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SLIDES: Climate Change Adaptation and the Federal Lands

Robert L. Glicksman

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Climate Change Adaptation and the Federal Lands



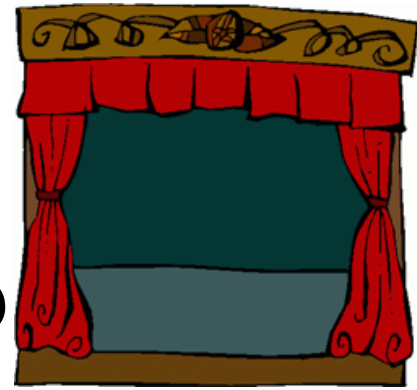
**The Past, Present, and Future of Our Public Lands
The 31st Annual Martz Summer Conference
University of Colorado Law School**

June 4, 2010



**Robert L. Glicksman
J.B. & Maurice C. Shapiro Professor
of Environmental Law
The George Washington University Law School**

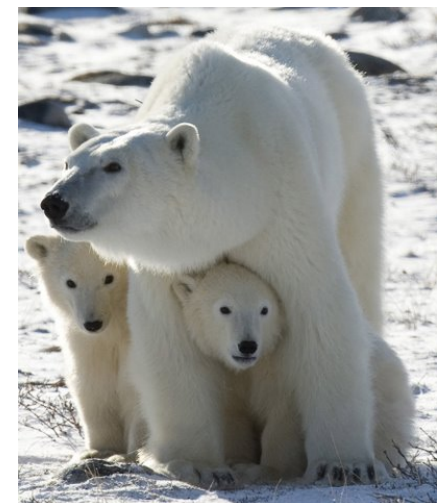
Setting the Stage



- *Massachusetts v. EPA*, 415 F.3d 50 (D.C. Cir. 2005)
- Professor Farber: Agencies must
 - fold adaptation assessment into decisionmaking processes; and
 - improve monitoring, follow-up, and the treatment of uncertainty in EISs
- Professor Ruhl: Climate change adaptation trends include
 - shifting emphasis from preservation to transition;
 - prioritizing crisis avoidance and management;
 - shifting from front-end decision to back end decision methods; and
 - Providing greater variety and flexibility in regulatory instruments.
- GAO testimony
 - Current demands crowd out future adaptation funding
 - Inadequate site-specific data
 - Lack of clear agency roles

Climate Change Adaptation: Examples of Court Challenges

- *NRDC v. Kempthorne*, 506 F. Supp. 2d 322 (E.D. Cal. 2007)
- *Center for Biological Diversity v. Kempthorne*, 588 F.3d 701 (9th Cir. 2009)



NEPA and Adaptation

- Draft [CEQ Guidance](http://ceq.hss.doe.gov/nepa/regs/Consideration_of_Effects_of_GHG_Draft_NEPA_Guidance_FINAL_02182010.pdf) on Climate Change,
http://ceq.hss.doe.gov/nepa/regs/Consideration_of_Effects_of_GHG_Draft_NEPA_Guidance_FINAL_02182010.pdf
- Senator Inhofe's bill, S. 3230,
<http://www.scribd.com/doc/30607902/U-S-Senate-S-3230-via-MyGov365-com>)



[Link](#)

CEQ Inquires: How Should NEPA Apply to Consideration of Climate Change Adaptation by the Federal Land Management Agencies?

- How should NEPA documents regarding long-term energy and resource management assess GHG emissions and climate change impacts?
- What should be included in specific NEPA guidance for projects applicable to the federal land management agencies?
- What should be included in specific NEPA guidance for land management planning by these agencies?
- Should CEQ recommend any particular protocols for assessing land management practices and their effect on carbon releases and sequestration?
- How should uncertainties associated with climate change projections and species and ecosystem responses be addressed in protocols for assessing land management practices?
- How should NEPA analyses be tailored to address the beneficial effects on GHG emissions of federal land and resource management decisions?
- Should CEQ provide guidance to agencies on determining whether GHGs are “significant” for NEPA purposes, and at what level should GHG emissions be considered to have significant cumulative effects?

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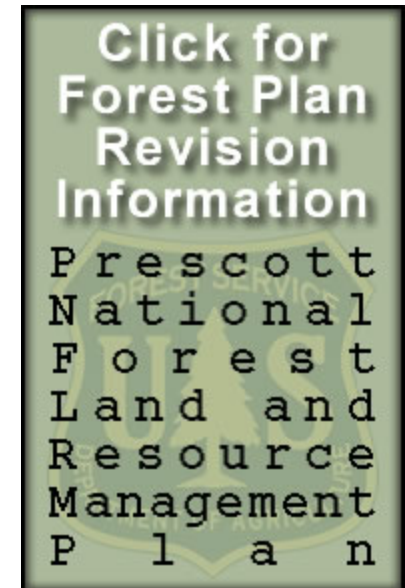
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Land and Resource Management Planning and Adaptation



- Interior Secretary's Order # 3289, <http://nccw.usgs.gov/documents/SecOrder3289.pdf>
- FWS's Landscape Conservation Cooperatives Program, <http://www.fws.gov/science/SHC/lc.html>
- Forest Service [Notice of Intent](#) to prepare an EIS on land management planning rule, 74 Fed. Reg. 67,165 (12/18/09)
- The Forest Service's Climate Change Resource Center, for use by forest managers, <http://www.fs.fed.us/ccrc/>



[Link](#)

FS Notice of Intent for Planning Rule EIS

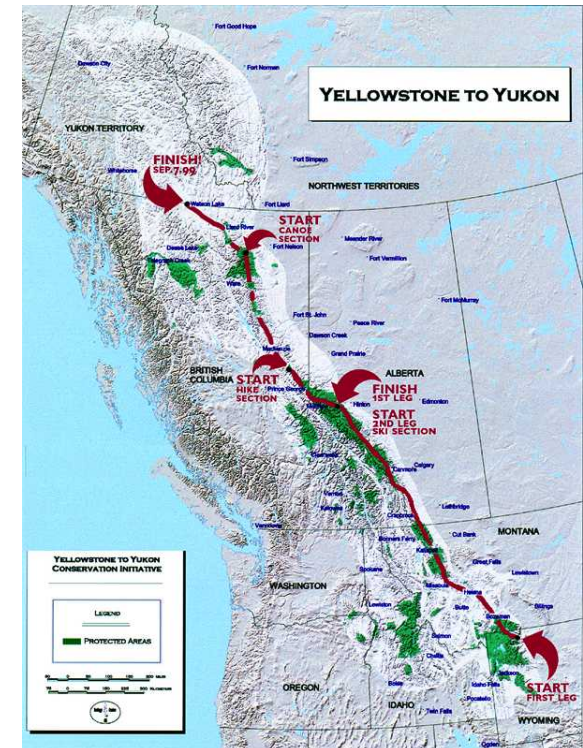
- The notice included a set of principles that could be used to guide the development of a new planning rule — the first two principles dealt with climate change.
- First, land management plans could address the need for restoration and conservation to enhance the resilience of ecosystems to a variety of threats; climate change was listed first among those threats.
- Second, plans could proactively address climate change through monitoring, mitigation, and adaptation, and could allow flexibility to adapt to changing conditions and incorporate new information.

Pending Legislation

- The Kerry-Lieberman bill,
<http://kerry.senate.gov/americanpoweract/pdf/APAbill.pdf>
- The Wildlife Corridors Conservation Act of 2009 (H.R. 5101
http://www.washingtonwatch.com/bills/show/111_HR_5101.html



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The President's Interagency Climate Change Task Force

- Executive Order 13514,
74 Fed. Reg. 52,117
(Oct. 2009)
- The interim report:
<http://www.whitehouse.gov/blog/2010/03/17/interagency-climate-change-adaptation-task-force-interim-report>

