SLIDES: Climate Change Adaptation and the Federal Lands

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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
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Setting the Stage

- 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


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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Land and Resource Management Planning and Adaptation

- 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/
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 President’s Interagency Climate Change Task Force

• Executive Order 13514, 74 Fed. Reg. 52,117 (Oct. 2009)