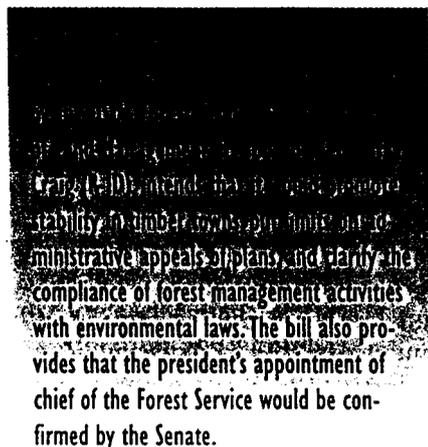


# Senator Craig's Public Lands Management Improvement Act of 1997



By J.E. de Steiguer

There are currently some 50 bills before the US Congress that deal with forestry. Among the most important of these is the one introduced on October 3, 1997, by Sen. Larry Craig (R-ID). This bill, S 1253, titled the Public Lands Management Improvement Act of 1997, would have far-reaching effects on the national forests and multiple-use public lands.

Because it is so potentially important, the Craig bill has been immersed in controversy. Environmental groups insist that the legislation is simply an attempt by the forest products industry to gain unfettered access to federal forest resources. In contrast, the timber industry and others generally believe the legislation will liberate federal lands from 20 years of frivolous and costly environmental litigation.

Like most legislative initiatives, Senator Craig's bill does not yet enjoy broad public support. The need for reform, however, is clear, as evidenced by public and congressional debates over road building and below-cost timber sales, and by the extensive hearing record Craig has established: 15 general oversight hearings on Forest Service and Bureau of Land Management activities, six workshops on his draft, and eight formal hearings on the bill after its introduction. Craig's staff is currently rewriting the proposed legislation to reflect the comments and concerns expressed by former chiefs of the Forest Service and spokespersons for American Forests, the Izaak Walton League of America, the National Wildlife Federation, the National Woodland Owners Association, the United Brotherhood of Carpenters and Joiners of America, the International Association of Fire Fighters, and many other groups.

A brief description of the bill—its six titles and most of its 55 sections—follows. The next four articles in this

issue reflect the diversity of opinion about the bill, from four viewpoints—state forestry, an environmental group, forest industry, and the foresters' professional society.

## INTRODUCTION Findings and Supplemental Authority

The Public Lands Management Improvement Act of 1997 (S 1253) begins with a discussion of Craig's view on problems with federal planning on public lands. These findings, in effect, provide a justification for the bill.

*Section 2.* The bill finds that the principal agencies involved in federal land management planning—the Bureau of Land Management (BLM) and the Forest Service—operate under the principles of multiple use and sustained yield, both of which are said to enjoy strong public support.

In the years since the Federal Land Policy and Management Act (FLPMA) of 1976 and the National Forest Management Act (NFMA) of 1976 were passed, however, numerous fundamental flaws in the planning process have become apparent. These flaws have caused all stakeholders to express dissatisfaction, which threatens the integrity of the planning process and undermines the integrity of the agencies.

The bill finds that although Congress wanted resource management plans to be completed within deadlines and to provide "secure" management guidance, planning remains unfinished after 20 years; the agencies' apparently perpetual cycle of planning leads to instability and unpredictable management of federal lands. The agencies are described as "paralyzed" by an escalating number of administrative appeals and lawsuits. Furthermore, the procedures and requirements of FLPMA and NFMA sometimes conflict with

the provisions of environmental laws and should be reconciled. Finally, FLPMA and NFMA do not recognize ecosystem management, adaptive management, or community-based collaborative participation by stakeholders—new concepts that are being incorporated in federal land planning without statutory authority.

All those flaws, the bill finds, have escalated the costs of Forest Service and BLM management and thereby reduced land-management capability. The problems are compounded by the agencies' lack of a clear mission statement, and more direction is needed if the agencies are to manage federal lands on a scientific basis.

*Section 3.* Ecosystem management is defined as "an approach to implementation of the principles of multiple-use and sustained-yield on the federal lands which employs current understanding of ecosystem processes to evaluate the effects of management strategies on ecosystem health and productivity in conjunction with attainment of planned outputs of goods, services, and amenities."

*Section 4.* S 1253 is styled as a supplement to the Federal Land Policy and Management Act of 1976, the Forest and Rangeland Renewable Resources Planning Act of 1974, and the National Forest Management Act of 1976. In the event of conflict or inconsistency between those acts and S 1253, S 1253 shall prevail.

## TITLE I

### Ensuring the Effectiveness and Implementation of Federal Land Planning

*Section 102.* The mission of the secretary of Agriculture and the Forest Service, and of the secretary of the Interior and the Bureau of Land Management, shall be to manage the federal lands under their respective jurisdictions to furnish a sustainable flow of multiple goods, services, and amenities while protecting and providing a full range and diversity of natural habitats of native species in a dynamic manner over the landscape.

*Section 103.* In rendering decisions concerning resource management plans for and management activities on

federal lands, each secretary shall utilize the best scientific and commercial data available to the secretary.

*Section 104.* Under S 1253, there shall be no more than two levels of planning for federal lands: (1) area-wide planning and (2) activity planning. The secretaries of Interior and Agriculture can conduct other levels of assessment, such as for ecoregions. But those results shall not apply to the plans in question, unless plans are amended to reflect the results of the ecoregion plan, or unless areawide planning is done at the ecoregion level. All existing federal plans have three years to be in compliance with the two planning levels.

*Section 105.* Each management plan shall contain, among other things, a statement of goals, an allocation of land uses, planned outputs of goods and services, and a schedule for monitoring the plan. Analyses of specific resources and decisions shall be assigned to one specific level of planning and will not be considered at the other level.

*Section 106.* Plan amendments and revisions must be completed within 30 months.

*Section 107.* No policy may be applied to a resource management plan or activity if it is inconsistent with the plan. Furthermore, the amendment or revision process shall not interrupt ongoing management activities.

*Section 108.* Environmental assessments and impact statements for resource management plans, amendments, and revisions will clearly indicate how their four components—goals and objectives, land-use allocations, outputs of goods and services, and environmental protection policies—will fare if appropriations are cut or increased.

*Section 109.* To the maximum extent feasible, a plan shall consider the economic sustainability of local resource-dependent communities. An analysis of each resource-dependent community affected by a plan shall be published.

*Section 110.* Planners must consider alternatives produced by independent committees of local interests. If more than two such committees exist, the

secretary shall determine which two are the most broadly representative of the various local interests active on federal lands; one such interest shall be concerned with commodity production and another with noncommodity resources. If an alternative is adopted, the agency may fund the committee to monitor implementation. The section also provides for advisory committees sponsored by the secretary.

*Section 111.* Ecosystem management principles shall be considered in the preparation of plans, and such principles will be consistent with the other requirements of this act.

*Section 112.* To make public the costs of all uses of federal lands, the agency plans must disclose "fully allocated costs," including forgone revenues, of noncommodity outputs.

*Section 113.* A person may petition to amend a plan as new information becomes available; the decision to accept or deny the petition shall be subject to section 7 of the Endangered Species Act of 1973 [section 7 requires that federal agency actions not jeopardize endangered species or their habitats], but shall not be subject to section 102 of the National Environmental Policy Act of 1969 [section 102 requires the consideration of the environmental impacts of federal actions].

*Section 114.* The President's budget must include an appendix statement of the funds required to fully implement the resource management plan for each planning unit. The agencies must annually report the total cost of each resource management plan and regional assessment.

*Section 115.* Implementation of each plan shall be monitored to ensure that goals, land allocation, outputs, and policies are achieved and unchanged and to determine whether circumstances warrant "adaptive management."

*Section 116.* Administrative appeals of plans may be made only by persons who had submitted written comments during the original planning process. Such appeals may not challenge the analyses of site-specific resources, such as water quality and forest products harvesting. The environmental or economic injury to parties affected by the

appeal shall be considered and balanced. Categories will be established for certain management activities, which shall not be eligible for administrative appeal.

*Section 117.* Any suit challenging a management plan must be filed in the US Court of Appeals for the circuit in which the federal lands are located. Any person who sustains economic injury because of the implementation of this act may commence a civil suit. The right to obtain a judicial review of a plan will be limited only to those persons who participated in the planning process. The plan, amendments, revisions, and activities shall not be reviewable as part of any other decision regarding federal lands.

## TITLE II

### Coordination and Compliance with Other Environmental Laws

*Section 201.* The purpose of this title is to eliminate conflicts between this act and other environmental laws.

*Section 202.* An environmental assessment, linked to the environmental impact statement prepared for the management plan, in accordance with the National Environmental Policy Act, shall generally be prepared for activities.

*Section 203.* The secretary of Interior or Commerce may certify the Forest Service or BLM to perform section 7 reviews under the Endangered Species Act. If a new species is listed or new information becomes available, the agencies can decide whether a management plan needs to be revised or amended; even if the plan must be changed, management activities can generally proceed until the revised or amended plan is completed.

*Section 204.* Any management activity that may result in nonpoint source water pollution shall be in compliance with the federal Clean Water Act if it employs the best management practices of the state in which the land is located.

*Section 205.* If a planned fire on federal land, according to a finding of the federal manager, would produce less air pollution than would a wildfire on the same land, then the planned fire shall be deemed in compliance with state air-quality laws, the Clean Air Act, and

requirements of the US Environmental Protection Agency.

*Section 206.* To facilitate federal land planning, the planning agencies may meet with one or more user groups, and such meetings will be exempt from the Federal Advisory Committee Act.

## TITLE III

### Development of Ecoregion Assessments

*Section 301.* The purpose of this title is to authorize assessments that transcend the boundaries of federal land planning units (i.e., ecoregion assessments).

*Section 302.* Federal ecoregion assessments, to include nonfederal lands, must have the written approval of the state governors of those lands. Among other things, ecoregion assessments must ensure the participation of the affected states and local interests and must thoroughly explain how the ecoregion was identified and the reasons for the assessment.

*Section 303.* Unless ecoregion assessments are used as the areawide planning units, as provided in section 104, assessments shall not contain any decisions concerning management of resources on federal lands, nor shall they be used to regulate nonfederal lands. No management activity on federal lands shall be delayed or altered on the basis of an ecoregion assessment, unless such assessment is for the areawide planning unit.

*Section 304.* Because ecoregion assessments do not allocate resources on federal lands, they need not conform to the consultation requirements of the Endangered Species Act or the documentation requirements of the National Environmental Policy Act; there is an exception if the ecoregion assessment is chosen as the areawide plan.

*Section 305.* Every two years, the agencies shall submit a report to Congress on the implications of any ecoregion assessments to federal land management.

*Section 306.* The Consortium on Regional Forest Assessment Centers at the University of Washington is authorized to conduct a study of the Pacific Northwest Forest Plan [the Clinton

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administration's northern spotted owl-old-growth forest plan]. The consortium will examine, among other things, the plan's scientific validity, purposes, goals, objectives, and costs. The consortium's final report shall not be reviewed by any government officer before submission to Congress.

#### TITLE IV

### Development of a Global Renewable Forest Resource Assessment

*Section 401.* The purpose of this title is to eliminate the assessment called for by the Forest and Rangeland Renewable Resources Planning Act of 1974 and to replace it with a global renewable resources assessment.

*Section 402.* The new assessment shall include, among other things, national and international natural resource supply, demand, and price relationships; an inventory of tangible and intangible goods and services; an analysis of environmental constraints on the production of goods and services; an analysis of sustainable use of

natural resources; and an analysis of laws, policies, and other factors expected to influence natural resources.

*Section 403.* A National Council on Renewable Resources Policy shall be established to prepare the assessment for Congress. The council shall consist of 15 members: five chosen by the President, five by the president pro tempore of the Senate, and five by the speaker of the House. The council will have an executive director. The council will be independent and will have the right to conduct hearings. The council will not be required to submit its reports to any officer of the US government for approval before their submission to Congress.

*Section 404.* The sections of the Resources Planning Act requiring a natural resource assessment and program shall be repealed.

#### TITLE V

### Administration

*Section 501.* The chief of the Forest Service will be appointed by the President with the advice and consent of the Senate. Any nominee for chief will be submitted to the Senate Committee on Agriculture, Nutrition, and Forestry and to the Senate Committee on Energy and Natural Resources. Any nominee will, among other things, have administered federal, or similar, natural resource lands for at least five years and will have supervised as many employees for five or more years as does a national forest supervisor.

*Section 502.* A fund will be established for monitoring Bureau of Land Management and Forest Service lands.

*Section 503.* Certain agency lands may be transferred between the Departments of the Interior and Agriculture to facilitate more effective management.

*Section 504.* When nongovernment groups request public land records, the agencies may not waive or reduce fees in excess of \$1,000 charged for those records.

*Section 505.* The General Accounting Office shall report to Congress on the effects of taking the Forest Service and BLM off-budget and permitting the agencies to retain for their use all the revenues they collect from their

federal lands.

*Section 506.* Any application for access to nonfederal lands through federal lands will be processed within 180 days of receipt; if that period is exceeded, then the request will be deemed approved. The Endangered Species Act section 7 and National Environmental Policy Act section 102 will not apply to actions on these non-federal lands.

*Section 507.* FLPMA will be amended so that the Endangered Species Act section 7 and National Environmental Policy Act section 102 do not apply for the purpose of appraising the value of nonfederal lands acquired.

*Section 508.* Federal timber purchasers shall receive forest health credits in the form of offsets against the purchase price of federal timber for approved vegetation management activities on public lands. Timber sales on federal lands shall not be precluded because their costs exceed their revenues.

*Section 509.* Monies received from salvage timber sales will be placed into a special fund to plan and prepare additional salvage sales and other specified forest health activities. Salvage sales receipts shall be used for computing payments to state and local governments.

*Section 510.* To the maximum extent feasible, private contractors will be used to prepare timber sales.

*Section 511.* The successful, high bidders on federal timber may elect not to harvest the timber they purchase (known as an "election sale"). They must specify, in writing with their bid, the intent not to harvest. Planned road construction costs will be deducted from prospective bids to determine the successful high bidder.

#### TITLE VI

### Miscellaneous

*Section 601.* Within 18 months of the passage of this act, all its necessary regulations shall be promulgated.

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