supplemental appropriations, as opposed to a request to transfer already appropriated funds, may be submitted to the Committees on Appropriations as well. Unfortunately, the agency often does not recognize the need for these changes in time for the request to make it through the lengthy process. Hence, agency managers may need to reallocate

funds before Congressional approval is completed. If the changes are not eventually approved, individual employees can face sanctions from within and possibly from outside the agency. Consequently, the agency does not often use this process.

Implementation Problems

Even with appropriations of more than \$2.6 billion, the Forest Service may not have the resources or flexibility to fully implement its forest plans.

APPROPRIATIONS LANGUAGE

Appropriations bills and accompanying reports contain specific instructions on how the agency's budget is to be spent. Planned projects may be left unfunded and unplanned projects mandated. Some of these projects are consistent with the forest plans; others may directly conflict with the plans.

For example, Congress can create bill language, in committee or on the floor, to "earmark" funds for specific programs like the Four Corners Sustainable Forestry Initiative. Report language can also direct the agency's actions. When a Subcommittee on Interior develops an appropriations bill, it creates a report, the "mark-up," to accompany it to the floor. This report language is legally binding on the Forest Service and often gives the agency specific direction on its activities for the fiscal year. Furthermore, although rules in the House and Senate are in place to limit the impact of appropriations bills on policy issues, amendments to appropriations bills can and do work substantial changes on legislative authorities. In recent years, these amendments, sometimes called riders, have modified Forest Service policy on road decommissioning and set allowances for the logging of salvage timber.

BUDGET FRAGMENTATION

The forest plans are integrated comprehensive resource management plans, but the budgeting and appropriations





APPROPRIATIONS LANGUAGE

- ✓ Language can preclude the expenditure of funds on certain activities—for example, the Stewardship Incentives Program in the 1999 Appropriations Bill.
- ✓ Instructions inserted on behalf of Congressional constituents can direct funds to particular projects in specific national forests.
- ✓ Reports and riders can mandate activities without appropriating necessary funds.
- ✓ Language can set resource output goals, most often timber quotas, which reflect a Congressional focus on commodity resources which may not match the output goals of forest plans.

processes that fund them divide the agency activities into individual elements. Budget proposals and the appropriations bills utilize budget lines based on specific resources or programs rather than tracking the forest plans' more integrated approach. Furthermore, the resource output goals and budget criteria emphasized by the Washington Office do not translate directly to the forest plans. This is due to the competing demands of the Forest Service strategic plan, agency-wide planning under the Forest and Rangeland Renewable Resources Planning Act (RPA) as well as other priorities of the Washington Office. After passing through the region, the Washington Office of the Forest Service, and through the OMB and President, the forests' budget requests have become highly fragmented and are further fragmented in Congress. As a result, agency activities may be over-funded or under-funded relative to the needs identified in any specific forest plan.

DELAYED FINAL APPROPRIATIONS

In practice, the Forest Service is often not given its final annual appropriation until 3 months into the fiscal year. Meanwhile, the Washington Office sends a "preliminary final allocation" to the field based on Congressional action as of late August or early September. This allows managers to plan work and fill

positions based on best guesses of their final budgets until they receive their offices' final allocation of appropriated funds.

Because the final appropriations bill is often delayed, continuing resolutions (essentially temporary appropriations bills that allow the government to function until the final appropriations legislation is passed) have become common and create more uncertainty for the Forest Service. Since failure to pass an appropriations bill or continuing resolution by the beginning of the fiscal year results in a shutdown of the government, as it did in 1995, there is great pressure to pass one or the other. These resolutions are typically passed at the last minute and often contain riders. Due to the emergency nature of these resolutions, the riders contained in them face even less scrutiny or debate than those added to the final appropriations legislation.

CREATIVE ACCOUNTING

In the past, the shortage of funds in certain programs led the Forest Service to develop creative accounting techniques. At the district level, expenditures were sometimes reported as they were directed to be spent in the appropriations and budgeting process and not as they were actually spent. This was done in an effort to reconcile the program funds as allocated and the expenditures made in order to implement agency programs. Forest Service management must use caution in this practice; however, since departure from the allocated budget can result in serious repercussions, including negative evaluations within the agency and sanctions from outside the agency (including possible criminal sanctions under the Anti-Deficiency Act). Deviation from appropriated funding may not always be intentional—it may be the result of confusion. There are budget lines and extended budget lines (basically budget categories and subdivisions) within the appropriation for the National Forest System as well as budget lines and expanded budget line items in the agency's budget. Due to the nature of the integrated resource management

plans, a given project may use funds from a number of different fiscal categories.

While the agency's accounting may have allowed it more flexibility in forest management, it has also led to a significant amount of criticism of the agency and eventually an investigation by the General Accounting Office (GAO). The GAO has been closely monitoring the Forest Service's accounting and budgeting methods and reporting to Congress for the past few years. As a result, Congress and the Forest Service have made efforts to simplify the appropriations and Forest Service budgeting processes. The Forest Service is also currently working on restructuring its accounting practices, and Congress and the GAO are keeping a close watch on its progress. Two such efforts are the implementation of primary purpose accounting (which requires managers to charge activities to the single most appropriate budget category regardless of how many others might apply) and the Foundation Financial Information System (FFIS).



Alternative Funding

If the National Forests cannot be managed as planned due to insufficient appropriations, mark-up language, accompanying reports, or riders, there are a number of alternative funding options available to the Forest Service that allow the agency to more fully implement its plans.

- **Volunteers.** Volunteers may be used to supplement the output of the district, forest, or region and are often used for recreation related activities; however, they can be used to perform services in almost any capacity except law enforcement. In 1997, over 100,000 volunteers performed work valued at \$38.6 million. While this was less than 2 percent of the Forest Service's appropriations, work performed by volunteers can mean that certain projects, such as interpretive programs or trail maintenance, will be completed even without appropriated funding.



• **Knutson-Vandenberg Act Funds.** Under federal legislation the Forest Service collects a stumpage fee of 50¢ per 1000 board feet from loggers. This money goes to the National Forest Fund and can be used to restore cut over lands, protect remaining stands, and protect and improve the long-term production of renewable resources. From 1993–1997 the average number of acres managed for restoration/enhancement/improvement of wildlife and fish habitat, reforestation, and timber stand improvement using K-V funds surpassed the number of acres managed for the same purposes using appropriated funds.

• **Brush Disposal Funds.** Expenditure of Brush Disposal Funds is limited to certain activities following a timber harvest. The funds may be used to reforest the area, clear blockage from streams, improve recreational access, improve aesthetics, or prevent insect and fire problems. From 1993–1997 the average number of acres treated for fuel management using the Brush Disposal Fund equaled about a third of the acres treated with appropriated funds.

• **Emergency Salvage Timber Sale Program Funds.** The Forest Service can use receipts from salvage timber sales, which are put into a special account, to fund the preparation and administration of these sales. Since this expenditure is limited to the amount authorized in the annual appropriations legislation, the agency may not use this account as a means of supplementing funds appropriated for salvage timber sales. The use of this special account does, however, allow the subcommittees to allocate finite funds to other programs and projects.

• **Donations.** Barring a conflict of interest, the Forest Service can accept, but not solicit, donations or gifts from individuals or organizations. The National Forest Foundation, the Forest Service's Congressionally authorized non-profit counterpart, can solicit and accept donations from any individual or organization. The Foundation expects to collect \$35–40 million for the agency over the next few years.

• **Fee Demonstration Program.** In 1996, Congress authorized the Forest Service to designate 100 areas under its control to participate in an experimental program. Fee Demonstration Areas designated under the program retain at least 80 percent of collected user fees. Without the authorizing legislation, the fees collected in recreation areas are typically returned to the general fund of the Treasury. The Fee Demonstration Areas are able to raise funds for maintenance, improvements, interpretive programs, and other projects that otherwise may not be funded. The program is, however, controversial and it is yet to be determined if a permanent fee program would be accompanied by an offsetting cut in appropriations.

• **Partnerships.** The agency may form partnerships with organizations or other governmental entities in order to perform specific tasks, share information and resources, or work on projects that cross jurisdictional boundaries. The agency has entered into partnerships with other Federal land management, research, and regulatory agencies; state, local, and tribal governments; private land owners; and environmental and industry groups. These partnerships allow the Forest Service to leverage funds through cost sharing.

• **Stewardship Contracting.** In the Fiscal Year 1999 Omnibus Appropriations Act, Congress authorized the Forest Service to use 28 pilot projects to test stewardship contracting authorities which could, if instituted more widely, substantially supplement appropriations for stewardship activities. For example, the legislation allows the agency to exchange goods (e.g., timber products) for services (e.g., stand thinning and land restoration activities) and to retain any excess receipts for use at the project site. See *Innovations in Forestry: Stewardship*, referenced in the Resource Notes.

While each of these options can help the Forest Service to more fully implement the forest plans, cumulatively they are only a small supplement to the agency's total funding.

Conclusion

Forest plans are the result of a comprehensive planning process designed to guide the resource management of the National Forests. However, this planning process is not integrated with the processes which provide the bulk of funding required to implement the plans. If the Forest Service finds that Congressional appropriations are insufficient or poorly distributed relative to its needs, it has some flexibility to reallocate funds and has some alternative means to implement the plans as fully as possible. In the end, however, the appropriations process substantially controls whether or not the plans are implemented as written.

A number of proposals have recently been made that propose a greater integration of forest planning and the appropriations process. The Forest Service's Committee of Scientists, the National Research Council, the Society of American Foresters, and the Wilderness Society have all recommended revisions that allow for plan-based budgeting. The Forest Service has also proposed revised planning regulations that would facilitate incorporation of plan-based budgets into the agency's budget recommendations. Finally, Congress is considering legislation that would address the discontinuity between planning and budgeting within the agency.

Whether or not reforms are implemented, it is imperative that those interested in participating in stewardship of the national forests understand how the appropriations and budgeting processes operate and how they affect forest plan implementation. Only then can they become effectively involved in the process to ensure that specific programs and projects are sufficiently funded.

CITIZEN INVOLVEMENT

- Citizens' voices can influence every step of the appropriation and budgeting process.
 - For more information, see the Communities Committee's *Quick Guide* cited in the Resource Notes.
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RESOURCE NOTES

The Society of American Foresters

5400 Grosvenor Lane
Bethesda, MD 20814
301.897.8720
<http://www.safnet.org>
goergenm@safnet.org
(frequently updated budgeting and appropriations information)

THOMAS

<http://thomas.loc.gov>
(committee/subcommittee membership and contact information, hearings schedules, text of pending legislation, final bills, and committee reports)

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U.S.D.A. Forest Service

<http://www.fs.fed.us>
(contains general information, annual reports, explanatory notes, and contact information for the agency)

Communities Committee of the 7th American Forest Congress

P.O. Box 356
Hayfork, CA 96041
530.628.4206
<http://dubakella.tcoe.trinity.k12.ca.us/wsc/wafcc.html>
(*Quick Guide* entitled "The Appropriations Process" describes citizen involvement in the appropriations process)

Office of Management and Budget

725 17th St. NW, Room 2200
Washington, DC 20503
202.395.7332
(annual budget information including "A Citizen's Guide to the Federal Budget." also available at http://www.access.gpo.gov/su_docs/budget/index.html)

Innovations in Forestry: Stewardship
Pamphlet available from the Natural Resources Law Center

Committee of Scientists

P.O. Box 2140
Corvallis, OR 97339
<http://www.cof.orst.edu/org/scicomm>

General Accounting Office

441 G. St. NW
Washington, DC 20548-0001
<http://www.gao.gov>
(reports on the Forest Service's budget reforms and accounting practices)

Pinchot Institute for Conservation

1616 P Street NW
Washington, DC 20036
202.797.6580
<http://www.pinchot.org>
(forestry-focused publications including "Land Stewardship Contracting in the National Forests." which includes information on the use of non-appropriated funds)

National Association of State Foresters

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