

# **The United States Forest Service Violates the same Environmental Laws that they are Sworn to Enforce and Uphold**

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## **Introduction**

**The Forest Service is hired and paid by 293 million American citizen-owners of the public land to take care of this public land. Nationwide and statewide polling data over the past several decades has been consistent across demographic, geographic, and political lines. Clearly, these statistically significant polls reveal that the American public wants forest conservation and protection to be the prime directive guiding the Forest Service's management of public forests and grasslands.**

**Ironically and without explanation, the Forest Service refuses to take these polls seriously. Instead, the Forest Service ignores them. Agencywide, the Forest Service reaction to the polls is to:**

- 1) build more ecologically harmful logging roads, and**
- 2) destroy more wildlife habitat, topsoil, and scenic forest views by logging more acres.**

**Many mid and low level Forest Service employees take great pride in creating a patchwork quilt (logging units) connected by many seams (roads) in the public forests. These employees feel that this is the ultimate mission of their job.**

**This feeling is allowed to prosper among these employees in spite of the fact that their Forest Service managers know there is not a timber famine, or even a hint of a shortage of domestic softwood lumber or pulp in the United States.**

**In remarks to Forest Service employees and retirees at the University of Montana in February 1998, Forest Service Chief Mike Dombeck stated:**

**"Roads often cause serious ecological impacts. There are few more irreparable marks we can leave on the land than to build a road."**

**The majority of Forest Service managers know about the nationwide polling data. They also know that access roads in the forest are quite harmful, and timber sales displace wildlife to other habitat areas ... if it's available.**

**What these Forest Service managers will never forget (if they want to keep their job) is that their prime mission is to:**

- **prepare and sell timber sales (including access road construction), and**
- **sell grazing permits upon demand.**

**This is all done to provide profit opportunities for private individuals and corporate interests.**

**What do the 293 million owners of this public land get in return for the Forest Service allowing and encouraging such resource plunder of public land for private financial gain? Usually the public is handed an ecological tragedy and the bill to fix it ... if it's fixable.**

**The primary reason the Forest Service ignores national public polls is because they have an arrogant "we know better" or "we're the professionals" attitude. This attitude can almost always be linked back to the pathological need by many Forest Service employees (a.k.a. timber beasts) to convert natural resources into commodities that will be taken from the forest to financially enrich the private interests that buy and remove them.**

**The term "timber volume" has taken on a quasi-spiritual meaning for many of these Forest Service employees.**

### **Making a Profit is Fine, as Long as it does not Harm or Damage Assets Owned by other People**

**Of course, there is nothing wrong with making a profit in America ... as long as the profit-making activity does not negatively affect other people.**

**The plunder that the Forest Service encourages by private contractors on the communally owned national forests is a classic example of when profit making is wrong.**

**The Forest Service has proven that it is incapable of voluntarily changing its ways. What is needed to stop the agency from conjuring-up projects that damage the fragile ecological fabric of the public land is a new government enforcement agency to regulate and restrain the Forest Service.**

### **The WEB Search for Federal Court Cases where the Forest Service was the Defendant**

**A WEB search was initiated of state and appellate federal court cases where the Forest Service was the defendant accused of violating one or more environmental law. This search included only cases heard in the jurisdiction of the 9<sup>th</sup> and 10<sup>th</sup> circuit courts since January 1994 ... 11 years. The Forest Service was found not guilty in some cases. However, since the Forest Service is sworn to enforce (not violate) these laws, I expected these not guilty rulings to dominate the vast majority of the verdicts.**

Surprisingly, my final WEB search turned up at least 52 court cases with guilty verdicts against the Forest Service. Many of the court cases involved multiple national forests violating multiple laws. There are surely more guilty verdicts against the Forest Service that my WEB search missed.

It's anyone's guess how many times the Forest Service was found guilty in the other 9 circuit court jurisdictions in the Midwest, South, East, and Northeast that weren't part of this WEB search.

In 52 court cases, there were 17 separate laws broken at least once by the Forest Service. Keep in mind that in many court cases; the Forest Service violated multiple laws simultaneously.

As might be expected, the most important environmental laws were violated the most often. The Forest Service violated the National Environmental Policy Act, the National Forest Management Act, and the Endangered Species Act most often.

The reason is clear. These 3 laws restrain harmful commercial activities in public forests more than any other laws. Following these 3 laws assures that Americans will leave an intact public forest legacy to their unborn heirs.

To a lover of nature and the public lands these court case results are frightening. This lawbreaking by the government agency charged with protecting the land is an outrage!

Each national forest employs a person who is an expert in these laws, so when a Forest Service spokesperson says: "we didn't know the law existed", or "we didn't know what the law allowed or did not allow", they are not telling the truth.

### **There is no Punishment for Forest Service Employees who Break the Law.**

The resource impacts that result from the Forest Service environmental lawbreaking are bad enough, but in the majority of cases, the Forest Service managers responsible for the violation are not reprimanded.

In January 1994, Eldorado National Forest managers were forced to suspend 24 timber sales that had already been let for contract to logging companies. This was the largest withdrawal of contracted timber sales in the history of the Western United States. This withdrawal of sales occurred because the Eldorado staff failed to prepare accurate environmental documentation required by law before National Forest timber may be offered for sale.

As a result of the 24 timber sale suspensions, American taxpayers faced up to \$30 million in claims for breach of contract from the affected timber companies.

In January 1996, the Forest Service paid \$400,000 to settle the first three claims from the six affected timber companies. Other claims are being filed and still others are in litigation.

**The Eldorado National Forest has also spent another \$3 million preparing new and legal environmental reviews for the canceled sales.**

**The Forest Service managers who committed environmental violations that led to the timber sale suspensions have been promoted and commended, while the Forest Service employees who reported the violations of law have been stripped of their responsibilities.**

**Despite a referral for criminal prosecution of both the Eldorado National Forest Supervisor and the Timber Management Officer and admissions by Forest Service officials that federal environmental laws were broken, no action was taken by the U.S. Attorney for the Eastern District of California against any of the responsible employees. In fact, just the opposite occurred:**

- **The Timber Management Officer was promoted from GS-13 to GS-14 and moved to Washington, DC as a specialist for timber sale contract administration. This person explained to a local activist that people in the Forest Service timber program are never punished. He said those who "screw up, move up."**
- **The Forest Supervisor, was commended and remains in charge of the Eldorado National Forest.**

**What Motivation does the Forest Service have for such Lawlessness? Why do they do this to the Land Owned in Common by all American citizens?**

**This can be answered in two words ... money and politics.**

**The more timber the Forest Service sells, the more off-budget trust funds they generate from timber sale receipts. These trust funds are meant to cover the costs of reforestation, brush disposal, roads and trails (the 10% fund), and preparing future salvage timber sales.**

**However, since there is minimal Congressional and public oversight, the Forest Service uses these funds to cover overhead in these areas: salaries, rent, utilities payments, and computers.**

**The political connection to the amount of timber the Forest Service sells is diabolical. Its all based on the "I'll scratch your back if you'll scratch mine" relationship. Elected officials in the U.S. Congress appropriate money to the Forest Service. Much of this money is earmarked to be used for timber sale preparation and timber sale access road construction or reconstruction. Along with this timber funding comes "annual timber targets". Woe be to the Forest Service unit that fails to achieve its "timber target".**

**National Forests that consistently "underachieve" their timber target and overachieve in projects that reflect real ecosystem needs, can expect their timber appropriated budgets to fall the following year. This means that national forest must lay-off timber sale related employees.**

**Under this arrangement, the politicians have a way of pressuring the Forest Service to sell timber where is absolutely no ecological need to remove the trees, even though the Forest Service tells the public there is.**

**In fact, the Forest Service spends considerable time and money to describe to the public in great detail, of all the timber sale benefits they will see. Of course these benefits are non-existent, but the Forest Service feels they can get a non-forester to believe anything if they say it.**

**Congress never asks the individual National Forests or the Regions how much they should be harvesting from an ecological need basis. Congress just hands out the money and timber targets and says, "do it"!**

**The bottom line is clear. The Forest Service feels that it must break the law in order to sell enough timber to keep their appropriated budget stable. However, maintaining budget stability isn't why the Forest Service exists. Public service is.**

### **The New Threats to our Public Land are being used by the Forest Service to Mask-Over the Old Threats that Still Exist**

**High level Forest Service managers want the public to believe that just because there are new concerns and issues on public land, the older issues have been solved or have gone away. Nothing could be further from the truth.**

**In the April 30, 2003 issue of the *UC Berkely News*, Forest Service Chief Dale Bosworth was quoted as saying the following about the timber harvesting, roadbuilding, and livestock grazing concerns held by many Americans. He called them:**

- "bogus,"
- "great diversions," and
- "relatively unimportant matters that take up a lot of our (Forest Service) time and effort."

**In the July 5, 2003 issue of the *Lewiston Morning Tribune* newspaper, Chief Dale Bosworth was quoted as saying the following at a meeting in Seeley Lake, Montana:**

- "Environmentalists are missing the point when they claim logging and mining threaten forests in Montana and Idaho."
- "The recent report listing the Bitterroot National Forest as one of the nations most endangered is 'nonsense'."
- "Greenpeace is falling back on the same old, tired arguments of 15 years ago."

**Just one quick glance at the guilty verdicts against the Forest Service in the last 11 years clearly shows that shows the opposite is true.**

**Just examining the 52 guilty verdicts against the Forest Service when subdivided by the issue that prompted the litigation, one can see that the old issues of grazing and logging are very much alive and well in 2005. These issues will never become "old issues" until the Forest Service allows them to occur on public land only when their impacts are truly benign or positive. To avoid violating the National Forest Management Act, the grazing, logging, and road building must only be allowed as indicated by the forest plan.**

**In the 52 court cases, logging formed the basis for 27 of them, and grazing formed the basis for 10 others. These so-called old issues made up more than 70% of the guilty verdicts against the Forest Service.**

### **Many Forest Service Employees have Excellent Land Ethics and are Highly Motivated to do the Best Thing for the Resource**

**Forest Service high and mid level managers and timber/engineering employees know there will be one major barrier restraining their unfettered zeal to log trees and build roads. Until the National Environmental Policy Act (NEPA) is weakened or rescinded, all commodity output projects must pass through the NEPA process. The NEPA interdisciplinary team will include hydrologists, wildlife biologists, fish biologists, botanists, archaeologists, ecologists ... and foresters/road engineers.**

**Most of these hydrologists, wildlife biologists, fish biologists, botanists, archaeologists, and ecologists know from experience that the reason the Forest Service proposes 99.9% of their timber sale projects is to help them accomplish their politically-established timber target. The idea that timber sale projects are being proposed to enhance the natural functioning of the forest would be a laughable concept to most of these resource specialists.**

**Thus, many Forest Service resource specialists working in these disciplines are motivated to design and mitigate these timber sales and roads such that the ecological effects will at worst, be benign. If it appears to these specialists that the timber sale and logging roads will have adverse ecological effects (in spite of their best attempts at project design and mitigation), then they will do their best to convince the rest of the NEPA ID Team and the District Ranger to drop the project entirely.**

**These attempts to have an ecologically harmful timber sale dropped are seldom successful when timber target accomplishment is directly linked to the project.**

### **The American Citizens must 1) Generate a New Public Land Mission for the Forest Service, or 2) Find a New Caretaker for their Public Land.**

**REAL change in the Forest Service will not happen by itself, especially if big money is linked to maintaining the status quo, which it is. To initiate change, the American public must become non-violent citizen activists:**

#### **1) Citizens must write letters to their elected politicians.**

**Let politicians know that you are not happy with the way the Forest Service is caring for the public land that belongs to you. Ask them to officially adjust the Forest Service mission from 1) providing moneymaking opportunities for private individuals and companies using public assets, to 2) preserving, protecting, and conserving the National Forests, which is what the vast majority of the 293 million National Forest owners want. Finally, tell these politicians that if they will not pursue this Forest Service mission change, you will vote for someone at the next election that will.**

**2) Citizens must write letters and have face-to-face meetings with local Forest Service managers.**

**This is where the real truth behind a project that seems potentially harmful to the environment may be divulged. Ask the Forest Service Responsible Official to show you how and why they know the project is needed. Then ask them to justify what was written in the Purpose and Need section of the NEPA document they just signed and approved. By this time the project should be beyond the scoping stage and has just had a final decision announced in the newspaper of record.**

**If they are unable to explain the reason for the project to your satisfaction, then make it clear to them that:**

- 1) you plan to appeal the project, and**
- 2) you will begin laying the groundwork for litigation.**

**At this time ask the Responsible Official to withdraw the project, to give them time to analyze your concerns. Remind them that the new analysis may justify a new, more environmentally friendly alternative.**

**You might also mention that if their future performance as a public servant is unacceptable, on your next visit, a newspaper reporter would accompany you.**

**If court seems to be your only option, there are many pro-bono attorneys who are glad to take cases like this.**

**3) Citizens must write letters to high level Forest Service managers.**

**This option is where a caring American will be least likely to get positive results to their environmental concerns. High-level Forest Service officials see these letters critical of the Forest Service every day. They know their "please the politicians and corporations" management policies on public land are unpopular with the general public. They need no letters to tell them this. These concern letters would quickly hit the round-file if sent to Washington, DC.**

**4) Citizens must write letters to the editor in newspapers.**

**This may be one of the most effective things an American that is unhappy with the Forest Service mistreatment of public land can do. In your letter, be sure to mention the names of the politicians that represent your area that could help change the Forest Service mission if they wanted to.**

**Understand that your letter(s) to the editor will inform other caring people about the Forest Service mismanagement of the forests owned by the American public.**

### **Conclusion**

**The majority of the United States Forest Service law violations should never have happened. They were easily avoidable. Had the Forest Service not tried to force much more natural resource commodity output from the public lands than the land could sustain, the Forest Service would still be one of the most respected agencies in the federal government. Now, the Forest Service can no longer claim that distinction.**

**Unless things change significantly very soon, someday our children's, grandchildren's, grandchildren will be forced to see what a real wild forest with real wild animals looked like on virtual-reality CDs.**

**It's time for the ugly truth about the Forest Service to see the light of day. The truth has been suppressed for too long. The mission of the Forest Service must change.**