

**SHOW ME THE DATA!**

**WILDFIRES, HEALTHY FORESTS**

**AND FOREST SERVICE ADMINISTRATIVE APPEALS**

Dr. Jacqueline Vaughn  
Department of Political Science  
Northern Arizona University

Paper prepared for presentation at the annual meeting of the  
Western Political Science Association, March 27, 2003, Denver, CO

## **ABSTRACT**

Theories from the literature of agenda setting and the policy making process are appropriate to developing an understanding of the role of USDA Forest Service administrative appeals in wildfire and forest policy. The catastrophic wildfires of 2000 and 2002 opened a policy window for the president and members of Congress to seek reform of the appeals process, which they perceived as delaying and obstructing hazardous fuel reduction in the National Forests. Environmental groups viewed the administrative appeals process as a valuable way for public monitoring and participation in forest policy making. Through the use of methodologically questionable and uncorroborated data, rhetoric, and focusing events, government policy makers framed the debate by shifting the blame for wildfires from previous Forest Service policies and management to environmental organizations, demonized as overzealous obstructionists to common sense wildfire policy.

## **Introduction**

In recent years, there has been an increasingly adversarial debate over the management of the National Forest System. Criticisms of the US Department of Agriculture's Forest Service (FS) range from a 1999 study by the National Academy of Public Administration of persistent management weaknesses, financial accounting deficiencies, and problems with relevance and veracity and its strategic planning,<sup>1</sup> to the Forest Service's own 2002 report, *The Process Predicament*, that cited the agency's inability to effectively address rapid declines in forest health due to the statutory, regulatory, and administrative framework in which it operates.<sup>2</sup> The agency's management and policy decisions have also been criticized in the popular press, by environmental organizations, and scholars.<sup>3</sup>

A second, equally controversial debate has grown over the issue of wildfire policy. The debate became especially salient after the 2000 and 2002 fire seasons. In 2000, 8.4 million acres were destroyed—the worst fires in the last 50 years. In 2002—the second worst season-- 7.1 million acres burned, and 21 firefighters lost their lives. Three states, Arizona, Colorado, and Oregon, had their largest wildfires in this century, and the images of more than a thousand homes burning and forest devastation were deeply imprinted on the public's memory.

Several reasons have been offered to explain why recent fire seasons have been so damaging.

- Æ Natural causes like the long-term drought in the West, global warming, and lightning
- Æ Policies that have led to over-grazing
- Æ Decades of fire suppression policies that allowed undergrowth to build up to fuel mega-fires
- Æ The failure of the Forest Service to implement the basic recommendations of the 2000 National Fire Plan to focus on fuel reduction in the wildland/urban interface
- Æ Homeowners' refusal to take basic steps to fire-proof and protect their homes and property, especially in areas surrounded by or near forests.

But the explanation that has garnered most of the attention from elected officials

and the media is that environmental groups are using the administrative appeals process-- unique to the United States Forest Service--to delay or block the implementation of proposed hazardous fuel reduction projects, thus leading to massive wildfires.

This paper uses the theoretical approaches of public policy literature, especially studies of agenda setting/agenda building, to explain how the framing of problems by various stakeholders affected the political construction of policy reform. The paper shows how forests and wildfires, which had already been identified as problems worthy of a place on the political agenda during the late 1980s, gained particular salience from 1999-2003. The paper also explains how members of Congress and the administration were successful in achieving three goals:

- Æ to demonize environmental groups through the use of rhetoric, synecdoches, and the repetition of unconfirmed data to reduce their influence and credibility in the forest and fire policy debate;
- Æ to shift the blame for damage caused by wildfires from government agencies that used fire suppression to protect trees for commercial logging and support politically powerful timber interests, to environmental organizations that misused the administrative and legal processes to promote a radical agenda that led to the loss of lives, property, and valuable natural resources;
- Æ to attach a desired solution to a predetermined problem by capitalizing upon a series of focusing events. In this instance, the desired solution was reform of the administrative appeals process to reduce regulatory red tape that was perceived as delaying the reduction of hazardous fuels in the National Forests, leading to catastrophic wildfires.

### **The Agenda Setting Process and the Framing of Issues**

Scholars have traditionally focused on two approaches to understanding the intricacies of the public policy making process. One approach views policy making as a series of rational, component steps that begin with the identification of a problem, followed by its appearance on the political agenda where policy is formulated, implemented and then evaluated.<sup>4</sup> A second approach describes the policy making process as illogical, disorderly, and unstructured-- a primeval

soup where there are conflicts over the nature and extent of problems, and where policy is often based on compromise and limited information rather than the best solution.<sup>5</sup> This paper relies upon both approaches, but focuses on how problems are identified and defined by various stakeholders as they move toward the policy agenda for study and debate.

Social scientists have written extensively on the agenda setting process; several theoretical frameworks are appropriate to this discussion of wildfires and forest policy. The first framework used to understand agenda setting is the concept of ownership and the ways in which issues are framed. Ownership, as defined by Rochefort and Cobb, is used to describe how an issue is characterized, which may determine which institutional structures are considered legitimate for addressing it.<sup>6</sup> Cobb and Elder note that if an issue is framed in a way that can be addressed by government, Congress will be more likely to give it consideration.<sup>7</sup> Spence refers to framing as the use of social images that are expressed in symbols, linguistic forms, stereotypical metaphors, models, and myths,<sup>8</sup> and Baumgartner and Jones have explored the ways in which policy makers appeal to public values as a way of framing issues.<sup>9</sup>

A second framework that is pertinent to this study is what several theorists call the mobilization model of agenda setting. This takes place when political leaders formulate a policy change and then seek support for the change by appealing to the public's biases.<sup>10</sup> Mobilization of bias inherently involves conflict, which Smith says causes different leaders, seeking different policy outcomes, to struggle against one another. Advocates for change work to convince more people that they will be positively affected by the new policy. Defenders of the status quo will fight to narrow the scope of the issue.<sup>11</sup> Smith goes on to note that as an issue becomes more controversial, stakeholders compete for a role in the policy venue. The implication here is that the public believes that the status quo is not adequate. Policy changes are needed. Responding to public demands, new agents struggle for a policy making role.<sup>12</sup> Sometimes, agenda setting is paired with agenda denial as opponents of change use cultural strategies such as avoidance, attack, and redefinition to impede and defeat policy initiatives.<sup>13</sup>

The administration has framed wildfire and forest policy as a problem deserving of an immediate, national response, and a 1995 analysis of Forest Service-related legislative activity found that Congress is becoming increasingly and more frequently involved in the agency's activities and decision making. Congress's growing scrutiny is indicated by rising trends in requests for agency testimony at hearings, and in the number of Forest Service-related bills and

amendments introduced and enacted. The researchers concluded that Congressional influence takes many forms and has both facilitated and impeded positive change within the agency.<sup>14</sup>

There are several factors that frame an issue once it becomes part of the legislative policy agenda. In the most recent controversies over wildfires and forests, members of Congress have relied heavily upon empirical data, with those seeking change and those attached to the status quo using studies to appeal to public values that support their positions. Smith notes,

In general, the role that empirical knowledge plays in the policy process is going to be based on the public's perception of that information, not the raw data itself. The raw data means little; it is the public's interpretation which will play the role. Of course, agents with a stake in the outcome will struggle to move public interpretations of new data in directions more conducive to the outcome that they think desirable.<sup>15</sup>

Empirical data (or the lack of it), especially when it is conflicting or cannot be corroborated, is filtered through the media,<sup>16</sup> organizational press releases, and public debate. Data become fodder for political posturing and rhetoric in an attempt to control policy direction and outcomes. In this case, the dynamics of data use and misuse by stakeholders illustrates how attempts were made to assess blame for failed forest and fire policies, with environmental groups eventually losing ground.

Rhetoric is a second powerful factor; the New Rhetoric described by Burke is rooted in the use of language as a symbolic means of inducing cooperation in beings that by nature respond to symbols. Rhetoric, he states, is the use of words by human agents to form attitudes or to induce actions in other human agents.<sup>17</sup> Rhetorical analysis typically relies on the selection of specific terms which relate to emotional appeals, allusions, metaphorical substitutions, repetitions, and techniques of argument. Of particular relevance to this study is the term *synecdoche* used by Lanham as substitution of part for whole, genus for species, or vice versa.<sup>18</sup> Commonly used in a political setting, the *synecdoche* includes rhetoric where a single example is used to characterize a typical instance that is then used to frame and define a larger problem.<sup>19</sup>

In the wildfire policy debate, the numerous appeals filed by two groups—Forest Guardians and The Ecology Center—were portrayed as exemplary of the tactics of every environmental organization--opposing all forest thinning

projects. This broad brush characterization is inaccurate, according to a 2003 nationwide study of Forest Service administrative appeals that found that there were significant differences in the types of projects where appeals were filed.<sup>20</sup> Many environmental groups, in fact, support thinning forest lands in the wildland-urban interface.

Another extremely important aspect of rhetoric is the emergence and diffusion of symbols, as Edelman and Elder and Cobb note.<sup>21</sup> Just as Smokey Bear symbolized the nation's policy of preventing and suppressing forest fires, visual cues and symbols became an important element in the appeals debate. President Bush crumbled the dead black bark of a Douglas fir in the palm of his hand when he announced his Healthy Forests policy at the site of the Biscuit fire in southeastern Oregon. In a vivid image covered widely by the press, the president kicked his boots at the ashen soil, challenging his critics to come and stand where I stand.<sup>22</sup>

A third factor that frames discussion is a disaster or crisis that becomes a focusing event. It may serve as an early warning: attention is called to something that could be considered a problem if subsequent consideration really establishes that there is a widespread condition that needs attention.<sup>23</sup> In this case study, the occurrence of several major wildfires within a short period of time was not only a focusing event, but also served to create awareness of a nationwide problem of fire danger, enhancing the prospects of new policies being both formulated and adopted.

### **The ERI Appeals Project**

We began compiling data on administrative appeals and litigation related to US Forest Service projects in 2002 as part of a research project at Northern Arizona University's Ecological Restoration Institute. One of the major objectives of this long-term study is to evaluate the outcomes and impacts of the administrative appeals process.

The first phase of the project involved the development of a database of administrative appeals and Forest Service decisions, an information base that previously had not been created. The database includes records of appeals decided between January 1, 1997 and September 30, 2002.<sup>24</sup> The beginning date was selected because of a 1999 settlement agreement reached between the Forest Service and the Wyoming Outdoor Council (WOC) that required the agency to make all decisions reached after November 1, 1996 available on-line under the provisions of the Electronic Freedom of Information Act. Prior to that time,

public information about appeals was available only through inspection at the 155 National Forest offices throughout the United States. WOC executive director Dan Heilig noted that having access to previous rulings would help parties appealing the agency's decisions. Under the old system, only the appellant and the agency knew what the decision said, creating a situation where citizens all over the country were arguing with the agency about issues and interpretations that had already been decided at the national level, Heilig said.<sup>25</sup>

The end date for the study was selected because of the lag time of several months between the filing of a Decision Notice and its posting on the Forest Service main website. In fact, the research team found that some decisions are posted up to a year after the final decision on an appeal has been reached. In some forests, there are no appeal decisions posted prior to 1999, and it is unclear whether appeals were not filed between November 1996 and 1999, or if the appeal decisions have never been posted. As a result, the universe of appeals and decisions is limited by the accuracy and comprehensiveness of the materials posted by individual National Forest staff members.

An important element of the policy debate has been the reification of data related to administrative appeals, litigation, and the role of environmental groups. Once a statistic or finding has been published, especially if it comes from a government agency, the data are used and re-used repeatedly, with few attempts at verification or analysis. There are multiple instances where elected and appointed officials have referred to data that research later determined to be subject to sampling bias or otherwise unreliable. There were substantial discrepancies between the data compiled by the Forest Service and provided to the General Accounting Office (GAO) and the way that data were used by the Forest Service in its own reports. The compilation of the ERI database, along with the analysis of documents and interviews, forms the methodological basis of this paper.

### **Show Me the Data!**

The public's concerns about fire danger were no doubt fueled by the 1988 wildfires in Yellowstone National Park and the Scapegoat Wilderness, with a substantial volume of studies and policy reviews. However, there was no change to the overarching policy related to wildfires until the mid-1990s. After thirty-four firefighters were killed in 1994, the government completely altered its philosophical and on-the-ground approach to wildfires with the 1995 Federal Wildland Fire Management Policy. Support for fire suppression was replaced by policies that recognized the role of fire as a management tool for ecosystem

health.<sup>26</sup>

In 1999, the thirty year anniversary of the National Environmental Policy Act also brought about calls for change. Rep. James Hansen (R-Utah), chair of the House Resources Committee, said that Congress should take another look at NEPA to ensure the law accomplishes its intended goals. Charging that the implementation of the law has become a sham, Hansen said NEPA crushes the process with paperwork—a paralysis of analysis that can take years and years and millions of dollars.<sup>27</sup> The phrase analysis paralysis would later be used by elected leaders and Forest Service officials as shorthand to describe the perception that there was a process problem involving administrative appeals.

Much of the recent controversy can be traced to the 2000 fire season: 122,827 fires burned 8.43 million acres, and federal agencies alone spent \$1.36 billion in fire suppression costs, almost three times what had been spent in 1999. Among the most visible was the May 2000 Cerro Grande fire in New Mexico, which started as a 900-acre prescribed fire near Los Alamos. Almost 250 structures were destroyed, 48,000 acres burned, and 18,000 people were evacuated.<sup>28</sup> Cerro Grande became symbolic of the potential damage that might face other communities surrounded by forests because of decades of fire suppression policies.

Almost as soon as the flames ignited, public officials began to politicize the wildfires and demanded action. This process involved the emergence of policy entrepreneurs—individuals both in and out of government who invested their resources (time, reputation, political status) in exchange for what was hoped to be some form of future return.<sup>29</sup> Montana governor Marc Racicot blamed the fires on the Clinton administration's lack of balanced stewardship with a reminder that he had warned a Senate subcommittee in March 2000 about the condition of forests in the West. The Clinton administration didn't cause these fires, but their policies have left the Forest Service under-funded and under-prepared for this crisis.<sup>30</sup> Racicot, who was rumored to be a potential nominee for Secretary of the Interior under presidential candidate George W. Bush, later backed down, saying that some people wanted to continue to make this a war of words and political positions. I would say that the time has come for all those swords to be laid down.<sup>31</sup>

Timber trade groups, such as the American Forest and Paper Association, called for a new Forest Service fire management plan for designated wilderness areas that included tree thinning. The Northwest Forest Association said that Current well-intentioned but misguided regulations require exhaustive environmental documentation, delaying harvests of diseased or burned timber

indefinitely.<sup>32</sup>

Senator Ron Wyden (D-OR) countered with a study he had requested from the Congressional Research Service (CRS) that concluded that logging in national forests does not protect against devastating forest fires, and that logging activities often increase a forest's fire risk. My sense is that this is a problem that cries out for an examination that goes far deeper than the next election, Wyden said.<sup>33</sup> The CRS study, along with another from the Pacific Biodiversity Institute, were frequently cited in the media as evidence that refuted claims that logging and road-building could have prevented or reduced the severity of the 2000 wildfire season.<sup>34</sup>

Environmental group representatives such as Mike Bader, executive director of the Alliance for the Wild Rockies, urged Congressional leaders to hold hearings on what he called a transparent attempt to gain access to the National Forests for the express purpose of logging. This fiscally irresponsible and ecologically damaging charade must be stopped.<sup>35</sup> A press release distributed by four other environmental groups said that the arguments for additional logging are self-serving attempts to exploit emotions and human tragedy for corporate profit. The facts simply don't support the political rhetoric.<sup>36</sup>

The summer's blame game and finger-pointing opened the policy window—an opportunity for advocates of new proposals to seek support. Kingdon notes that the opening of the policy window lets policy entrepreneurs attach solutions to problems and take advantage of politically propitious events. Policy windows, he says, open infrequently and do not stay open long. The wildfire policy window opened in late 2000 with criticisms of the government's handling of the Cerro Grande fire and the 1995 National Fire Policy, allowing new policies to be proposed. In January 2001, an interagency federal working group released a review and update of the 1995 policy, restating the importance of fire and emphasizing the role of science, communication, and ongoing evaluation.<sup>37</sup>

Congress also used the opening of the policy window to criticize the administration's response to the deadly wildfires. At a House Budget Committee task force on natural resources and the environment, Rep. George Radanovich (R-CA) waved a 1994 report from the National Commission on Wildfire Disasters at Deputy Forest Chief Randle Phillips, who had been called to testify as an expert witness. Radanovich questioned why the agency and the Clinton administration had a minimal response to years of warning about wildfires. He also cited a 1999 GAO report that concluded that the Forest Service had not yet developed a general strategy for selectively reducing fuels in America's national forests.<sup>38</sup> President Clinton, himself a policy entrepreneur, responded by directing his staff

to develop a series of recommendations that were released in September 2000 as the National Fire Plan (NFP). Congress followed with a \$2.9 billion appropriation for the NFP's implementation.<sup>39</sup>

Environmental groups supported the National Fire Plan at the outset because it helped diffuse criticism that blamed them for holding up logging projects that some officials believed had led to the massive fires of 2000. Environmental leaders could also support the NFP because it focused on firefighting preparedness, ecosystem restoration, and working with communities damaged or potentially affected by wildfire. This policy sought to solve the wildfire problem by shifting the issue to one of protection of the wildland-urban interface rather than large-scale back country tree cutting projects that would reduce fuel loads but were also likely to attract appeals and litigation.

Several conservative members of Congress used the opening of the policy window to move in a totally different policy direction. In summer 2001, Rep. Larry Craig (R-Idaho), a member of the House Subcommittee on Forests and Public Lands, and Rep. Scott McInnis (R-CO), chair of the House Subcommittee on Forests and Forest Health, expressed their concern that administrative appeals and litigation were delaying the implementation of the NFP and Forest Service's hazardous fuel reduction projects. The two members asked the GAO to identify the number of hazardous fuel reduction projects the Forest Service had proposed, analyzed and funded for implementation in fiscal year 2001, the number of those projects that had been appealed or litigated, and who had appealed or litigated the project decisions. The GAO sought this information from the Forest Service headquarters in Washington and each of the nine regional FS offices in July and August 2001.

In its August 31, 2001 response letter, the GAO noted that the requestors asked for the information as quickly as possible, and as a result, the data was not verified. The GAO letter stated that the Forest Service had decided to implement 1,671 hazardous fuel reduction projects, of which 20 (about 1%) had been appealed and none had been litigated.<sup>40</sup> The GAO data indicated that appeals and litigation were not delaying the implementation of hazardous fuel reduction projects, a finding that was not consistent with the congressional members' concerns. For the next ten months, the GAO letter lay virtually buried, and questions about administrative appeals and litigation did not resurface until the 2002 wildfire season began. The policy window closed, but only temporarily.

It opened again with one of the summer's early blazes, the 138,00 acre Hayman fire, which raged from June 8 through July 19. The wildfire was the largest in Colorado history, destroying more than 130 homes and causing an

estimated \$13 million in damage. Although the fire was human-caused (a Forest Service employee was sentenced to six years in prison in 2003 for deliberately starting the blaze) its proximity to Denver and the timber damage it caused refocused attention on the potential for catastrophic fire in the wildland-urban interface. The window opened just as policymakers received copies of a new 40-page Forest Service report that set up the policy and media skirmishes that led to the summer's data debate.

*The Process Predicament: How Statutory, Regulatory, and Administrative Factors Affect National Forest Management* began by noting that despite a century of devotion to conservationism, the Forest Service today faces a forest health crisis of tremendous proportions, outlining the risks to national forests from severe wildland fires, insects and disease, and invasive species. The executive summary stated that the agency operates within a statutory, regulatory, and administrative framework that makes it unable to effectively address rapid declines in forest health, due to three factors:

- Æ Excessive analysis—confusion, delays, costs, and risk management associated with the require consultation and studies;
- Æ Ineffective public involvement—procedural requirements that create disincentives to collaboration in national forest management; and
- Æ Management inefficiencies—poor planning and decision-making, a deteriorating skills base, and inflexible funding rules, problems that are compounded by the sheer volume of the required paperwork and the associated proliferation of opportunities to misinterpret or misapply required procedures.<sup>41</sup>

While acknowledging that part of the solution would be internal, the report singled out external forces that created the atmosphere that prevented the agency from focusing on the new era of public land management. The most frequently cited argument was that regulations— process delays -- keep the agencies from producing on-the-ground results. Congressional action seems to have favored a complex public process over other, more efficient management methods, a costly procedural quagmire, management uncertainty based on the possibility that a case may go to court, and incomplete information on the environment. One section singled out the problems caused by the administrative appeals process, noting that appeals can greatly delay a project and discourage collaboration.<sup>42</sup> Much of the language in the report echoed the comments made by Rep. Hansen in 1999.

In the discussion of the scope of the problem, the Forest Service cited several examples related to project workloads, time spent on a project, and costs—analysis that later served as the basis for comments from several elected officials. The report said that the entire process from scoping to implementation normally takes more than a year. While noting that it was not possible to find exact figures on the time spent on planning, analysis, and documentation, the *Process Predicament* cited a 1999 report by the National Academy of Public Administration (NAPA) that estimated that planning and assessment consume 40 percent of total direct work at the national forest level. The agency noted that the NAPA estimates were based on educated guesses by Forest Service professionals.<sup>43</sup> The *Process Predicament* cited a 1997 General Accounting Office report that also relied upon an internal Forest Service estimate that inefficiencies within this process cost up to \$100 million at the project level alone.<sup>44</sup> Guesstimates of Forest Service personnel were thus presented in reports by other entities, which were, in turn, then cited by the agency in its own reports, and then repeated by other officials.

The NAPA report was based on interviews with Forest Service personnel and focused on the implementation of the agency's new financial system, budget and appropriation structure, organizational structure and design, strategic planning and performance measurement, and leadership. The 40 percent figure was an estimate of overall planning and assessment costs, and was not specifically related to just appeals or subsequent litigation phases. But in an *Arizona Republic* opinion piece published just after *The Process Predicament* was released, Arizona Rep. Jeff Flake asserted that 40 percent of our Forest Service's budget is swallowed up just fighting lawsuits filed by environmentalists.<sup>45</sup> A day later, the newspaper printed an opinion piece by Arizona senator Jon Kyl where he also repeated the 40 percent budget statistic which he said was devoted to regulatory compliance, anticipating legal battles and fighting lawsuits already pending. Their interpretation of what the 40 percent figure meant focused on the problem as they perceived it, rather than how it was used both by the NAPA report and in *The Process Predicament*.

One of the curious correlations cited by the Forest Service was a figure that showed that while the number of appeals filed from 1995 to 2001 had been going up, the number of board feet of timber harvested during that same time frame had been cut in half. From a methodological perspective, one clearly visible flaw was that the number of appeals filed was based on a year, while the number of board feet was based on a fiscal year. More importantly, the report simply asserted a cause-and-effect correlation without any evidence to support the claim.<sup>46</sup>

The message of *The Process Predicament* was clear, if not explicit. The Forest Service sought the assistance of its partners to find collaborative ways out of this process predicament.<sup>47</sup> By framing the issue in terms of process, the agency implied that the devastation caused by wildfires could be avoided by revising statutes and regulations, setting the stage for the next phase of policymaking. Legislators used data in the document to further their contention that the appeals process and litigation was eating up the agency's budget—another reason for a change in policy.

As expected, environmental groups responded angrily to *The Process Predicament*, adding their own rhetoric. One press release accused timber groups of cashing in their chips after Bush raised \$1.7 million in contributions from timber executives at a Portland fundraising event. The Oregon Natural Resources Council called Congressional hearings on *The Process Predicament* a set-up for the Bush administration to cook up a solution to the problem that will undoubtedly be a timber industry wish list to weaken our environmental safeguards. A representative of Cascadia Wildlands Project referred to the report and noted, "Analysis paralysis" is a Forest Service term for public input. The problem isn't the process, it's the product. The public doesn't support an old-growth product. We need to focus on restoring forest health, not logging dwindling old-growth forests.<sup>48</sup>

The availability of accurate data continued to be an essential element of debate, and became a factor in legislation that would be proposed in September 2002. On July 9, 2002, the GAO sent a followup letter to Rep. McInnis in response to his request that the agency clarify how the data in the August 31, 2001 report was developed. The GAO responded with a letter that sought to explain a number of methodological issues that had been encountered, and reiterated that due to the fact the members had requested that the information be provided as quickly as possible, the GAO did not verify the information that the Forest Service had provided.<sup>49</sup>

A day later, on July 10, 2002, the Forest Service released its own report, *Factors Affecting Timely Mechanical Fuel Treatment Decisions*. The report concluded that almost half (48%) of all decisions made in fiscal year 2001 and 2002 for mechanical treatments of hazardous fuel were appealed. The Forest Service said that of 326 decisions subject to administrative appeals, 155 were appealed, and in addition 21 decisions had also been litigated—figures that were contradictory to the GAO's findings. The Forest Service noted that all data could not be completely verified, and are subject to further verification.<sup>50</sup>

Based on the new data, the report concluded that it takes substantial time to

plan for, make decisions on, and begin implementing Forest Service projects (including fuel hazard reduction projects.)<sup>51</sup> The factors cited for the planning and decision delays included management uncertainty surrounding appeals and litigation, changing standards and guidelines, changing court interpretations, and supplementing documents to meet new requirements.

### **No, Show US The Data!**

The dueling data became the basis for questions by environmental groups, members of Congress, and the media about discrepancies between the GAO and FS reports that were being widely circulated and quoted.

One of the first responses came the same day the July 10 report was released when the National Forest Protection Alliance filed a Freedom of Information Act (FOIA) request for details on the Forest Service report, including a list of mechanical treatment projects that reduce hazardous fuels that were appealed. The Forest Service report had not listed which projects it had included in its tally, making verification of the statistics impossible. The organization asked that the request receive expedited processing because This is a breaking news story of general public interest.

Frederick Norbury, Director of Ecosystem Management Coordination for the Forest Service Washington Office, denied the request for expedited processing, and as a result, the agency did not mail its response to the FOIA request until September 6, 2002. In his letter, Norbury said that the time frame for gathering the information in the report was limited to hours with much of the information provided orally in telephone interviews. The Forest Service was unable to find any electronic or hard copies of the interviews, but did provide some e-mail responses to the verbal inquiry, along with a more up-to-date list of decisions which is subject to further verification and change.<sup>52</sup>

A review of the Norbury letter and the FOIA documents shows the inconsistencies in Forest Service tracking systems, the somewhat casual attitude of some of the staff who responded to the request for data on appeals and litigation, and the reliance upon institutional memory rather than scientific methodologies.

One e-mail starts, Here s the best I can come up with... and continues with I would feel comfortable saying 100% of all appealable vegetative management decisions are appealed and 95% of all appealable decisions are appealed. As for nonappealable decisions...cat exs...I do not have numbers. Based on a few responses from the forests this morning, I m guessing that... Another regional report included the statement However, without checking all the appeals

I do not recall an appellant that used prescribed burning or mechanical treatment of fuels as a reason to appeal a project. Another region's response was based on reports from seventeen of its eighteen forests, and two regions provided only three sets of numbers without any other documentation.<sup>53</sup>

The Forest Service's inability to provide documentation of its reporting methodology and the alacrity of the study itself seem to have been somewhat overlooked, except by a handful of environmental activists who made the effort to seek verification of the data. At issue was not only the accuracy of the data itself, but more importantly, the flaws in how the information was compiled and verified by the Forest Service before the report was released to the public. Despite those factors, the 2002 report would be cited extensively, and would later become part of the rationale for changes to administrative rules and congressional legislation.

One organization, the Wilderness Society, released its comments on the discrepancies on July 12, 2002, relying upon the data in the GAO's 2001 report and saying that the Forest Service report is a poor attempt to shift blame...The Forest Service issued a different report that utilized Enron-inspired accounting.<sup>54</sup>

Congressional interest in the accuracy of the Forest Service and GAO reports appears to have begun at a hearing convened by the House Subcommittee on Forests and Forest Health that focused on the National Fire Plan, held July 11, 2002. Much of the meeting focused on the Forest Service study, which had been released a day earlier, and the resulting headlines that repeated the idea that environmental activists delayed forest thinning projects and played a role in the season's wildfires. At the hearing, Representatives Jay Inslee (D-WA) and Tom Udall (D-NM) asked for a full list of the projects referred to in the Forest Service report, and were told by the Associate Chief that a list would be provided to them. When the project list was not forthcoming, members of the committee staff made repeated requests to various agency personnel.

On July 25, Inslee and Udall sent a followup letter to FS Chief Dale Bosworth, noting that they were deeply troubled by the Forest Service's actions.

We have now been informed that the promised list of the specific projects that supposedly were the basis for the report does not exist—and never existed—and that the Forest Service is working on a new, more accurate report. We have also been told that for purposes of preparing the report only numbers of projects were collected from the regions, rather than the names of projects. If this is correct, it is of course troublesome because there is no way to assess or verify the number and types of projects

that were the subject of the report.<sup>55</sup>

Another report was produced by The Forest Trust, an environmental group that also performs research on forest management, but does not file administrative appeals and works collaboratively with the USFS at the local level. Its September 3, 2002 study concluded, Our analysis...reveals a sampling bias, unreliable data, and unsupported conclusions. The discrepancies between the data the Forest Service provided to the GAO and the data it used for its own report reveal that the agency lacks a consistent system for tracking and analyzing its projects.<sup>56</sup>

Keeping up the pressure for the government to document its findings, Inslee and Udall made a joint announcement, expressing their opinions about the validity and credibility of the earlier Forest Service and GAO findings. Udall commented,

Cooking the books and advancing misleading statistics, as the US Forest Service apparently did, gets in the way of sincere bi-partisan efforts to find common ground to the shared problem of wildfire risk, and the need to create a sustainable forest economy that provides tools to restore fire-adapted forests. To attempt to score political points by using selected data to reach a predetermined outcome does not address the serious problem this country faces with regard to wildfires.<sup>57</sup>

Inslee implied duplicity on the part of the Forest Service, saying This report shows that the attempts by the U.S. Forest Service to cut large trees located deep within our forests for commercial profit under the guise of fire prevention efforts often meet with appeals.<sup>58</sup>

While the controversy over the data continued throughout the 2002 fire season, the Forest Service study was frequently referred to, giving the report additional visibility and credibility. Articles praising and denouncing the Forest Service report, along with the text of the report itself, appeared on the websites of a wide spectrum of organizations, from Taxpayers for Common Sense to Truthout, Native Forests, and the Inland Empire Society of American Foresters. Distribution of the report on the Internet led to the involvement of more stakeholders but little discussion about the veracity of the report. Because the National Forest Protection Alliance did not receive a response to its FOIA request until September 2002, almost all the references to the Forest Service report were made before the flaws in the agency's methodology were known.

Four environmental groups produced a joint press release that referred to

the hastily produced report. A spokesperson for the group Native Forests commented This level of research may be OK for a middle school project, but when the U.S. Forest Service quickly pieces together a report and then uses it as Exhibit A to justify suspending our environmental laws to increase logging in national forests, it approaches fraud. The executive director of the National Forest Protection Alliance referred to the earlier GAO study, and stated The Forest Service didn't like the findings of the GAO report, so they cooked up numbers more to their liking. This is unconscionable behavior on the part of the Forest Service but not a big surprise. The Forest Conservation Council also referred to the GAO report, and a representative from the group Heartwood concluded the press release by commenting, This report is an example of why our laws should not be suspended. The Forest Service cannot be trusted to do adequate and accurate analysis on their own.<sup>59</sup>

There was virtually no coverage or references to the groups' press release, although the on-line publication, *Greenwire* published a staff article on October 3, 2002 that covered not only the results of the FOIA request, but also a response from a Forest Service spokesperson, who said the report was compiled as a speedy response to a congressional inquiry. Regardless, we've gone back and fact-checked and it's quite a bit higher, the percentage appealed. Heidi Valetkevitch told *Greenwire* that the Forest Service had changed its numbers; 143 of 206 mechanical thinning treatment projects slated for fiscal years 2001 and 2002 were appealed (rather than the initial report of 155 of 326 projects) increasing the percentage from 48 percent to 69 percent.<sup>60</sup> The new study's results have not been released or corroborated by the reporters who published the revised figures—they appear to have relied upon the agency's spokesperson's comments.

An Associated Press story, which was published in several newspapers, repeated the advocacy groups' contention that the report was assembled in haste and contained misleading information. One of the groups' spokesperson was quoted, saying This is amateur hour and they released this to a committee of Congress. This was obviously put together for political reasons to make political hay over this issue and we view this report as a sham.<sup>61</sup> Colorado-based Forest Watch Campaign also called the Forest Service report a sham and again referred to the GAO study which had been cited frequently by environmental groups and widely reported in the media.<sup>62</sup>

Ironically, the 2001 General Accounting Office letter to Congress that was widely cited by environmental organizations was just as methodologically unsound as was the July 2002 Forest Service report. Both documents relied upon hastily

collected, self-reported data that would later be determined to be inaccurate. The results of the GAO research were more favorable to the argument by environmental groups that very few forest projects were appealed and litigated, and thus, GAO data were used extensively in their press releases and commentary. Similarly, both *The Process Predicament* and the Forest Service report, which indicated that projects were frequently appealed and litigated, was used by members of Congress, the administration, and by agency officials as a rationale for the need for process change.

### **The Policy Debate Moves Forward**

Anecdotal stories, generalizations, synecdoches, and rhetoric were used to frame the issue and underscore the contention that something was wrong with the administrative appeals process that allowed policy to be manipulated by environmental organizations. This theme was pervasive throughout the media and in comments by many elected officials and critics of the NEPA process. Like the childhood game, Gossip, the media used statements by one official that would be repeated by another official, even though the information was rarely checked for accuracy. Anecdotal information and guesstimates slowly worked their way into the policy debate as factual information.

The Rodeo/Chediski fire in Arizona—the largest wildfire in the state's history—fueled coverage that exemplifies the media's power to frame issues. The *East Valley Tribune* noted that its investigation found that plans to cut fire danger by thinning trees in an Arizona forest now being destroyed by the nation's largest active wildfire were blocked for three years by a Tucson environmental group. The article connected the fire in the Apache-Sitgreaves National Forest to an appeal and subsequent litigation by the Center for Biological Diversity, quoting a regional forest coordinator as saying "We're litigating while the forest burns." A representative for the group countered that it was wrong to blame his group or other environmental organizations for the inferno. "It's sheer scapegoating," the representative said. "These guys want to use this to further whatever their political agenda is."<sup>63</sup> The use of the Rodeo/Chediski fire as a synecdoche for wildfires caused by interventionist environmentalists had been firmly established; a public television state poll in Arizona found that 61 percent of Arizonans blamed the Rodeo/Chediski fires on environmentalists' legal maneuvering.<sup>64</sup>

Another example of the use of a generalization, which was later repeated in a somewhat different form, was a statement made by Forest Chief Dale Bosworth in an interview. When asked why more had not been done to thin out the forests,

Bosworth said We go through an awful lot of process and spend an awful lot of money working through environmental impact statements and public review and then appeals and litigation. <sup>65</sup> Bosworth never defined what an awful lot meant, but the concept crept into the debate, underscoring the perceived problem of administrative appeals by environmental groups that policymakers identified.

Several policy entrepreneurs within Congress used anecdotal information to promote their agenda for a change in the appeals process. Senator Kyl said that environmental groups protested and stopped a forest thinning program in Arizona's Coconino National Forest in 1996 to protect a single bird's nest. He noted that a crown fire burned through the forest later that same year, engulfing the tree that housed the bird the groups were trying to protect. Now these radicals are singing a different tune, he said. <sup>66</sup> Kyl's information came from *The Process Predicament*, which included a snippet of a story by a reporter in *The Sacramento Bee*.<sup>67</sup> The executive director of the Center for Biological Diversity then alleged that the information Kyl used was an exaggeration of an account given by Bush's new chief of the Forest Service. The chief's report is an exaggerated retelling of a California newspaper story. And the newspaper story was wrong to begin with. <sup>68</sup>

The same theme and statistics were used by Colorado senator Ben Nighthorse Campbell in his opinion piece for the *Pueblo Chieftain*. Campbell wrote

...the constant threat of lawsuits from environmentalists has resulted in a near halt to fire management efforts. Instead of working toward the already enormous task of reducing unmanageable fires, the U.S. Forest Service is now forced to tailor its studies and assessments for proposed actions in anticipation of a hailstorm of lawsuits and appeals from those who purport to protect our forests. In fact, an estimated 40% of the U.S. Forest Service's work at the national forest level about \$250 million each year, is spent on extra analysis to insulate the forest service from future frivolous lawsuits.<sup>69</sup>

A handful of members of Congress joined the debate with rebuttals. Rep. Inslee responded that the wildfires in Arizona were a result of the failure to understand the necessity of periodic fires coupled with extreme drought.

Environmentalism did not cause these forest fires, he said. What we do not know is why the administration is blaming the environmentalists for the fires, rather than working to prevent further global warming in our own country. <sup>70</sup>

After the Forest Service report was published in July 2002, members of the

House Resources Committee, of which Jeff Flake was a member, met to consider whether delays by environmental groups had contributed to the West's wildfires. Flake responded to the Forest Service study by saying "These numbers show that some so-called environmentalists want nothing more than to stop all forest thinning."<sup>71</sup>

Reactions to the summer's political rhetoric came from both environmental organizations and timber industry groups, along with newspaper editorials and op-ed pieces that called for reasoned discussion and restraint. Many environmental groups tried to distance themselves from the generalized view that they opposed all fuel reduction in national forests, while still accusing the administration of exploiting the fear of fires in order to roll back environmental protections and boost commercial logging. Colorado Wild, for example, supported legislation to direct National Fire Plan funds to projects in the Wildland-Urban Interface, while pointing out that environmental groups play a critical role in keeping the Forest Service from simply trying to appear to be doing something about forest fire.<sup>72</sup>

On July 18, 2002, over 150 environmental groups signed a letter sent to Chief Dale Bosworth, every member of Congress, and the Western Governors Association that explained, "In recent weeks, some politicians and some U.S. Forest Service officials have repeatedly misrepresented the conservation community's position on wildfires, home protection and fuel reduction...The conservation community has always supported common sense approaches designed to effectively protect homes and communities from fire, noting their leading role in educating homeowners about the importance of treating flammable material adjacent to homes and communities."<sup>73</sup> According to one of the leaders of the effort, "this got nearly zero media coverage even though it was in direct response to all the blaming that was going around. And this was following extensive outreach to the press...they just didn't see it as newsworthy."<sup>74</sup>

John Horning, executive director of Forest Guardians, one of the groups that does file numerous administrative appeals, wrote an opinion piece for the *Albuquerque Tribune* that said the underlying causes of the catastrophic wildfires in the Southwest were past logging practices, a history of fire suppression and overgrazing, along with intense drought and global warming. Blaming Forest Guardians and other environmental groups for these wildfires is grossly irresponsible, inaccurate and ignores the scientific reality. He used the GAO's 2001 report to bolster his arguments, but did not mention the conflicting results of the Forest Service report.<sup>75</sup> A Sierra Club official also referred to the GAO report, urging Arizona Governor Jane Hull, Senator Kyl and other elected officials "to get their facts straight before pointing fingers...What we don't need is

more rhetoric which serves only to fan the flames of hate and divisiveness.<sup>76</sup>

Debate was not limited to the West, where the wildfires were raging. Jack Swanner, president of the North Carolina Forestry Association and general manager of a timber company, quoted Arizona Governor Jane Hull's widely reported comment, "The policies that are coming from the East Coast, that are coming from environmentalists, that say we don't need to log, we don't need to thin our forests are absolutely ridiculous." Adding his own sentiments, Swanner stated,

The Forest Service's ability to implement management tools in a timely manner is limited by conflicting environmental laws and mandates that are manipulated by environmental groups. They wield their power in courts with a legal strategy to tie up projects in endless appeals and lawsuits. Unclear goals and the threat of lawsuits leave professional land managers with few options.

The environmental legal machine files more than 500 appeals and lawsuits annually against the Forest Service. Environmental studies and documentation required on every activity on federal lands costs U.S. taxpayers between \$179 and \$329 million annually...The resulting delays exact an incalculable human and environmental toll.<sup>77</sup>

For the most part, the media advised the stakeholders in the debate to stop the war of words. A *New York Times* editorial called for a truce in what it called the "ideological wars" and said that "this is no time for partisan sniping." Citing the 2001 GAO study, the editorial called "absurd" the notion that environmental lawsuits have hindered fire-prevention projects.<sup>78</sup> The *Washington Post* quoted environmental leaders' use of the GAO statistics in an article published before the Forest Service study was released, and noted "All the players in western land debates have begun asking whether this year's fires are also fueled by another factor: politics."<sup>79</sup> Ironically, an editorial in the *Arizona Republic* referred to the "blaze of competing sound bites" and called for leaders to "curtail rhetoric and thin the trees."<sup>80</sup> *High Country News* was one of the few publications to state that both the GAO study and the subsequent Forest Service report were "skimpy on details" and "a lot like dueling with flamethrowers: a lot of sizzle, but awfully short on precision...The lack of details about what really happened with thinning projects the last two years means the debate could be based more on hype than facts."<sup>81</sup>

Policymaking moved forward quickly while the controversy lingered on. Taking advantage of an opening in the policy window, President Bush presented his Healthy Forests Initiative on August 22, 2002 at the site of Oregon's 471,000 acre Biscuit fire, saying "We are trying to bring a little common sense to forest policy."<sup>82</sup> The President's announcement called for stepping up efforts to prevent the damage caused by catastrophic fires by reducing unnecessary regulatory obstacles that hinder active forest management; working with Congress to pass legislation that addresses the unhealthy forest while expediting procedures for forest thinning and restoration projects, and fulfilling the promise of the 1994 Northwest Forest Plan to ensure sustainability and appropriate timber production.

The National Association of State Foresters immediately announced its support for the Healthy Forests Initiative, praising the president's commitment to the National Forest Plan and also applauding efforts to streamline the process for completing environmental regulations and decreasing the amount of time that agencies spend dealing with litigation.<sup>83</sup> Groups like the Oregon Natural Resources Council said they accepted the idea of thinning, but wanted to make sure it is done where it does the most good and does not become an excuse to cut old-growth timber.<sup>84</sup> In a formal statement, the Natural Resources Defense Council said

The administration is asking Congress to torch our most basic environmental protection law under the guise of fire prevention. Rolling back rules for the timber industry and eliminating public participation represent yet another cynical attempt by perhaps the most anti-environmental administration in U.S. history to line the pockets of its corporate friends at the expense of public safety and our natural heritage.<sup>85</sup>

Just two weeks later, a four-part legislative proposal was delivered to Congress. It was designed to streamline unnecessary red tape that prevents timely and effective implementation of wildfire prevention and forest health projects on public lands. Delays of these projects can have devastating environmental and social consequences when catastrophic fires strike. Two of the four proposals called for expediting the reduction of hazardous fuels in critical areas through collaborative processes, and development of long-term stewardship contracts to thin trees and remove dead wood. The third proposal would repeal the Appeals Reform Act that had mandated an administrative appeals process for Forest Service projects in 1993, and the fourth proposal would establish common sense

rules for courts when deciding on challenges to fuels reduction projects.<sup>86</sup>

Forest Service Chief Dale Bosworth echoed the president's sentiments by calling for the repeal of the 1993 legislation that forces the U.S. Forest Service to accept citizen appeals of all land-management decisions... We've spent way too much time and way too much money doing analysis and paperwork...I don't need my people sitting in windowless rooms doing paperwork. I need them out on the ground, getting the job done.<sup>87</sup>

The president's proposals also began to pick up support among Western governors. Colorado Governor Bill Owens said that the changes in the way we manage our federal forest lands are long overdue, as evidenced by the devastating fires this summer.<sup>88</sup> Montana Governor Judy Martz, who had succeeded Racicot in office and served as the chair of the Western Governor's Association, told reporters, I would like to do away with appeals, period.<sup>89</sup>

By September 2002, the administration had effectively framed the debate to show that administrative appeals were keeping the Forest Service from doing its job. The only solution, it appeared, would be to do something about the appeals process itself. Recalling the rhetoric that surrounded the Rodeo/Chediski fire in May, the implication was that environmentalists cause fires.

Congress responded with several bills designed to implement the president's forest policy agenda. In the House, the Healthy Forests Reform Act, sponsored by Rep. Scott McInnis, gained the most momentum. The bill called for collaborative dispute resolution to replace the existing appeals process, although allowing opponents of Forest Service projects to challenge agency actions in federal court.

Congressional supporters of process reform were aided by representatives of timber organizations that supported the idea of eliminating or restricting administrative appeals. At a September 5, 2002 hearing before the House Committee on Resources, Charles H. Burley, representing the American Forest Resource Council, a forest product manufacturers and forest landowners association, told Congress that the appeals process was well intentioned when instituted. Unfortunately, over time, it has become a process too often abused by individuals and organizations that wish to delay or stop Forest Service activities from being implemented—this is particularly acute if the project involves harvesting trees. Burley went on to cite the Forest Service *Factors Affecting* report, and concluded the appeals period is increasingly being used to simply block or delay projects.<sup>90</sup>

Support for repeal of the appeals process also came from the Forest Counties Payments Committee, an advisory committee to Congress. In Congressional testimony, a group representative outlined the frustration of

individuals and groups who tried to work collaboratively with the Forest Service. Many of these citizens depend on timely decisions that affect their communities, and they are concerned about solving forest health problems. The work they do together, and with the Agency, can be un-done by someone who did not make the effort to find solutions for addressing forest management issues.<sup>91</sup>

Amendments to the McInnis bill, developed by a bi-partisan group of House members from the West, gave the Forest Service the flexibility to streamline some environmental analyses, required new spending on forest thinning to reduce risk near communities, and preserved the rights of individuals to appeal and litigate controversial land management decisions. Leading environmental groups, including the Natural Resources Defense Council, Friends of the Earth, the Wilderness Society, the National Environmental Trust and the American Lands Alliance, denounced Rep. George Miller (D-CA) and Peter DeFazio (D-OR) for trying to work out a deal with republican leaders.<sup>92</sup> Although the bill was approved by the House Resources Committee, unsuccessful negotiations did not allow the bill to be voted on by the full House.

In the Senate, competing measures were introduced that called for massive forest thinning that would be exempt from or limit NEPA review and the administrative appeals process. Several members tried to broker a bipartisan compromise that had the support of the Bush administration, but failed to gain support for their measure. Two supporters of the legislation that would have sacrificed some trees to reduce fuel loads, Sen. Dianne Feinstein (D-CA) and Ron Wyden (D-OR), came under fierce attack by environmental groups, provoking an unprecedented rebuke of Feinstein by the Sierra Club. After two weeks of trying to come up with an agreement with republican leaders, Feinstein said she was fed up. I deeply regret that the issue has become so polarized that a compromise has not been possible and that groups such as the Sierra Club would condemn those who try to find a solution.<sup>93</sup>

After the November 2002 elections, the president and members of his cabinet began to reframe the forest thinning debate. The inflammatory rhetoric of the 2002 fire season was replaced by the more moderate-sounding appeal to common sense as a rationale behind new administrative actions to expedite the administrative rulemaking process. But the wildfires were also used to reinforce the notion that the nation faced a monumental crisis of unprecedented proportions according to Council on Environmental Quality chairman James L. Connaughton. These common sense steps will allow federal agencies to spend millions of dollars a year on environmental restoration and conservation rather than needless paperwork.<sup>94</sup> The administration called for amendments that would

encourage early and more meaningful public participation, phrasing that identified the procedural changes with efficiency rather than blame.

Once the 108<sup>th</sup> Congress opened its first session in January 2003, members moved quickly to keep the momentum for NEPA change rolling. The House Natural Resources Committee selected a new chair, Richard Pombo ( R-CA) to replace retired James Hansen, and newly-elected members picked up where the 107<sup>th</sup> had left off. While the administration seemed to have toned down its rhetoric, conservative members of Congress continued to frame the appeals process as a problem that could be blamed on environmental groups. Newly-elected member Rick Renzi ( R-AZ) called for an end to obstructionist environmentalists and declared that not to thin [the forests] is a sin. Renzi repeated the common sense phrasing used by Bush in August 2002 and by Connaughton in December 2002.<sup>95</sup> By implication, anyone who opposed the administration's proposals were *not* using common sense and were therefore unreasonable.

At the same time, timber industry representatives returned to the idea that existing administrative regulations were still the major cause of wildfires. We have so many overlapping regulatory requirements that it's impossible for professional managers to do what's necessary to create forests that are resilient and resistant to catastrophic fire, said David Bischel of the California Forestry Association.<sup>96</sup>

By February 2003, the agenda-setting process revved up again as a result of three other focusing events: concerns about North Korea's nuclear power capacity, the U.S. buildup of troops and materiel in the Persian Gulf as preparatory to a war with Iraq, and the explosion of the space shuttle Columbia. The high visibility of all three of these crises pushed forest reform off the governmental agenda, at least for the short term. But even during the first few months of 2003, officials warned that the 2003 fire season was likely to start earlier and be more intense, underscoring the belief that legislative action must be swift to deal with the catastrophic fires that were inevitable.

## **Conclusions**

The debate over Forest Service administrative appeals is exemplary of the way in which empirical data, rhetoric, and focusing events can be used to frame policy and how process reform can be brought to the political agenda. The image of fire became an important symbol of the debate over forest and wildfire policy beginning in the mid-1990s, gaining increasing salience during the 2000 and 2002

fire seasons. The psychological fear of fire, coupled with dramatic imagery of the destruction of forests and property, opened the policy window for stakeholders seeking a solution to a perceived problem: legislation enacted in 1993 that mandated the Forest Service use an administrative appeal process to resolve conflicts over forest projects. Government policy makers believed that the appeals process, and subsequent avenues for litigation, delayed projects designed to reduce hazardous fuels in forests. There was also a perception that environmental groups were misusing the process by filing frivolous appeals as a way of stopping thinning in national forests as part of a no cut policy. This misuse of process created hazardous forest conditions for residents in the wildland-urban interface who had not taken the necessary steps to make their homes fire safe, thus threatening the larger community.

Environmental groups, in contrast, saw the issue from other perspectives. Some organizations felt the appeals process was an important element of public participation that allowed them to monitor and challenge Forest Service actions they believed to be contrary to the spirit and procedures of the National Environmental Policy Act. Others viewed appeals as a necessary step in order for them to gain legal standing for potential litigation of forest projects. There was also support for the idea that Congress and the administration were seeking reform of the appeals process as a way of sidestepping public scrutiny so that timber companies could return to logging large trees under the guise of fire prevention.

Both government officials and environmental groups used empirical data and analysis that were methodologically questionable to support their perceptions of the problem, and those data were then repeated and published without corroboration. Rhetoric was an important strategy used by both sides as they sought to frame the issue in terminology that reflected their position. Problems became identified with value-laden terminology that intensified the salience of wildfire. Fire-related terms provided an additional element to the framing of discussion, as references were made to the ignition of the debate, fanning the flames, blowing smoke, incendiary accusations, heated discussions, adding fuel, and inflammatory rhetoric. Synecdoches were used to generalize from one incident to a pattern of problems, regardless of whether or not they were accurate.

Additionally, policy makers successfully shifted the debate over the problem of wildfire policy and decades of ineffective fire suppression tactics to one in which the solution—process reform—was the preferred alternative. A series of focusing events in 2000 and 2002--massive wildfires that caused substantial property and resource loss—encouraged the president and Congress to capitalize on

a sense of urgency and the certainty of catastrophic wildfire. With the opening of the policy window, policy makers demonized environmental groups as the parties responsible for delay and irrational responses, while the president and Congress argued for common sense reform that would protect the nation from devastation and lengthy court battles.

As a result, by 2003, Congress and the Forest Service were proposing new legislation and regulatory changes that would repeal or severely restrict the use of administrative appeals of Forest Service projects. By framing the problem as being caused by the actions of over zealous or misguided environmental groups who misused the process, policy makers were able to recast the agenda in terms more to their liking, and potentially, to negatively affect the perception of environmental organizations in the larger natural resources debate.

## NOTES

The author wishes to thank several individuals (Jim Buthman, Hanna Cortner, Martin Nie, and Gretchen Teich) who assisted in the ERI Appeals Project and review of early drafts of this paper.

- 
1. National Academy of Public Administration, *Restoring Managerial Accountability to the United States Forest Service* (Washington, D.C.: 1999).
  2. USDA Forest Service, *The Process Predicament: How Statutory, Regulatory, and Administrative Factors Affect National Forest Management* (Washington, D.C.: June 2002).
  3. See, for example, Paul W. Hirt, *A Conspiracy of Optimism: Management of the National Forests Since World War Two* (Lincoln: University of Nebraska Press, 1994); Robert H. Nelson, *A Burning Issue: A Case for Abolishing the U.S. Forest Service* (Lanham, MD: Rowman and Littlefield, 2000); Stephen F. Arno and Steven Allison-Bunnell, *Flames in Our Forest: Disaster or Renewal* (Washington, D.C.: Island Press, 2002).
  4. See, for example, James Anderson, *Public Policymaking: An Introduction* (Boston: Houghton Mifflin, 1990).
  5. See, for example, John W. Kingdon, *Agendas, Alternatives, and Public Policy* (Boston: Little Brown, 1984).
  6. David A. Rochefort and Roger W. Cobb, *The Politics of Problem Definition: Shaping the Policy Agenda* (Lawrence: University of Kansas Press, 1994).
  7. Roger W. Cobb and Charles D. Elder, *Participation in American Politics: The Dynamics of Agenda-Building* (Baltimore: Johns Hopkins University Press, 1983).
  8. Larry D. Spence, *The Politics of Social Knowledge* (University Park: Pennsylvania State University Press, 1978).
  9. Frank R. Baumgartner and Bryan D. Jones, *Agendas and Instability in American Politics* (Chicago: University of Chicago Press, 1994).

- 
10. Roger W. Cobb, J. Ross, and M.H. Ross. Agenda-Building As A Comparative Political Process, *American Political Science Review* 70, 1 (1976): 126-138; E.E. Schattschneider, *The Semisovereign People* (Ft. Worth: Holt, Rinehart and Winston, 1983).
  11. Michael A. Smith, The Interpretative Process of Agenda-Building: A Research Design for Public Policy, *Politics and Policy* 30, 1 (March 2002): 9-31.
  12. Ibid., 16.
  13. Roger W. Cobb and Marc Howard, eds. *Cultural Strategies of Agenda Denial: Avoidance, Attack, and Redefinition* (Lawrence: University Press of Kansas, 1997).
  14. Elise S. Jones and Will Callaway, Neutral Bystander, Intrusive Micromanager, or Useful Catalyst? The Role of Congress in Effecting Change within the Forest Service, *Policy Studies Journal* 23, no. 2 (1995): 337-350.
  15. Smith, 21.
  16. For a discussion of the role of the media in agenda setting, see Maxwell McCombs and Donald Shaw, The Agenda-Setting Function of Mass Media, *Public Opinion Quarterly* 36 (1972): 176-187; Shanto Iyengar, *Is Anyone Responsible? How Television Frames Political Issues* (Chicago: University of Chicago Press, 1991); and James W. Dearing and Everett M. Rogers, *Communications Concepts 6: Agenda-Setting* (Thousand Oaks, CA: Sage, 1996).
  17. Kenneth Burke, *A Rhetoric of Motives* (Berkeley: University of California Press, 1969).
  18. Richard A. Lanham, *A Handlist of Rhetorical Terms* (Berkeley: University of California Press, 1991), 148.
  19. See Debra Stone, *Policy Paradox and Political Reason* (New York: HarperCollins, 1988), 116.
  20. See Hanna Cortner, Gretchen Teich, and Jacqueline Vaughn. *Analyzing USDA Forest Service Project Appeals: Phase 1: The Database* (Flagstaff, AZ: Northern Arizona University, Ecological

---

Restoration Institute, 2003).

21. See Murray Edelman, *Politics As Symbolic Action* (New York: Academic Press, 1971); and Edelman, *The Symbolic Uses of Politics* (Urbana: University of Illinois Press, 1972); Charles D. Elder and Roger W. Cobb, *The Political Uses of Symbols* (New York: Longman, 1983); and William H. Riker, *The Art of Political Manipulation* (New Haven: Yale University Press, 1986).

22. Bush Urges A Hands-On Forest Policy, *Winston-Salem Journal*, August 23, 2002 at [www.journalnow.com/ws\\_j](http://www.journalnow.com/ws_j) accessed August 24, 2002.

23. John W. Kingdon, *Agendas, Alternatives, and Public Policies*, 2<sup>nd</sup> ed. (New York: Longman, 2003), 98. See also, Thomas A. Birkland, *After Disaster: Agenda Setting, Public Policy, and Focusing Events* (Washington, D.C.: Georgetown University Press, 1997).

24. Cortner, Teich, and Vaughn.

25. Caroline Byrd, Forest Service Settles Case, *Frontline Report*, Spring 1999 at [www.wyomingoutdoorcouncil.org/frontline/spring1999/foia](http://www.wyomingoutdoorcouncil.org/frontline/spring1999/foia) accessed December 28, 2002.

26. U.S. Department of the Interior and U.S. Department of Agriculture. *1995 Federal Wildland Fire Management Policy and Review*. (Washington, D.C.: 1995).

27. James V. Hansen, Does the National Environmental Policy Act Need to Be Rewritten? *Roll Call*, April 19, 1999 at [web.lexis-nexis.com/universe/document](http://web.lexis-nexis.com/universe/document) accessed February 6, 2003.

28. Historical Wildland Fire Statistics, National Interagency Fire Center, available at [www.nifc.gov/stats/wildlandfirestats](http://www.nifc.gov/stats/wildlandfirestats) accessed June 24, 2002.

29. See Jack L. Walker, Performance Gaps, Policy Research, and Political Entrepreneurs, *Policy Studies Journal* 3 (Autumn 1974): 112-116;

30. Editorial, Racicot Wrong to Blame Clinton for Fires, *The*

---

*Missoulian*, August 15, 2000; Larry Fish, Montana's Governor Denies Blaming Wildfires on Clinton, *Philadelphia Inquirer*, August 26, 2000.

31. Ibid.

32. Cat Lazaroff, Logging Does Not Reduce Fire Risk, Two Studies Conclude, Environmental News Service, September 5, 2000.

33. Ibid.

34. See, for example, Ken Picard, Very Political Science, *Missoula Independent*, September 14, 2000.

35. Groups Request Congressional Hearings on Forest Service \$12 Billion Forest Proposal, News release, Alliance for the Wild Rockies, August 29, 2000.

36. Scientific Report Shows Logging and Road Building Will Not Protect Forests From Fire, News release from Center for Biological Diversity, Northwest Ecosystem Alliance, Pacific Rivers Council, and Pacific Biodiversity Institute, September 5, 2000.

37. U.S. Department of Interior, et al., *Review and Update of the 1995 Federal Wildland Fire Management Policy* (Boise: National Interagency Fire Center, 2001).

38. Brian Hansen, Wildfires Debate Engulfs Congress, Western States, Environmental News Service, September 15, 2000.

39. For a discussion of the two policy initiatives from an administrative perspective, see Charles R. Wise and Christian M. Freitag, Balancing Accountability and Risk in Program Implementation: The Case of National Fire Policy, *Journal of Public Administration Research and Theory* 12 (2002): 294-523.

40. U.S. General Accounting Office, *Forest Service: Appeals and Litigation of Fuel Reduction Projects*, GAO-01-1114R (Washington, DC: August 31, 2001).

41. USDA Forest Service, *The Process Predicament*, 5.

42. Ibid, 27-28.

---

43. Ibid., 35. The NAPA study on restoring managerial accountability to the US Forest Service was presented to the House Committee on Appropriations, Subcommittee on Interior and Related Agencies, in testimony by Dall Forsythe. The recommendations of the NAPA focus primarily on the implementation of a new financial system, the budget and appropriation process, organizational structure and design, strategic planning and performance management, and leadership. Forsythe's testimony is available at [www.napawash.org/resources/testimony/testimony\\_02\\_16\\_00](http://www.napawash.org/resources/testimony/testimony_02_16_00) accessed February 3, 2003.

44. U.S. General Accounting Office, *Forest Service Decision-Making: A Framework for Improving Performance*, (Report to Congressional Requestors; GAO/RCED-97-71, April 1997), 102.

45. Jeff Flake, *Costly Lawsuits Provide Kindling for Forest Blazes*, *Arizona Republic*, June 25, 2002, B7.

46. USDA Forest Service, *The Process Predicament*, 37.

47. Ibid., 40.

48. Environmental Safeguards Under Attack by the Bush Administration, News release, Oregon Natural Resources Council et al., June 11, 2002.

49. U.S. General Accounting Office, Letter to Rep. Scott McInnis, *Forest Service: Scope and Methodology Used to Determine Number of Appeals and Legal Challenges to Fiscal Year 2001 Fuel Reduction Projects* (Washington, DC: July 9, 2002).

50. USDA Forest Service. *Factors Affecting Timely Mechanical Fuel Treatment Decisions*. (Washington, DC: July 2002).

51. Ibid.

52. Letter from Fred Norbury to Jeannette Russell, September 6, 2002.

53. The comments from the e-mail correspondence are taken from the documents provided by the Forest Service in its response to the National Forest Protection Alliance FOIA request.

- 
54. The Wilderness Society. *Forest Service Continues To Blow Smoke: Why the USFS Report on Appeals is Wrong*. (Washington, DC: July 12, 2002).
55. America Needs A Credible Forest Service, News release, July 26, 2002 at [www.house.gov/inslee/enviro\\_forest\\_service\\_letter](http://www.house.gov/inslee/enviro_forest_service_letter) accessed January 24, 2003.
56. Jeffery Morton and Laura McCarthy, *A Comparison of Two Government Reports on Factors Affecting Timely Fuel Treatment Decisions* (Santa Fe, NM: The Forest Trust, September 3, 2002).
57. U.S. Reps. Tom Udall and Jay Inslee Release Report Clarifying Differences Between Fuel Reduction Statistics, News release, September 4, 2002 at [www.house.gov/inslee/enviro\\_fuel\\_reduction](http://www.house.gov/inslee/enviro_fuel_reduction) accessed January 24, 2003.
58. Ibid.
59. Freedom of Information Act Request Reveals Info U.S. Forest Service Report Was Gathered in Hours, October 1, 2002, News release at [www.nativeforest.org/press\\_room/release\\_10\\_01\\_02](http://www.nativeforest.org/press_room/release_10_01_02) accessed December 28, 2002.
60. Brian Stempeck, Study Was Quick, But It Also Low-Balled Appeals Estimates—USFS, *Greenwire*, October 3, 2002 at [www.eenews.net/sample](http://www.eenews.net/sample) accessed December 28, 2002.
61. Robert Gehrke, Environmentalists, Forest Service Agree That Fire Report Was Rushed, Figures Were Off, *Las Vegas Sun*, October 2, 2002 at [www.lasvegassun.com/sunbin/stories/text/2002/oct/02](http://www.lasvegassun.com/sunbin/stories/text/2002/oct/02) accessed December 28, 2002.
62. Another Summer of Fire—and Deception, Forest Watch Campaign at [www.coloradowild.org/fwc/fwc](http://www.coloradowild.org/fwc/fwc) accessed January 21, 2003.
63. Mark Flatten and Dan Nowicki, Green Group Lawsuit Blocked Forest Thinning, *East Valley Tribune*, July 8, 2002 at [www.eastvalleytribune.com/rodeofire](http://www.eastvalleytribune.com/rodeofire) accessed July 8, 2002.
64. Mary Jo Pitzl, Wildfire Finger-Pointing Rampant, *Arizona Republic*, July 26, 2002, B7.
65. Seven Questions You Need Answered, *Arizona Republic*, June 30,

---

2002, V1.

66. Jon Kyl, Environmental Activists Place Forests At Risk, *Arizona Republic*, June 26, 2002, B9.

67. Tom Knudson, Playing With Fire: Spin on Science Puts National Treasure at Risk, *Sacramento Bee*, April 25, 2001, quoted in *The Process Predicament*, 9.

68. Kieran Suckling, Dear Senator Kyl: Get the Facts About the Fires, *Arizona Republic*, July 16, 2002, B7.

69. Ben Nighthorse Campbell, Environmental Extremists Fan Forest Fires, *Pueblo Chieftain Online*, July 7, 2002, at [www.chieftain.com/sunday/editorial/index/article/4](http://www.chieftain.com/sunday/editorial/index/article/4) accessed January 25, 2003.

70. Environmentalists Not Responsible for Forest Fires: Fifty Years of Bi-partisan Ignorance to Blame, News release, June 26, 2002 at [www.house.gov/inslee/enviro\\_wildfire](http://www.house.gov/inslee/enviro_wildfire) accessed January 24, 2003.

71. Billy House, Forest Service Adding Fuel to Debate on Tree Thinning, *Arizona Republic*, July 11, 2002, A7.

72. Politicians Blowing Smoke Over Colorado Fires, at [www.coloradowild.org/coloradofires](http://www.coloradowild.org/coloradofires) accessed January 21, 2003.

73. Conservation Groups Set Record Straight, News release, July 18, 2002.

74. Personal communication from Matthew Koehler to author, January 27, 2003.

75. John Horning, Don't Flame Tree-Huggers, *Albuquerque Tribune*, July 18, 2002 at [www.abqtrib.com/print/index](http://www.abqtrib.com/print/index) accessed August 27, 2002.

76. Sandy Bahr, Faulty Practices, Logging Methods Fanning Flames, *Arizona Republic*, June 25, 2002, B7.

77. Jack Swanner, Restore the Health of Our Forests Before They Go

---

Up In Smoke, at [www.ncforestry.org/docs](http://www.ncforestry.org/docs) accessed January 25, 2003.

78. Scorched-Earth Politics, *New York Times*, June 30, 2002.

79. Rene Sanchez and William Booth, Did Politics Put A Match to West's Wild Lands? *Washington Post*, June 27, 2002, A3.

80. Time to Put Up the Money and The Muscle, *Arizona Republic*, June 26, 2002, B8.

81. Matt Jenkins, Blame Game Sheds Little Light on Fires, *High Country News*, August 19, 2002, 3.

82. Bush Urges A Hands-On Forest Policy, *Winston-Salem Journal*, August 23, 2002 at [www.journalnow.com](http://www.journalnow.com) accessed August 24, 2002.

83. NASF Commends Presidential Forest Health Initiative, News release, National Association of State Foresters, August 23, 2002 at [www.stateforesters.org/news](http://www.stateforesters.org/news) accessed August 26, 2002.

84. Jeff Barnard, Forest Plan Faces Obstacles, *The Missoulian*, August 26, 2002 at [www.missoulian.com](http://www.missoulian.com) accessed August 26, 2002.

85. Bush's Forest Proposal A Smokescreen Says NRDC, News Release, Natural Resources Defense Council, August 22, 2002 at [www.nrdc.org/media](http://www.nrdc.org/media) accessed August 24, 2002.

86. USDA and DOI Deliver Legislation to Implement President's Healthy Forests Initiative, News release, September 5, 2002 at [www.doi.gov/news/020905](http://www.doi.gov/news/020905) accessed September 7, 2002.

87. Sherry Devlin, Forest Chief Says 93 Appeals Law Should Be Axed, *The Missoulian*, September 12, 2002 at [www.missoulian.com/archives/index](http://www.missoulian.com/archives/index) accessed February 8, 2003.

88. Owens: Changes in U.S. Forest Policies Long Overdue, News Release, Office of the Governor, August 22, 2002 at [www.state.co.us/owenspress](http://www.state.co.us/owenspress) accessed August 26, 2002.

89. Jennifer McKee, Martz: Ban Logging Appeals, *Billings Gazette*, August 22, 2002 at [www.billingsgazette.com/index](http://www.billingsgazette.com/index) accessed August 26, 2002.

- 
90. Prepared Statement for the Record of Charles H. Burley for the American Forest Resource Council before the U.S. House of Representatives, Committee on Resources, September 5, 2002 at [www.resourcescommittee.house.gov/107cong/fullcomm/2002sep05/burley](http://www.resourcescommittee.house.gov/107cong/fullcomm/2002sep05/burley) accessed January 25, 2003.
91. Testimony of Timothy H. Creal, Forest Counties Payment Committee at [www.house.gov](http://www.house.gov) accessed January 24, 2003.
92. Eric Pianin and Juliet Eilperin, At Loggerheads Over Forest Plan, *Washington Post*, October 9, 2002, A29.
93. Zachary Coile, Sierra Club Board Blasts Feinstein on Logging, *San Francisco Chronicle*, September 24, 2002, A3 at [www.sfgate.com](http://www.sfgate.com) accessed September 24, 2002.
94. Bush Administration Proposes Steps to Restore Forest and Rangeland Health, Joint press release, December 11, 2002 at [www.usda.gov/news/releases/2002](http://www.usda.gov/news/releases/2002) accessed December 12, 2002.
95. Renzi s remarks were made at a town hall meeting in Flagstaff, Arizona on February 1, 2003.
96. Glen Martin, Sierra Protection Plan Under Review, *San Francisco Chronicle*, February 4, 2003 at [www.sfgate.com](http://www.sfgate.com) accessed February 5, 2003.