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Citation Information

Shannon, Margaret A., "Local and National Interests in Using Public Forests: Lessons from the Pacific Northwest[, Part] II" (1994). *Who Governs the Public Lands: Washington? The West? The Community? (September 28-30)*.

<https://scholar.law.colorado.edu/who-governs-public-lands-washington-west-community/12>

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Margaret A. Shannon, *Local and National Interests in Using Public Forests: Lessons from the Pacific Northwest* [, Part]II, in WHO GOVERNS THE PUBLIC LANDS: WASHINGTON? THE WEST? THE COMMUNITY? (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law 1994).

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**LOCAL AND NATIONAL INTERESTS
IN USING PUBLIC FORESTS
LESSONS FROM THE PACIFIC NORTHWEST II**

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**WHO GOVERNS THE PUBLIC LANDS:
WASHINGTON? THE WEST? THE COMMUNITY?**

Second Annual Western Lands Conference
Natural Resources Law Center
University of Colorado
School of Law
Boulder, Colorado

September 28-30, 1994

Second Annual Western Lands Conference
on
**WHO GOVERNS THE PUBLIC LANDS:
WASHINGTON? THE WEST? THE COMMUNITY?**

Thursday morning session on
**LOCAL AND NATIONAL INTERESTS IN USING PUBLIC FORESTS --
LESSONS FROM THE PACIFIC NORTHWEST II**

I. POLITICAL LEGACY OF THE FEMAT

A. President Clinton Goes to Portland, Oregon to Talk About Forests

Concluding comments of Clinton for Forest Conference on April 2, 1993 --

“How can we achieve a balanced and comprehensive policy that recognizes the importance of the forest and timber to the economy and jobs in this region, and how can we preserve our precious old-growth forests, which are part of our national heritage and that, once destroyed, can never be replaced? The most important thing we can do is to admit ... that there are no simple or easy answers. This is not about choosing between jobs and the environment, but about recognizing the importance of both.”

**B. Can “the gridlock be broken?”
Can “the train be put back on the tracks?”
Will “people matter?”**

President Clinton’s Forest Conference conveyed an inclusive approach, fostered optimism, created hope and gave rise to high expectations.

“The Portland summit should have prepared us for the turbulence ahead. In the course of one remarkable day, the political configuration of forest debate shifted from the bipolar “environment versus industry” to a surmounting center in concerns for communities, ecosystems, jobs, and, above all else, human dignity. The president enabled and legitimized this shift, which created fresh expectations and standards of account. The president also charged the federal agencies to produce a resolution, presumably to satisfy these expectations and standards.”
(Jeff Romm, “Professional Springtime” Journal of Forestry 92(4):47. April 1994.)

C. “But President Clinton promised us!!”

The broad coalition of interests which coalesced at the Forest Conference felt excluded from the process of developing a plan for the federal forests. Many participants in the Forest Conference, including scientists and academics, felt that President Clinton had personally promised them that they would be involved in seeking a new solution.

Bitterness is heard in conversations among “excluded scientists,” “excluded stakeholders,” “excluded interest groups,” “excluded voices.” They are bitter because they feel powerless to be heard beyond the political event of the Forest Conference. Charges of exclusion include the charge that FEMAT scientists exercised “political correctness” and “mind control.”

The optimism of the Forest Conference was replaced with anger, frustration, and a desire to derail the resulting “President’s Forest Plan” from the FEMAT.

“The FEMAT approach to this charge displayed all the characteristics of technocratic self-protection: controlled access, invisible agenda, obscure language, unaccountable proceduralization, and, most importantly, fallback to the understood comforts of environment versus industry.” (Jeff Romm, JOF, April 1994)

D. “We can do better!”

“The results were bound to conflict with expectations raised in the popular reformation at Portland; were bound in a democracy to motivate subsequent dynamics surrounding federal forest issues. But the president’s plan took another step. Political judgment modified Option 9 to regain some sense of Portland. Means were created to modify agency behavior and free up entrepreneurial energies long trapped in small cells. Money was provided to give some running room for efforts to fill new expectations. While Option 9 resolved environment-versus- industry administratively, the forest plan added some scope for the potential Portland coalition.” (Jeff Romm, JOF, April 1994)

Numerous attempts were made by FEMAT scientists and others to open the FEMAT process to politics, and thus the capacity for political judgment in defining and addressing the important public questions posed by President Clinton and participants at the Forest Conference.

- Open days at the beginning of the FEMAT for anyone to come to the table with ideas.
- Requests to work with State and local government.
- Requests to work with private land owners.
- Requests to organize a meeting with all the tribes in the region.
- Efforts to draw upon agency specialists and managers in developing the information base for analysis and designing effective, implementable management options.

- Tried to encourage interest groups whose involvement was channeled through a special office to send ideas. Public comments were analyzed upon receipt by the FEMAT.

E. Lessons Learned???

Summary from the “Social Assessment” Chapter of FEMAT (April 1990, Journal of Forestry, p.35) (Authors: Roger Clark, PNW USFS and George Stankey, OSU)

“Toward the Future: What Lessons did we Learn?

- The current situation (gridlock) is a legacy of many failures.
- Distrust is a symptom of underlying problems.
- Information about diverse societal values is inadequate.
- Advocates for a particular group, resource, point of view, pet theory, or policy are not functioning as scientists.
- People will not support what they don’t understand, and they cannot understand that in which they are not involved.
- The process must be open, fair, and inclusive.

Four steps are required for the future.

- First, we must work to minimize the polarizing effects of differing political agendas. The vilification of people holding different values, be they loggers, environmentalists, or bureaucrats, nullifies any serious search for common ground.
- Second, we must fashion responsive administrative decisionmaking structures, built around a core of participative management. Failure to do so will lead to a loss of professional influence.
- Third, research institutions must focus on key questions facing society and on how to make knowledge available to a wide range of constituents. Society, rather than scientists, must be seen as the ultimate beneficiary of research.
- Fourth, educational institutions must refocus and become responsive to changing public perceptions and values of forests and forestry. Educators must demonstrate their responsibility and responsiveness to the wider society; failure to do so will diminish their value to, and support from, society.”

“Technical knowledge would be viewed as only one, rather uncertain, input into a situation that also requires common sense, ethical insight, and a great deal of conversation with those affected before a policy can be formulated or a decision made...” (Robert N. Bellah, 1983. “Social Science as Practical Reason.” In D. Callahan and B. Jennings (eds.), *Ethics, the Social Sciences, and Policy Analysis*. New York: Plenum Press.)

F. "You Shall Do Better."

Subsequent bioregional planning efforts are trying to learn from the FEMAT and are more open. They now face the dilemma of how to work when everyone's sitting on your desk.

Natural resource professionals and especially forestry professionals need to take up the opportunity to reshape natural resource policy. Otherwise, the "shall" will be met --- but by others.

"Professional Springtime"

"Professional forestry confronts a once-in-a-lifetime opportunity for resurgence of its leadership in the forest policy arena. We are in the midst of changes that have thrown forth whole generations of new public questions, and we should be delighted with the opportunity to participate in and perhaps guide the massive public learning these questions demand." (Jeff Romm, JOF, April 1994)

II. THE IMPORTANCE OF ESCAPING FROM COMFORTABLE ISSUES AND PREDICTABLE INTERESTS

A. Public Forests are PUBLIC

"Democratic faith is faith in the capacities of ordinary men and women as responsible co-creators with one another, and with nature, of the common world." (R. Engel. 1980. "The Democratic Faith in America." Six Minns Lectures.(p.41) Ron Engel also wrote *Sacred Sands: The Story of the Protection of the Indiana Dunes.*)

Public forests are places for democratic work, and thus not only must citizens shape the choices regarding their use and management, agency managers must be professional citizens.

"When the process includes decision-making, the demand for participation is a demand to be a decision-maker rather than simply to have the opportunity of exerting influence on the decision-maker." (J. Ladd. 1975. "The Ethics of Participation." (p.108) In J.R. Pennoch and J.W. Chapman (eds.), *Participation and Politics, NOMOS XVI.* New York: Leiber-Atherton.)

"No public forest reservation shall be established, except to improve and protect the forest ..., or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of the citizens ... to be used in the State or Territory in which such timber reservation may be situated ... but not for export therefrom." (Organic Act of 1897; 16 USC 473.)

“The resources of the national forests should be conservatively managed to maximize their use value while protecting the long run viability of the resources, and keeping in mind that local issues should be decided locally, and stability of extraction is optimum.” (Gifford Pinchot in USFS Manual, The Use Book, 1905)

Role of public administration is to facilitate a social learning process by using open, public deliberation of important social questions.

“Administrative legitimacy requires active accountability to citizens, from whom the ends of government derive. Accountability, in turn, requires a shared framework for the interpretation of classic values, one that must be developed jointly by bureaucrats and citizens in real-world situations, rather than assumed. The legitimate administrative state, in other words, is one inhabited by active citizens.” (Camilla M. Stivers. 1990. “Active Citizenship and Public Administration. IN Wamsley, et.al., *Refounding Public Administration*. Thousand Oaks, California: Sage Publications.)

B. Can federal land management agencies become legitimate forums for public learning?

In all the rhetoric about Ecosystem Management and Sustainability one common theme persists: democratic forms of governance built upon the inclusion of diversity and difference are essential.

New language of “customers” and “customer service” in government is worrisome to me. “Are you being served?” is not a citizenship question. It is a consumer question. If the public is to be merely a “gaggle of consumers shopping in the stores of government policies and programs,” then the consumer response is to maximize personal benefit and minimize personal cost.

To learn is to question, and then remember the answer.

Public land management will require public questions and public learning. Public questions are formed when a “public” coalesces around a problem brought into the public arena. The role of government is to facilitate the public inquiry regarding public questions by evening the playing field, opening access to definition of the problem and responses to it, contributing to the development of information useful in understanding the problem and addressing it, and MOST importantly, serving as the institutional memory for what worked and what did not work based on the consequences of the actions taken. It is this public learning capacity which distinguishes democratic forms of governance.

Public learning necessitates openness to change.

Current debates underscore the basic openness of legal arrangements and social institutions. Fluidity is created by legal and administrative ambiguity. From the perspective of the need for centralized command and control is this “a problem,” but from the perspective of the involvement of local people, this is the opportunity. In other words, the very ambiguity which may frustrate agency managers is a resource to the people seeking to find interstices in the closed walls of agencies, experts, scientists, and lawyers. Adaptive management as conceived in the FEMAT sought to grab this opportunity and use it to seek creativeness in forest management in light of social and ecological issues.

The “past” can become a fortress against change.

It is a truism to say that the laws relating to public forests stem from different times, different problems, and different purposes. This complex layering of social and economic history as law creates a complicated context in which to act regarding the interests of today and the purposes of today. Agency officials often long for “bomb proof” plans which neither national nor local interests can derail. Organized interest groups seek to gain, protect and keep special access rights to administrative decisions.

Whose claims will be given moral legitimacy?

Metaphors of natural resource and public land policy provide the basis for deciding whose claims will be given special favor when joining the local and national interests into national policy. The metaphor of the “garden” underlies the Manifest Destiny of the 19th century. Public land policy aimed at Manifest Destiny imagined a country peopled by small farmers each tilling their own soil and improving their own life and the life of their community. Natural resources, like trees and fish, were to be cultivated to improve them and to provide for the constant needs of people.

“Workers of the World -- Unite”

By the 20th century, this idyllic image was partly replaced by the metaphor of the factory. Now land provided resources as “inputs” to the production system and the problem was to ensure a stable and continuous supply, uninterrupted by vagaries of nature or society. Now people were a labor pool and labor policies often allowed draconian measures to enforce the necessity of cheap, mobile, expendable labor. When labor is simply one part of the equation of *land, labor, and capital*, then it must be open to managerial control. The founding of the labor movement occurred in this milieu and woods workers were a central component of this movement.

Lesson: Can analysis expand the definition of interests -- as public learning would necessitate? In other words, *Jobs - Workers - The Industry* -- are not the same when placed in opposition to *The Environment*.

I turn to this question and its history because the debate of “local-national” devolved into “jobs versus environment.” The metaphor of the garden supports the many policies seeking to make the pie bigger by adding “fertilizer” to the system, but also looks to support “good gardeners.” (The many recent stewardship policies are a good example of this.) The metaphor of the factory is caught in the

internationalization of markets and the common response of industry is “the market made me do it” when workers are laid off so as to improve their overall measures of “productivity” on the international level.

The federal forests of the PNW have been pushed and pulled by policies from both guiding metaphors. While on the average the least productive of the PNW forestlands are on public land (private corporations and individuals own the very productive forest lands), nonetheless compared to other places in the US and the world, these public forests have incredible production capacity. While many forces led to the patch clearcutting approach of the last 40 years, one cannot help but see the determination of foresters to eradicate the “old mature forests” and replace them with “young fast-growing forests” as like a good gardener clearing out the old corn stalks to plant new hills. Or, to switch metaphors, ensuring that the forests - like labor - are under managerial control and can be programmed within the production system.

Lesson from PNW -- Concern for jobs may not translate into concern for workers.

Although the rhetoric is “family wage income,” this rhetoric may not be about individuals but rather aimed towards establishing the moral superiority of the claims to use the wood fiber resources from the public forests. This difference is fundamental to understanding why the lessons from the PNW are so difficult to grasp. In a time where government seeks to locate its own legitimacy in its ability to “create jobs,” especially family wage jobs, this is powerful language.

One of the most contended elements of the FEMAT was the social assessment when it tried to locate the “winners and losers” related to the changes in federal forest policy. Since July 1 the “losers” have loudly proclaimed their losses and demanded reparations. The winners have been silent. Indeed, the winners give strong credence to the claims of workers that they have lost not just their jobs but their opportunity to be woodworkers and to live in “healthy” communities.

Difficult to separate interests into national and local as they mobilize and become organized.

Over 20 years ago the Washington State Commissioner of Natural Resources, Bert Cole, went to Forks on the Olympic peninsula and met with the workers in what was a relatively new town. He showed them the data on the rate of harvest on State forest lands and showed why it was unsustainable. He used easy to understand ideas, like the log trucks were rolling down Highway 101 at the rate of 1 per minute. The workers agreed to slow down the harvest -- it was beyond their capacity apparently anyway. This story has been repeated other places, like on the Bitterroot NF in Montana, where the Bitterroot controversy surfaced the concerns of workers that the forest would be harvested faster than it would regrow and they were going to be the losers.

By 1990, when the issue of timber harvest reached crisis level in the PNW, the timber industry invited Jody Powell, former public relations advisor to President Carter, to help develop a strategy. He quickly told them that the way to get the high moral ground was to make it a worker issue, not an industry issue. Industry would be labeled as the “fat cats,” but workers would not. Is this a local issue related to local interests, or the local manifestation of a national issue?

Power comes from linking local or special interests to national or public interests.

In the political arena, power is accrued as the scope of the issue widens and those affected by it increases. Thus, when an issue -- and associated interests -- stop being "local" and become "national" is difficult to ascertain.

When should policy losses by individuals or even communities or even regions be given legitimacy because they represent a part of the bigger picture of injustice, when trying to justify a public policy response?

C. Public learning needs ways of developing expanded understandings of interests, issues, and the forces of change. It needs room to move.

A new metaphor -- the ecosystem -- has recently taken solid form and is challenging the power of the garden and the factory in public forests. In the "ecosystem" metaphor, the maintenance of the integrity of the entire system requires that all its parts are intact and working together. After years of being rendered insignificant, the "land ethic" as framed by forester and wildlife manager Aldo Leopold has become everyone's new mantra. The crunch comes when the metaphors clash. This is what happened in the PNW. The very zeal of the foresters seeking to create a new Eden threatened the existence of some of the creatures. Faced with the loss of some of the parts of the system, the response was anxiety quickly replaced with action. This change in meaning has affected the relationships among the various disciplines associated with the practice of forest management, the relationships among interest groups, and the debates regarding "who controls."

The ecosystem metaphor began to take shape by the 1950s, and by the end of the 50s a bill was introduced by Senator Murray of Montana to create an environmental advisory board to the President equal to the council of economic advisors. The 1960s saw this debate over environmental protection and economic production mature, with many economists arguing that the economic policies had to be fundamentally and systematically changed because they fostered this problem by their very structure. The legacy of law and regulation through the 1970s followed their advice and put into place a very different set of economic policies as regarding the use, direct and indirect, of "the environment." Public forest lands were directly affected by this debate and new policies written in the 1970s tried to bring the "system" framework into forest management decisions.

What did this do to the local-national debate?

This division stems from pre-Civil War times when the Eastern (non public domain states) wanted the land and resources in public domain to bring revenue into the federal treasury to be divided among all the states. The creation of forest reserves and their restrictions in terms of sale of resources was partly to remove these lands from this calculus. Many of the apparent oddities in natural resource policy were not odd at the time -- low fees for grazing (why send western dollars to the east?) and open mineral exploration with not only no fees but the potential for patenting lands "chiefly valuable

for their minerals.” Indeed, the Sagebrush Rebellion replayed for westerners the revolution for independence from the British -- national policies favored Eastern economic interests (see, for example railroad rate regulations) and the income from public forests in western lands was viewed as belonging to the State in which they lay. This is one facet of the local - national debate over who controls.

Who controls includes both government and private economic interests.

Another facet reflects the change in both economic enterprises and public administration. The rapid growth of the administrative state in the early 20th century placed direct national control of many aspects previously controlled by states or individuals. Forests were affected in this shift because they were central and essential to the economy itself. Indeed, as the quotes from the 1897 Organic Administration Act and the 1905 Use Book of the Forest Service both attest, the conservative management of the forest was the way to provide the economic and social stability essential to a capitalist economy and individualistic polity.

Nonetheless, it was the wealthy interests which controlled “local” interests, not the community of workers. Many timber companies have a paternalistic history as “company towns” (I grew up in one - Bonner, Montana) and this complicates their relationship to workers. However, in general, timber companies like all other American companies have assiduously sought to control the fates of workers like any other element of the production system. While the union movement tried to increase the power of workers in this relationship, it never gained more than changes in working conditions or wages -- the worker is still a fungible part of the equation. Responding to calls of alarm as the rapid harvest of forests across the country left behind these “timber towns” as remnants or “ghost towns,” (e.g., Samuel Dana in 1918), a “social mission” was added to the sustained yield concept. The concept of community stability took shape as the government assumed responsibility for advocating the need to address the “plight of these forgotten towns and people.” In 1935, the Forest Service in central Oregon (Willamette NF) sought repeatedly to get social services extended to the communities left behind as timber harvest moved to a new area. However, it was this paternalistic approach which characterized most attempts to address the communities -- not “who governs.”

Can the ecosystem metaphor translate into ecosystem management policies which give greater humanity to workers and citizens, communities and businesses? In the ecosystem metaphor, all elements are co-equal -- should all interests be co-equal?

The complex weave of interests, economic relationships, social organizations and so forth creates a “system” which cannot be managed, especially not by a “forest king.”

D. Uncertain issues, unfamiliar interests: Politics among strangers

Comfortable issues and predictable interests simplify the political environment and allow everyone to continue on their familiar paths.

The lesson of the FEMAT is that when issues are open to definition and interests are seeking advantage in unfamiliar policy forums, the policy process is like a junior prom. (The junior prom is to prepare for the senior prom.) Who you dance with should not be confused with who you care about - indeed, unsure of your dancing ability, you might never dance with the one you most want to be with for fear of making a mistake.

In a complex policy process, one lesson is to look at alliances among interests as likely temporary liasons. Indeed, one should expect that policy process itself will define and redefine options and outcomes often enough that coalitions will come and go in slightly lagged waves. This means that the present coalition of interests will not be a good guide as to what may be acceptable policy options, for it may disappear without a trace or suddenly reverse positions.

The importance of science and analysis rests right here.

When the main purpose of the policy process is to learn about what the issues are, what the interests are or might be, what the options might be, and what criteria could be used to choosing among the options, then policy learning among those affected by the choices should be the central feature of the policy process.

One lesson of the FEMAT is that when opposing policy communities seek to wrest legitimacy from the policy process, they will attack the analysis and those who did it. Policy learning in this kind of environment is strenuous.

Furthering policy learning in this environment may be impossible. Recognition of this potential for breakdown is the reason to design the policy process so as to include all voices and interests, and involve everyone in the definition of issues, questions for analysis, selection of decision criteria, and options for analysis. Nonetheless, arguments will still occur regarding the quality of the analysis when losers recognize who they are. It is unlikely that reliance on "peer review" will quiet these arguments. The real question is -- in what forum will these questions be raised? And, can a federal agency become a forum for this kind of political work?

III. GOVERNANCE: WHO IS THE POLITY?

Return to discussion of public agencies.

This inexorable move upward of land management decisions in the bureaucracy has led to the point that agency coordination efforts now are producing a new bureaucracy! No longer are agency managers calling the shots, now it is the interagency coordination teams who speak directly for the executive offices of the president. An entirely new and separate bureaucratic organization is developing in the Pacific Northwest to "implement" the President's Forest Plan! Whole new layers of organization have appeared and new coordination processes to coordinate the coordination.

Lost in the shuffle of SWAT team analyses are the everyday activities of public land managers. Equally lost in the ever more complex webs of procedure and specialized committees is the localized focus of land management.

As land management planning and resource assessments have moved to larger geographic scales, they have become more centralized since coordination of activities was necessary to meet objectives related to larger geographic scales. As the point of decision and control moved upward in the agencies, the constituencies mobilized at larger and larger social scales. By centralizing assessments and management at a large scale, the small details of daily life are rendered ^{invisible}. Since most people's lives occur at the smaller scale of daily routine, this shift in scale makes their claims and interests seem petty and selfish in light of "ecosystem health" or "species viability."

The promise of the Forest Conference, as eloquently captured by Jeff Romm, was that the everyday eloquence of people's lives and the places in which they live would remain on the policy stage. The tragedy of the FEMAT is that it missed this opportunity.

The question of "Who is the Polity?" is what is really at the heart of the topic of the conference. To answer that question any differently than "The American People" is to forget that these lands are constituted in the name of the people as a Constitutionally defined citizenry. However, to ignore the obvious -- people live in places and have ordinary lives -- is to foster the political fragmentation of citizenship embodied in the question of who controls.

The public controls, but only when they come together as whole citizens and in their citizen role, not their consumer role.

Maybe the discussions from the FEMAT and other similar SWAT team efforts will take us forward in our efforts to develop democratic forums for public learning.