

ADDRESSES

THE BITTERROOT REVISITED: A UNIVERSITY RE-VIEW OF THE FOREST SERVICE

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I. INTRODUCTION

Almost 20 years ago the United States Senate ordered the printing of a report entitled *A University View of the Forest Service*.² Senator Lee Metcalf requested this report and a University of Montana faculty committee, of which I was chairman, prepared it. We called it the "Bitterroot Report." It was sometimes called the "Bolle Report," but credit for the work goes to all the other committee members as well.³

1. Dean Emeritus, University of Montana School of Forestry. Dr. Bolle earned his M.P.A. in 1955, and his Ph.D. in 1960, both degrees from Harvard University. Dr. Bolle is currently an active member of numerous boards and committees devoted to a variety of natural resource management issues. This address is printed as Dr. Bolle presented it as the Keynote Address of the Eleventh Annual Public Land Law Conference, "Conflicts in Resource Allocation: Defining the Public's Interest in Resource Use, Planning and Policy," in Missoula, Montana on April 28, 1989.

2. S. Doc. No. 115, 91st Cong., 2d Sess. (1970).

3. Richard W. Behan, Associate Professor of Natural Resource Policy and Administration at UM School of Forestry. Now Professor of Forest Management and Policy, and past Dean of the Northern Arizona School of Forestry in Flagstaff, Arizona.

Gordon Browder, Professor of Sociology at UM and Director of its Institute for Social Science Research. Now retired and living in Missoula where he is a Board Member of the Community Medical Center and on the Task Force for Montana Telecommunications. Past positions include Director of Sponsored Research in UM President's office.

Thomas Payne, Professor of Political Science at UM. Now retired and living in Missoula. He has been President of the Pacific Northwest Political Science Association, on the Board of Editors of the Western Political Quarterly, and he spent a year-long sabbatical studying American environmental pressure groups.

W. Leslie Pengelly, Professor of Wildlife Management at UM School of Forestry. Now retired and living in Missoula. Among other environmental positions over the years, he was the first Director of UM Environmental Studies Program, President of the Wildlife Society (an international organization), and a member of the Montana Environmental Quality Council and the Montana Fish and Game Commission.

Richard E. Shannon, Professor of Forest Policy and Administration and Chairman of UM's School for Administrative Leadership. Now retired and living in Missoula. Has compiled a book entitled *Wildlands Management Law*, a complete presentation of all U.S. laws on wildlands.

Robert F. Wambach, Associate Professor of Forest Economics at UM School of Forestry. Succeeded Dr. Bolle as Dean of Forestry School, and later became Director of the Montana Department of Fish, Wildlife, and Parks. Since deceased.

Reports usually enjoy very short lives. Some are stillborn. The Bitterroot Report lives on because it continues to have significance in the management of our public lands.

I am not here to indulge in a deep, weighty analysis of our report because there is no way that I can rise above subjectivity. That will have to be done, if at all, by other more knowledgeable and certainly more objective analysts. However, I will do my best to take a broad view and revisit the scene of the Report in order to suggest what remains the same and what has changed.

First, let me describe as best I can the situation that existed 20 years ago, the conflicts that arose, the various actions emanating from these conflicts, and especially how our report came into being. Then I will briefly discuss the report itself, the responses it aroused locally and nationally, and the national legislation that grew from the situation in Montana and elsewhere. We were involved in the formation of public land law in an extremely interesting period. We cannot tell to what extent we may have influenced this legislation, but by becoming involved in the Bitterroot, we became a part of most public land law since that time.

II. THE SETTING

The post-war housing boom created a market for timber from the national forests of the Rocky Mountains. The Forest Service suddenly faced an opportunity to expand national forest timber production, and it did so. Without implementing the vital concept of sustained yield, the Forest Service pushed timber sales. It changed from a custodial agency to one aimed at commodity production. This was a massive change from what the agency had been doing, and some people were upset. Local at first, the unhappiness grew and spread until it became a national sentiment. In the minds of many people, the Forest Service had become the enemy. The watchers of the national forests, the Service, had sold out to those whom it was established to watch, the timber industry. The Forest Service now appeared to be advocating the "cut out and get out" policy that it had been established to oppose.

From its creation in 1905, the Forest Service was almost entirely a custodial agency guided by the Forest Service Organic Act of 1897⁴ which called for the government to "protect and improve"⁵ those areas set aside as national forests. Before the 1940's in what was referred to as the "Stetson Hat Period," Forest Service officials were highly respected guardians of the public forests. During this period, some timber was sold in accessible

4. 16 U.S.C. §§ 471-475, 478, 479-482, 551 (1982)

5. 16 U.S.C. § 475 (1982).

areas containing high-quality timber. In the Northern Rockies, western white pine was the choice species and ponderosa pine was the staple species of the lower elevations. Some douglas fir was taken, and western larch was also finding its way into the market. But the lodgepole pine, spruce, and fir were rated as weed species. Most of Montana's commercial timber came from private lands in and around valley bottoms. Very little of it came from the national forests.

Ranchers grazed some of their livestock on national forests and irrigators drew their water from streams originating in national forest mountains. In addition, much of the local public as well as visitors from farther away looked to the national forests for hunting, fishing, backcountry recreation, and to provide the scenic and aesthetic surroundings of daily life. These various users deeply resented change, especially sudden change that they did not understand and over which they had no control.

III. THE CHANGE IN NATIONAL FOREST POLICY AND MANAGEMENT

After World War II, new family formation by returning veterans and the forced savings of war workers (whose earnings had been held in check by wartime rationing) produced a large national demand for timber. Higher prices for timber and new road building technologies made most forest lands economically as well as physically accessible.

In the 1940s, a spruce bark-beetle epidemic in the Central Rockies killed several billion board feet of spruce. A salvage program was not mobilized in time to save much of the timber, but, the epidemic did generate ideas.⁶

In the 1950s, the Forest Service saw an opportunity to salvage large amounts of alleged waste timber killed in a beetle epidemic in the Northern Rockies. In the Flathead National Forest, a massive blowdown occurred and provided the conditions for an outbreak of beetles in the trees weakened by the blowdown. The beetles then spread to healthy trees. The first major spruce sale took place in the North Fork of the Flathead River. The Forest Service constructed a minimum road, and Plum Creek Lumber Company bid one dollar a thousand board feet over the objections of other companies, which hoped to have the government pay them to get the timber out. Spruce was sold in solid blocks with some green timber included to sweeten the sale. Clearcutting was the standard harvest method, and the new pattern was set.

This spruce salvage program was heralded as a great success, but the

6. For example, the Forest Products Laboratory in Madison, Wisconsin, carried on research in milling and manufacturing spruce lumber that was available when the 1950s epidemic hit the Northern Rockies.

Forest Service never analyzed whether it was a success for the taxpayer. Spruce timber substitutes well for western white pine, which was becoming scarce and had nearly priced itself out of the market. Spruce was also lighter, and freight costs were less, so profits soared and the industry expanded, as did Forest Service work. The beetle infestation and consequent spruce salvage program spread throughout the region. Ranger stations became busy production centers, and their walls were adorned with special awards for meeting and surpassing production goals. The Forest Service had moved on to its "Hard Hat" era, and timber was king.

The system that developed for harvesting spruce was applicable to all species, and the housing market accepted whatever could be produced. Consequently, the system spread to all species and all national forests in Montana and throughout the region. Clearcutting became the method used throughout; it became a crusade based on the Forest Service belief that it was good for nation, the land and the forests. The Forest Service seized the chance to get rid of those crummy old forests and replace them with desirable species of high genetic quality planted in neat, orderly rows to produce the maximum amount of lumber for America's lumber-hungry people.

IV. EXPANDING TIMBER PRODUCTION

In 1956, Congress adopted a Forest Service proposal to greatly expand timber production in Montana's national forests entitled "Full Use and Development of Montana's Timber Resources."⁷ This plan, which grew from the spruce salvage program, was intended to further expand the program of clearcutting to all the national forests of Montana. Also planned was a considerable increase in Forest Service funding, activity, and manpower. As a brainchild of the Region 1 Office timber staff, the program was widely heralded in Montana as the great chance for national forests to take their true place in the national economy.

The idea met with favor in Washington, D.C.—so much so that other parts of the country demanded equal treatment, and Montana's program became a national program. Both the Forest Service and the timber industry sold the idea to Congress as a great money-making opportunity because the additional timber could be sold for far more than it would cost to arrange the sales. In turn, it promised to greatly enrich the national treasury. Hence, a series of deals was initiated with Congress: more money to cut more timber to bring more profit to the treasury.

Timber became the main activity of the Forest Service, which grew

7. FULL USE AND DEVELOPMENT OF MONTANA'S TIMBER RESOURCES, S. DOC. NO. 9, 86th Cong., 1st Sess. 6 (1956).

and grew until it became the biggest and richest agency in the Department of Agriculture. Although Congress continued to demand more timber production from the Forest Service, appropriations did not continue to grow apace. In fact, under the Nixon Administration, the requested increase in timber came with a decrease in appropriation. The outcome, of course, was that management of the national forests became directly tied to timber production because "that's where the money was" and still is.

At first there was considerable public acceptance of this activity. The Forest Service's tremendous expansion provided many jobs. Harvests increased many times — by ten times on the Flathead National Forest, for example. Between 1945 and 1969, the annual allowable harvest officially rose from 40 million board feet to 200 million.⁸

The timber industry also expanded. Existing mills expanded, new mills were established, and many new jobs appeared. The timber expansion gained momentum in the fifties and on into the sixties. But problems began to surface. With the increasing environmental awareness of the mid-sixties, a growing unhappiness with Forest Service activity became evident.

The "environmental movement" reflected a national concern, and had gained limited visibility in the fifties. Later, Stewart Udall's *Quiet Crisis*,⁹ written while he was Secretary of Interior, was widely acclaimed. This growing national sentiment was directly at odds with the Forest Service timber activity.

On the local level, some of the protest was related to Forest Service officials, but it did not find sympathetic ears. In fact, it met with outrage, or at least bureaucratic unhappiness. Most forest officials were deeply committed to the timber mission. They considered the criticism uninformed and totally unfair. They ignored it and tended to withdraw from the public and close off the corridors of communication. They deemed their mission too big and too important for local criticism. After all, they were serving important national goals.

V. HAPPENINGS ON THE BITTERROOT

In 1962, a Resources Conservation and Development Project (RC&D) was established in the Bitterroot Valley.¹⁰ It involved and drew together a group of valley citizens to identify, encourage, and promote their many interests. One focus of public concern was the accelerated timber

8. Compare U.S. DEP'T OF AGRIC., U.S. FOREST SERVICE, REGION 1 INTERNAL ANNUAL REPORTS FOR 1945 AND 1969.

9. UDALL, *THE QUIET CRISIS* (1963).

10. Resource Conservation and Development Act of 1962, 16 U.S.C. §§ 3441-51 (1982). The Act established the Bitterroot Conservation and Development District.

harvest on national forests, particularly the clearcut areas that were so clearly evident on mountain slopes around the valley. The valley citizens first sought to involve Forest Service people in their discussions, but this did not work out. However, three retired Forest Service officials, Guy Brandborg, former supervisor of the Bitterroot National Forest, Charles McDonald, former district ranger at Stevensville, and Champ Hannon agreed with the locals and thoroughly and openly disagreed with the new timber-harvesting activity of the Forest Service. They became identified as the ringleaders of the opposition, and Forest Service employees were forbidden to have any association with them, especially with Guy "Brandy" Brandborg.

Local dissatisfaction with the new Forest Service activities became focused in a Recreation Committee organized by the RC&D program, and Brandy became the leader. Their dissatisfaction centered on the effects of clearcuts as they appeared on the mountainsides including soil erosion, water runoff, and wildlife damage. Irrigators feared for their water supplies, and real estate agents clearly identified the effects on scenic values as devaluing private property. At the center of all local criticism was a genuine feeling that the rate of timber harvest was too high, that forests were being overcut. The Forest Service ignored the valley's future economy, and the mess being left by clearcutting showed utter contempt for the concerns of the local citizens.

While at first the public at large was not well-informed, the Recreation Committee's activity soon developed a solid core of various officials, interest groups, and individuals who were well-informed and strongly motivated. Instinctively at first perhaps, their actions became more deliberate as knowledge and support increased. They set out to build the necessary strength to change the outcome of the policy struggle.

With growing support throughout the valley, the group moved forward on several fronts. They continued to seek a response from the Forest Service. When communication with local offices of the Service was cut off, they went to the regional office in Missoula. They also went to the newspapers, at first in Hamilton and then in Missoula, and aroused support in both places. They wrote to Senator Mike Mansfield and Senator Lee Metcalf, a native of the Bitterroot Valley. At first, letters came from individuals simply asking for help with various problems. But as the movement gathered force and organization, the group requested a full-scale Congressional investigation.¹¹

11. Here are some examples of the early letters to Sen. Metcalf provided to the author. Harold Maus of Hamilton identified himself as a life-long resident of the Bitterroot. He watched good things happen while living in the Bitterroot: electricity, the first paved road, and the moon shot. But then he wrote:

The group, headed by Brandy and the Recreation Committee, also expanded citizen support through various state and national organizations which had members in the valley. The Farmers' Union and National Grange were both active locally and statewide. This increased the letters to the Forest Service, Senators, and local newspapers. The Montana Wildlife Federation and National Wildlife Federation also responded sympathetically. Public awareness of environmental issues was expanding statewide and nationally and creating a more receptive audience to such forest management issues.

By the mid-1960s, Recreation Committee activity began to bear tangible fruit. The Regional Forester in Missoula, Neal Rahm, saw to it that Bitterroot citizens' complaints were recognized. By 1968, discussions and correspondence led to a field trip of Recreation Committee and Forest Service officials to look over perceived problems on the land. The *Missoulian* assigned reporter Dale Burk to the case, and he started to meet with local people to gather material for stories.¹²

On May 19, 1969, the RC&D Committee sent Neal Rahm a letter detailing its concern with forest practices on the Bitterroot National Forest. This letter came after some period of Committee communication with the Regional Office which led to a request by Neal Rahm for a detailed statement of complaint. Mr. Rahm also heard from Senator Metcalf and decided that he needed to investigate the matter. He appointed a Forest Service Task Force which was reviewing the problem by June of 1969. The *Missoulian* printed its first story on the controversy on November 2, 1969.

I am the witness to another innovation, one that is destroying the scenic beauty, recreational value and last but not least, the very soil itself. This innovation is the clear-cutting method used to harvest timber from our national forest lands The people of this area . . . absolutely do not like what they see happening but efforts to communicate these feelings to local Forest Service personnel have been of no avail. Therefore, the only hope the citizens of this area have to correct this situation is through you, the people's representative in Congress. Won't you please *help*?

Forest Cooper of Darby, another life-long resident, wrote:

I . . . am deeply concerned and firmly convinced that if such clearcutting and mutilation of forest lands is not curtailed, our beautiful valley is going to become ugly and despoiled. There are so many intelligent and knowledgeable people deploring and condemning what is happening to our forests that it seems vitally urgent that something be done. I was born and raised here and lived here for most of my life and the sight of what was beautiful timber land in its present condition gives me a sick, sick feeling . . . Will you join us in trying to save it? Please come and see what is happening.

There were many others, of course. One wrote, "Please use your influence to stop the rape of this valley," and another stated, "What the Forest Service is doing to these mountains can only be considered a disaster."

12. C. Ransick, *The Bitterroot Controversy: Dale Burk's Role as Journalist and Activist* (1988) (unpublished Master's thesis available from the School of Journalism, University of Montana). This is an excellent account of the significant role played by reporter Dale Burk and the *Missoulian* newspaper in the Bitterroot controversy.

Senator Metcalf had been in touch with me on a number of forestry issues over the years. He was well aware of citizen complaints in the Bitterroot Valley, and as a native of the valley (Stevensville was his hometown), he knew these people personally. Rather than a full Congressional investigation, Lee proposed a smaller look at the problem. He asked me to consider examining it to give him an understanding of the situation. He had a file of personal letters from his friends and neighbors complaining about Forest Service activity. "I don't know how to answer these people," said Lee, "I would like to have you look into it and provide me with what I need to know."

VI. THE UNIVERSITY OF MONTANA FACULTY COMMITTEE

A. *Background of Work With the Montana Delegation*

Previously, School of Forestry and University interests had created a continuing relationship with the Montana Congressional delegation. There was regular communication with the Senators on other forestry matters, such as proposed legislation and Forest Service budgets. It was natural for Lee to discuss Montana forestry problems with me, and when complaints about the Bitterroot started to reach him, he contacted me. We discussed the Bitterroot problems in Washington in mid-1967. Further discussions in Washington took place in January of 1968, and were continued by phone and later meetings in Washington. At first, the discussions were rather informal, but discussions grew more serious as the problem became more serious.

When the RC&D group came to the point of asking for a full-scale Congressional investigation, Lee thought of something on a lesser and more personal level. Several faculty members took a tour of the Bitterroot National Forest in the fall of 1968 to examine the problems firsthand. Meanwhile, a faculty committee was tentatively formed. We were not sure that we really could have a constructive role. We needed to understand the situation well enough to identify the various aspects of the controversy and to decide what the problem was and whether a positive solution might be conceivable.

We decided to undertake the project at Senator Metcalf's request with the understanding that we would need to look into things carefully before making a final commitment. We wanted it understood that if we got into it and saw that our efforts might be utterly futile, or the complaints unsupportable, we were free to bow out.

B. *Formation of the Faculty Committee*

Serious discussions with Senator Metcalf regarding the University's involvement started in May of 1969, about the time that the Forest Service

Task Force was established. Senator Metcalf saw no reason to hold off our investigation because of the Forest Service action. He respected the Forest Service study and had encouraged it. He did not take it to be a "whitewash" as some locals immediately labeled it. But because of the local criticism, he thought that there was even more reason for the University Committee to give another view and perhaps even some corroboration to the Forest Service report.

I drew in a team of faculty who had been involved with the School for Administrative Leadership (SAL) conducting a special course for resource administrators from federal and state resource agencies throughout the country for more than 20 years. Through annual field trips, as well as classroom work, these faculty members were well informed with the workings and problems of the Forest Service. With the understanding that we could bow out if we found that our work was not constructive, Lee wrote his formal letter of request addressed to Dean Bolle on December 2, 1969.

C. *Drafting the Bitterroot Report*

The Bitterroot citizens' concern was that the Forest Service was not doing what it ought to be doing. In approaching its study, the Faculty Committee recognized that it had to determine what the Forest Service ought to be doing, what it *was* doing, and whether its actions indeed departed from what it ought to be doing. We recognized three levels of policy. The original policy, then and now, was the law of the nation as passed by Congress and signed by the President. The second was agency stated policy, the written policy of the agency that had responsibility for carrying out the law as enacted by Congress. The third level of policy, actual agency action, was more difficult to identify. Professor John D. Black, with whom I studied policy at Harvard, identified this third level as "a more or less consistent pattern of behavior."

The Committee began by studying Forest Service behavior. We learned from a diverse group of citizens what the Forest Service was doing, and how this policy departed from what the Service should have been doing. In the final analysis, we took these many ideas and viewpoints and distilled the information as the basis for our own judgments. We sought to contrast Forest Service actions with its own written policies and the laws of the land.

On April 15, 1970, the Forest Task Force released its report.¹³ Despite certain shortcomings, it strongly criticized some real program weaknesses,

13. U.S. DEP'T OF AGRIC., U.S. FOREST SERVICE, MANAGEMENT PRACTICES ON THE BITTERROOT: A TASK FORCE APPRAISAL, MAY 1969 - APRIL 1970, Files 1500 & 2470 (available from the Forest Service Region 1 office).

including the overemphasis on timber. In this respect, the Task Force members were courageous. But they gave short shrift to range, watershed, wildlife, and recreation issues. We considered their treatment of these forest resources and uses seriously inadequate. Their report was an internal report; since it could not criticize Congress or take a broader look at the problem, it only discussed Forest Service operations. Senator Metcalf assured us that our report was still necessary. "And don't confine your report to just a review of the Forest Service report," he advised.

During 1969, our committee met with segments of the timber industry, wildlife representatives (the Montana Wildlife Federation), Bill Worf of the Forest Service team, Dale Burk, and many people (individually and in groups) from the Bitterroot Valley. We held regular weekly meetings to become well acquainted with all viewpoints and expanded our program of meetings with various groups and individuals. Senator Metcalf visited the campus, met with the committee, and held a seminar with the School of Administrative Leadership group in mid-February of 1970.

Following Metcalf's visit, we met with more people from the Forest Service regional and field offices and with Joe Pechanec and Art Roe from Forest Service Research. As summer 1970 approached, we took field trips into the Bitterroot area and directly observed Forest Service harvesting practices. We flew the area with the Forest Service and met with groups of ranchers, with a group of realtors, and, as always, with various citizens who were involved and interested.

Our skepticism dissolved slowly. By late summer of 1970, we concluded that we could and should proceed to complete our study and issue our report. We began to write the report in late September, and had pretty well completed it by the end of October. With the election coming up, Lee insisted that we release it after the November election date in order to keep it free from the political situation.

Senator Metcalf was in Montana for the election, although he was not up for reelection at that time. He came to the University where the committee verbally presented the report to him as a personal report from us to help him answer the people in his hometown of Stevensville. We mailed him the written report on about November 10 and released our report in Missoula on November 18. It was Lee's report to do with as he saw fit. He could have held it for his own use; it could have remained his private document, but he chose to release it.

When he returned to Washington, Senator Metcalf called a national press conference with, to the Committee, startling results. Stories appeared in the *New York Times*, the *Los Angeles Times*, the *Washington Post*, and it seemed like every newspaper in the nation and beyond our borders, even in Europe and Africa, carried the news. The super headline in

the *Missoulian* proclaimed, "University Condemns the Forest Service."¹⁴ The Committee members were shocked. That was not what we thought we had done. We considered our report a constructive treatise. We had been restrained. We could have been much harsher. There were things that we left out because they would inflame the issues. If we had set out to condemn the Forest Service, we could have very well done so, but we had no such intention.

We protested to Senator Metcalf. We wanted him to write or call the *Missoulian* and ask for an explanation or an apology. Vic Reinemer, Lee's Administrative Assistant and an ex-newspaperman, let us know that there was nothing Lee or we could do. It was not Senator Metcalf's doing; it was just how newspapers did things, and we had to accept it.

Lee had our report printed as a Senate document, and on December 1, 20,000 copies appeared and were quickly distributed throughout the nation. To our surprise, the report became a hot local and national issue.

When we began to recognize the size of the issue, we knew that there would be a vast opportunity for personal gain. We decided that if we did so, we would greatly cheapen our work and threaten whatever substantive benefit it might achieve. So we agreed, took an oath so to speak, that not one of us would seek any personal advantage from our involvement in this report. And so it has remained.

The focus of the issue was the practice of clearcutting. Although the problem was much deeper and broader, clearcuts were the symbol which drew the criticism. The real problem was timber primacy, which now dominated and controlled Forest Service activity. This marked a clear departure from the broader Congressional policy of multiple use as earlier conceived. Nonetheless, clearcutting itself was an important issue. An accepted practice under certain circumstances, it had been adopted as the principal method of harvest on all sites. In the Bitterroot, we learned from the chief Forest Service silvicultural researcher that the agency's recommendation for clearcutting throughout was not based on sound silvicultural knowledge. His research did recommend clearcutting under some conditions, but certainly not under all, or even most. When he objected to the practices there, he was told to shut up. In fact, as he put it, it meant shut up or else. We did not include this inflammatory item in our report, nor did we press it further.

VII. THE RESPONSE

The response to our report was quick. It came from individuals, private and official, from citizen groups and from organizations of many

14. The *Missoulian*, Nov. 18, 1970.

kinds. It came by word of mouth, by telephone, and mail, and it covered the spectrum from hostile to extremely favorable. Neal Rahm, the Regional Forester, responded with documented comments from his staff. They agreed with much of our report. To a large extent, our report was consistent with the report of his Task Force. As a result, Neal Rahm took a sound professional stance and adopted many of our recommendations. But he was not unanimously supported by his staff. The Forest Service timber people were furious and almost in shock.

We had many comments from Forest Service employees. It was interesting to note the strong support from older employees and retirees and also from young foresters with just a few years of experience. The older ones were unhappy with the agency's changes; the young ones had their ideals of good forestry offended by the heavy timber cutting.

The Bitterroot citizens felt vindicated, of course. And so did citizens throughout the country. Heartwarming letters arrived that merely said "thank you."

The local forest industry took a little while to respond. No industries had been mentioned directly, but of course they were directly concerned. They took strong action by writing the University President and the Governor to arouse alumni support to suppress or oust me and the whole Committee, thereby discrediting the report.

Local foresters were divided, but most deeply interested. Committee members became the main attraction at Society of American Foresters meetings throughout the region, and attendance at meetings jumped from a desultory 20 to 200 or more. The first was held in Missoula on January 20, 1971 before a wild overflow audience. Committee members had a great time responding to questions, attack, and vituperation. We had an advantage: our Committee had done its work carefully and was ready to be tested in any fair examination. We earned support in the audience, though it tended to be rather quiet at first. But as we stood up to the vocal opposition, supporters came forward to our defense. This was often the pattern at other meetings around the neighboring states and even farther afield.

As faculty, the Committee members were perhaps most interested in word from their peers, the faculty of other universities. That response was slow in coming. A few early letters were more or less neutral, but the real message did not come through until we had been to professional meetings around the country. Then it came through clear and loud — they were green with envy.¹⁵

15. The response came from schools throughout the country. The best one was from Herb Borman of Yale:

That's the kind of thing a private university like Yale should be doing, but here you, a state

As a matter of fact, there was a surge of interest from prospective faculty and students in coming to the University of Montana. The response from students was especially gratifying. We were suddenly heroes. We had stood up for our convictions. We had done things, not just preached. They sought us out, listened to us and asked good questions. The word was out that Montana was the place to go, and we were overwhelmed with applications.

The publicity kept growing. It moved from newspapers into magazines. *American Forests* featured it, and *Washington Magazine* carried an excellent piece. It began to be mentioned in books. Justice Douglas quoted it in a Supreme Court case. And then Jim Miller from *Reader's Digest* came out and interviewed us and wrote a most favorable account. When this appeared, UM President Pantzer, who had taken lots of heat on the matter and staunchly supported us all the way, laughed and said, "Now we're respectable!" And so we were.

The report continues to have a life of its own. It's a standard reference in forest history and policy and keeps reappearing in recent writings such as Wilkinson and Anderson's *Land Resource and Planning in the National Forests*.¹⁶

VIII. THE REPORT AND SUBSEQUENT LAND LAW

The report was one of several items that influenced the Senate to look further into Forest Service timber harvesting practices. Senator Metcalf, of course, made certain that the report was thoroughly studied by Congress, especially those portions of it which indicated that much of the problem was directly influenced by Congress in its support of the Forest Service. The Senate hearings on clearcutting under the chairmanship of Idaho's Senator Frank Church followed.¹⁷ I was invited to testify. These hearings, printed in three volumes, brought in a vast array of foresters and other professionals from throughout the land. Interestingly, clearcutting was defended by almost everyone, but the "misuse" of clearcutting was just as universally condemned. There appeared to be a consensus that the Forest Service was guilty of some of this misuse.

Following Senator Church's hearings, Congress urged the President to issue a directive to the Forest Service. When President Nixon failed to do

university, did it. We could never have done it. It would have cut off our private funding. Or threatened to. Our president or dean wouldn't have allowed it. You could now hire the best half of our faculty if you had the money.

16. C. WILKINSON AND H. M. ANDERSON, *LAND AND RESOURCE PLANNING IN THE NATIONAL FORESTS* 22 (1987).

17. "Clearcutting" *Practices on National Timberlands: Hearings Before the Subcomm. on Public Lands of the Senate Comm. on Interior and Insular Affairs*, 92nd Cong., 1st Sess. (1972).

so, Congress issued the Church Guidelines.¹⁸ The Church Guidelines placed clear limitations on the use of clearcutting. Their concern was with the prevention of damage to the land and related resources, and also with regeneration of cutover areas. They identified the lands on which clearcutting should *not* be practiced. One of these was where regeneration could not be assured within five years of cutting. The Guidelines repeatedly stressed the Forest Service mission and responsibility to protect the health of the resource and not commodity production and income. The Church guidelines were later incorporated almost without change into the National Forest Management Act of 1976.¹⁹

The Senate went on from there and enacted the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA)²⁰ under the chairmanship of Senator Hubert Humphrey. This was done in-house without much conflict. RPA appeared to establish a new program for national forests, one which could provide for sound management of those controversial public forests indefinitely.

And then came the Monongahela case.²¹ The Committee became involved rather early. It started with a telephone call. I answered the phone and a voice said, "This is Gifford Pinchot." I gasped and thought, "Oh, my God! Now I've done it." (After all, he had been dead for some years.) I managed to respond, "Well, hello," and after a short pause I felt it appropriate to ask, "And where are you these days?" "I'm in Baltimore," the voice responded. I thought, "The poor fellow, he deserved better than that." It quickly became clear, of course, that this was Gifford Pinchot, Junior, a faculty member at Johns Hopkins. He was calling for personal interest, but also as a member of the Natural Resources Defense Council (NRDC) Board of Directors, who wanted to come out and see the Bitterroot for themselves. John Adams and Pinchot arrived not long after. We invited Dale Burk to go with us. It was while examining some of the Bitterroot clearcuts that Gifford Pinchot Jr. made the remark, "If my father had seen this, he would have cried." Quoted by Dale Burk in a story soon after, it raised all kinds of fuss. A later story in *American Forests* said "Gifford Pinchot would have laughed."

NRDC was looking for a suitable forest to initiate a lawsuit on clearcutting. Its workers had examined a number, and the Bitterroot was a

18. REPORT OF SUBCOMM. ON PUBLIC LANDS, SENATE INTERIOR AND INSULAR AFFAIRS COMM., CLEARCUTTING ON FEDERAL TIMBERLANDS, 92d Cong., 2d Sess. 8-9 (1972). The Church Guidelines were actually written by Leon Cambre, a Forest Service employee who was on assignment to Senator Metcalf.

19. 16 U.S.C. §§ 1604(g)(3)(E), (F) (1976).

20. 16 U.S.C. §§ 1600-1614 (1982).

21. *West Virginia Division of the Izaak Walton League, Inc. v. Butz*, 522 F.2d 945 (4th Cir. 1975).

candidate. But they chose the Monongahela.

In the Monongahela case, the court found that the Forest Service had been breaking the law for seventy-plus years, and the length of this transgression did not make its actions legal.²² The court held that the 1897 Act allowed the Forest Service to harvest only old, large, or dead trees, each individually marked.²³ The opinion went on to say that if the law was indeed out of date, then it was the duty of Congress to write a new law, not the court's. That, of course, was an open invitation for Congress to act. And, since the Monongahela is in West Virginia, senior Senator Jennings Randolph had the first crack at it. He put together a committee of people from throughout the country, as well as representatives from West Virginia organizations, to draft a new law. I was invited to participate, and I spent my weekends in 1975 commuting to Washington.

Les Pengelly was also involved, representing the National Wildlife Society in the Washington, D.C. hearings on the Monongahela. His testimony on the Northern Rockies region was also used in the Church Guidelines.

During the writing of RPA, Bob Wolf of the Library of Congress' Research Service had written a brief paragraph which would have amended the 1897 Act and taken care of the problems. The "inside" story is that his paragraph was left out at the urging of the timber industry and the Forest Service, because it would have slightly reduced Forest Service discretionary power and was considered unnecessary. When Monongahela blew up, the Service and the timber industry came to Humphrey and asked him to introduce this little paragraph as an amendment to RPA. Humphrey sent them to Senator Herman Talmadge, who bluntly advised them to stay in court.

Monongahela led to the National Forest Management Act of 1976,²⁴ the most complete forestry legislation ever passed. From Randolph's committee, the bill went to the Senate Interior Committee, chaired by Senator Lee Metcalf in the absence of Chairman Scoop Jackson, who was running for president.

Strains of the Bitterroot Report carry through into the NFMA of 1976, and the UM Faculty Committee is still involved after 20 years. The questions that still stand before us are simply these: did we accomplish what we sought to accomplish? Where are we now? Did we make any difference?

22. *Id.* at 952.

23. *Id.* at 955.

24. 16 U.S.C. §§ 1600-1687 (1982).

IX. REFLECTIONS ON THE CURRENT STATE OF FOREST MANAGEMENT

What we sought with our report was *change*. When we pointed out the difference between what the Forest Service was doing and what it ought to be doing, our goal was to change its behavior. We wanted Forest Service behavior to reflect Congressional policy. As a result, Congress enacted a series of land laws which attempted to more clearly define what the Forest Service ought to be doing. The question *now* is, has that been done?

When the NFMA was enacted in 1976, I had a great feeling of accomplishment. I felt that the law clearly stated what must and must not be done. A key battle during the writing of NFMA was the extent to which forest practices should be included in the bill. There was considerable pressure to be very detailed. I opposed this on principle and argued for the requirement that the Forest Service provide these details in a set of regulations clearly and specifically defining what it considered good forestry for the various conditions on the land. This argument prevailed, but the results have not lived up to our expectations. The Forest Service had one goal, it seemed, and that was to maintain maximum discretion by saying as little as possible in the regulations. There is, to my knowledge, still no official definition of good forestry.

The land laws dealing with forestry are in excellent condition. They clearly stipulate the changes in policy that are needed. But changing the behavior, the actual policy of the Forest Service, to conform to those policies has not yet been accomplished.

Meanwhile, citizen complaints continue. The citizens of the Bitterroot Valley have new concerns, and a new organization has recently been born, named "Friends of the Bitterroot." The Forest Service seems to be backsliding. The story seems to repeat.

At this time, resource management plans required by the National Forest Management Act have been completed for nearly all of the 156 national forests administered by the Forest Service. These plans call for a careful analysis of physical conditions as well as economic and social conditions, and for the development of a program of full public participation to foster understanding and support among the public. While many benefits have been derived from the development of these plans, full agreement is not one of them. Much of the public is more convinced than ever that national forests are managed almost entirely for timber production.

Forest Supervisors at the beginning of the planning process believed that the process would be a "bottoms-up" approach, and they were delighted with the idea. They hadn't gone far with this, however, before John Crowell was appointed Assistant Secretary of Agriculture and

announced at his confirmation hearings that while national forests were capable of producing three times the volume they had been producing, he would insist on only doubling production. The Forest Service was not ready to go that far and used various bureaucratic devices to at least reduce this demand, but they could not defeat it.

Forest supervisors who wrote the first plans had them returned by Crowell's office with the brutal demand that proposed timber production be doubled or at least greatly expanded. The choice was "do it or else." And most of them did it. Greatly out-of-balance plans appeared that brought protest from all sides, but especially from conservationists. Foresters have told me that because of the timber goals, which were excessive and imposed from above, and which they could not support, they were forced to put together plans that were contrary to their scientific knowledge and their sense of integrity to the public and the forestry profession.

One of the greatest benefits from the NFMA and related legislation is that they required, and caused to be generated and used, a far higher level of scientific knowledge in the planning and management of the national forests. Another benefit is the requirement for a far higher level of public involvement in forest planning and management.

These two build upon each other. Public interest has increased, and the level of public understanding has also increased to new and often highly constructive levels. Our hope, and certainly my conviction, is that sound forestry and resource stewardship generally has its best chances for success when it is based on the sound convictions of the intelligent majority rather than on the capricious will of some totalitarian.

The recent organization of the Association of Forest Service Employees for Environmental Ethics is clear evidence of dissatisfaction within the Forest Service.²⁵ Their charter closely parallels some of the language in our Bitterroot Report of twenty years ago and confirms that timber production is still the primary function of the Forest Service.

The more or less consistent behavior still seems to be timber production. The major breakthroughs in the law have not effectively changed Forest Service policy and behavior. Some change has taken place in the agency's stated policy, though generally it has tended to weaken the law. However, there are indications that rank and file behavior is moving in the right direction. There is one massive roadblock to getting the change as stated in the laws into the agency's regular behavior, and that is the simple fact that *the Forest Service is saddled with an annual output goal for timber that makes sound management of our national forests impossible.* The change will not come until the management of forests is based on the

25. High Country News, June 5, 1989, Vol. 19, no.11 at 30.

land's capability to produce within recognized and honored natural limits.

The Forest Service decision on Annual Sale Quantity (ASQ) is not based on land capability or economic feasibility. It is political. The Congressional Budget Committees and Office of Management and Budget have a great deal to do with these decisions and can effectively frustrate the will of Congress and the public.²⁶ But even more, when an agency dislikes a Congressional law and has the Administration's support, it can effectively defeat the law by just not carrying it out. "Business as usual" can make the law totally, or at least essentially, ineffective.

Politics have kept RPA, NFMA, and other laws ineffective. But politics may some day have the opposite effect. We can look to the day when the political change will occur. When it does, Forest Service behavior will change quickly and completely to conform.

And so it is my hope that sound, intelligent forestry will succeed in this country, in spite of the power and ingenuity of private greed. Keep slugging, dig deeper and deeper for the truth, keep the public informed and involved, and some day we will overcome. There is no winning or losing here, we just go on and on, and winning or losing can be temporary, and often are.

So, you young ones, there will always be a battle going on. Get used to it, never give up, never lose your energy, your devotion, or your sense of humor.

26. V. A. Sample, *Implementation of National Forest Planning: The Impact of the Federal Budget Process 31* (May 1989) (unpublished Doctoral dissertation available from Yale University).