Legislating the Past: Cultural Resource Management in the U.S. Forest Service

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Cultural resource management, commonly called CRM, has emerged in recent years as a popular topic in federal land use programs. Fundamentally, CRM can be used as a paradigm to more effectively manage the diverse resources found on federal lands in the United States. One obvious example of these resources is the physical, archeological artifact. This article addresses cultural resource management on federal lands, and presents the various laws that have been enacted to protect and preserve such resources of the human past. Second, with the U.S. Forest Service as an example, this article describes some of the deficiencies in the current methodology and recommends ways federal agencies can more effectively manage cultural resources.

Keywords archeology, artifacts, cultural resource management, federal lands, preservation

The federal government owns approximately 662 million acres (or almost 30%) of land in the United States. National economic development has always been affected by the policies that govern these federally owned lands. An important role in this development has been played by those lands high in economic value, such as those that produce water, minerals, timber, wildlife, and range, especially grass for livestock. A lesser, although certainly important, role has been played by those lands that have noneconomic values: for example, those that add richness to human experiences and those that preserve the nation's natural and cultural history, including lands used to produce recreational and wilderness opportunities. Increased attention was paid to these noneconomic values during the last quarter century when federal land managing agencies entered the field of cultural resource management (CRM). An examination of the role of federal land managers

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in the complex array of ownership patterns throughout the nation reveals current management problems and dilemmas that must be addressed with regard to CRM.

In this article, we address CRM on federal lands, especially those managed by the U.S. Forest Service, describe the deficiencies in current management, and recommend ways federal agencies can more effectively manage cultural resources. The Forest Service is emphasized because it is in the midst of a paradigm shift in terms of its land management policies (Gorte & Alston, 1994). Challenges from publics concerned with a variety of nontimber production issues continue to increase, not the least of which concern the role of cultural resource management within the Forest Service's new ecosystem management framework. Active management of cultural resources to understand past cultures and the role of present cultures in a contemporary natural resource management context has not been the focus of Forest Service management, as it has been with the National Park Service (NPS) since its inception. In fact, the NPS has made significant progress in CRM.

People use federal lands for various reasons, including but not limited to timber production, grazing, mining, wilderness preservation, wildlife management, and recreation. Incorporating CRM into these diverse uses would require a more extensive resource management strategy than is currently applied by federal agencies. For example, the Forest Service is required by law to inventory and catalog significant archeological sites before they are destroyed or damaged. But, beyond the initial inventory, little protection (i.e., management) is required. Those most interested in preservation and protection find this unacceptable. On the other hand, detractors of CRM find the entire inventory methodology a distraction from natural resource management.

Conflicts about natural resources and their allocation, preservation, and utility affirm a relationship between cultural resources and the environment. A study of cultural resources on federal lands necessarily draws from many disciplines. We naturally think of the physical sciences as vital in understanding the American landscape (e.g., geology, biology, hydrology). But social sciences are also indispensable to understanding federal land management. With this in mind, a multidisciplinary approach to cultural resource management must be taken. There is much to be learned from studying cultural resources. Archeology offers enormous insight into the past. Archeologists have traditionally viewed their activities as consonant with the highest duties of science to study and understand the world (Higginbotham, 1983). In particular, they have focused on the relationship between humans and the environment, largely because this relationship is observable in the archeological record (Lebow et al., 1990). The vast amount of federal land and subsequent concentration of cultural resources on that land represent a responsibility that cannot be overlooked.

An important aspect of CRM is understanding the dynamic and interactive relationship between the environment and human behavior (Lebow et al., 1990). Our human landscape is our unwitting autobiography, reflecting our tastes, our values, our aspirations, and even our fears, in tangible, visible form (Lewis, 1979). All human landscape has cultural meaning. It is how we manage that cultural meaning that concerns federal land managers. One obvious facet of this meaning is the presence of cultural resources. In the southwest region of the United States, the density of cultural resources is impressive, consistent with the fact that human settlement there long predates contemporary ownership patterns.

Environmental values are important in defining the approach that federal agencies such as the Forest Service must use in considering the fate of cultural resources. Our perceptions of the natural world define our lives in many ways. The relationship continues to

evolve: Contemporary notions of the environment are different from those of a century ago. Also, perceptions differ between cultures. Cultural resources seem a logical extension of natural resources because the environment has shaped and been shaped by humans. The processes through which this has occurred, and the resulting physical artifacts, explain how humans have viewed the natural world since time immemorial. The essential point is that much of the present popular environmental concern is based not only on environmental values, but also on conservationists' preferences for the preservation of individual cultural and historic links. People and the environment affect each other; and management, if it should be performed at all, must somehow incorporate the moral and spiritual meanings of environmental values, as well as the rational and secular utilities of resource management.

Resource management, in the broadest sense, involves the management of ecosystems and natural areas in an effort to maintain biodiversity and to protect species. However, incorporation of cultural, social, and historical issues into management also obligates resource managers to reevaluate commodity resources and accept history and culture as viable resources within the realm of interpretation and protection. Resource managers must understand cultural differences and dominant patterns of resource allocation as they affect and are interpreted by other cultural groups. Physically, cultural roles in landscape ecology are established through historic use patterns and resulting ecological changes. Our views and interpretations of the surrounding landscape are affected by cultural norms. Understanding other cultural groups and their use of the landscape will enhance current resource management goals. Many values should be considered in agency resource management decisions.

Accordingly, the introduction of culture into resource management complicates the nature of management. Cultural differences and cultural borrowings, particularly as they pertain to the most basic resource management tools and concepts, must be considered because resource management is a function of social and political institutions. Just as human impacts on ecosystems affect other aspects of the social system, very real social inputs affect the natural systems. There appears to be a symbolic attachment of the physical environment to human expression (Tuan, 1990).

Merryman (1989) has affirmed this relationship:

> In some nations cultural objects and environmental treasures (including natural and artificial landscapes, ecological areas, urban structures, and panoramas) are treated as fundamentally related to each other. There are obvious affinities between concerns for cultural objects and for the natural environment. Both emphasize conservation, and much of the appeal in each is based on expressive values. In addition, people and the environment affect each other, and such concepts as "environment" and "wilderness" are human constructs.
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> The differences, however, are substantial. Cultural objects are human artifacts; environmentalists seek to protect what is nature-made, all the better if untouched by people. Cultural objects most often end up in museums and private collections; environmentalists want their treasured objects kept out of museums and private collections, in their natural state. Most fundamentally, the *cultural object is an approach to the study of humanity, of ourselves; the environment is a separate part of reality, something outside of ourselves* (emphasis added). (p. 339)

In a practical sense, there is a public interest in cultural resources, because people are drawn to the human component of artifacts. Despite cultural variations, most people care

about objects that evoke, embody, or express their own or other peoples' cultures. Cultural resources also include amenity values such as art and tourism, as well as education because cultural resources embody and preserve information. Merryman (1989, p. 353) also asserts that "cultural resources form the corpus of human knowledge and belief." Cultural resources, an extension of the environment, contribute to human welfare in the sense that understanding our past helps us better endure the future. But these teachings are not restricted to the past; even learning from other cultures of today expands our knowledge base.

Forest Service managers are on the cusp of a new era of resource management. It is an increasing challenge for those new to the field and also those who know the ropes, to be able to include new variables into the resource management equation. Visibility must be increased for the acceptance of other cultures' attitudes, knowledge, and strengths (as well as weaknesses) toward natural resource management. This is especially true in the context of the somewhat amorphous subjects of historic preservation and CRM.

The Role of Cultural Resources

The definitions of cultural resource differ greatly. Common nomenclature, field definitions, as well as administrative jargon, all denote certain elements of bias. The focus, however, has been to set aside established cultural resources that are intended to *preserve and maintain the integrity* of human civilization. The larger, societal role of cultural resources and federal land management is to provide for the protection of these resources for future generations. Cultural resources provide for scholarly, scientific study through analyses of inventory, site evaluation, and other data to develop a better understanding of history.

Traditionally, CRM at the federal and state levels has focused on the "historic preservation" aspect of tangible and use-related artifacts. As we approach the 21st century, a new management paradigm must be established: one that incorporates consideration of cultural resources, be they physical artifacts or knowledge. Cultural resources are more than just archeological sites needing to be classified. Although the NPS has made great strides in recent years in managing cultural resources as more than just artifacts to be preserved, the Forest Service has yet to evolve as well.

What is the role of CRM within the Forest Service in this evolving age? As noted above, it encompasses far more than merely classifying, or even protecting cultural remnants from harm. The roles of ethnic groups before white settlement and colonization must be fully validated. CRM, then, should do far more than set aside physical remains. It should, in fact, incorporate the personalities, cultures, and social norms of "other" ethnic groups in its resource management roles. Groups that fit into this definition include but are not exclusive to American Indians, Hispanics, Asian Americans, and African Americans (typically defined as nonwhite).

Problems with Preservation Legislation

Since 1906, the federal government has pursued a policy to preserve the historic locations, structures, and objects that constitute America's heritage. Special measures have been enacted to protect historic sites located on public lands. However, soon the question arose concerning title to the unsold public lands in states, because the federal government retained title to large amounts of lands in new states. The question remains: Does the federal government have only the proprietary powers of an ordinary private owner of these lands, or can it assert the far more expansive power of a sovereign? The Supreme Court in *Light v. United States* (1911) asserted that "all the public lands of the nation are held in

trust for the people of the whole country." With this notion extended to CRM, the federal government has passed myriad laws regulating cultural resources.

Many of the remaining American Indian sites are on lands in the public domain and within the purview of such legislation. One feature of this legislation is to protect historic sites against improvident alteration or destruction by projects undertaken or sponsored by federal agencies (Wilson & Zingg, 1974). Before such projects can proceed, responsible federal administrators must weigh their impact on the cultural environment and consider possible alternatives. There is a strong legal bias to cultural resource protection. However, such legal provisions have presented numerous problems. An analysis of the problems and recommendations to alleviate such shortcomings will be presented later in this article.

The end of the 19th century coincided with a growing consciousness about archeological resources. The increased awareness persuaded Congress in 1906 to enact the Antiquities Act, which gave the president discretionary power to declare landmarks, historic and prehistoric structures, and other objects located on lands owned by the United States to be national monuments under the protection of the federal government: "The President of the United States . . . is authorized to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States."

The major objective of the Antiquities Act is to preserve sites that may reveal knowledge of the distant past through excavation and other kinds of scientific investigations, and to allow acquisition of objects for "permanent preservation in public museums." Congress also established the 50,000-acre Mesa Verde National Park in Colorado at that time. The park contains some of the best examples of prehistoric cliff dwellings remaining in the United States. Under the Antiquities Act, the Mesa Verde park area is reserved from settlement, entry, sale, or disposal, and is set apart as a public reservation.

During the Depression, economic hardships and high market values for native artifacts made illegal excavations more and more popular. Enforcement difficulties hobbled the effectiveness of the Antiquities Act. One such case involved a self-proclaimed collector, who had been caught digging on the shores of Lake Roosevelt near the Tonto National Forest in Arizona. The U.S. Attorney in Phoenix declined prosecution because no vandalism had actually occurred and the suspects had not removed anything of "value." The case was closed, but not without the criticism of many writers.

To supplant the Antiquities Act, Congress enacted the Historic Sites Act of 1935 (HSA), which declares ". . . it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States." It set up an administrative structure within which this policy could be carried out. Power is vested in the Secretary of the Interior, through the NPS, to locate sites, conduct research, preserve data, and acquire property by condemnation or otherwise. The HSA also established the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments.

The HSA is significant because it took up where the Antiquities Act left off. Originally, the Antiquities Act formed the legislative basis for participation of federal agencies in the program of archeological salvage. The HSA formalized this participation in 1945 when the Secretary of the Interior approved a "memorandum of understanding" between the NPS and the Smithsonian Institution. The HSA also provided direct legal foundation for the subsequent National Historic Preservation Act of 1966, unique in the sense that it recognizes significant historic sites irrespective of public ownership, encouraging preservation efforts through financial aid and cooperative agreements.

Continued public awareness in archeology both contributed to and resulted in the passage of additional protection legislation. The government continued to build dams on and near ancient fishing, hunting, ceremonial, dwelling, and burial grounds (Rogers, 1987). Heightened activity by the U.S. Corps of Engineers led to the passage of the Reservoir Salvage Act, which established a procedure whereby historical and archeological data might be preserved from loss or damage due to the construction of dams by federal agencies of federal licensees. The Reservoir Salvage Act seeks to further the policy set in the HSA by specifically providing for the preservation of historical and archeological data, including relics and specimens, which might otherwise be lost or destroyed as a result of flooding and/or dam construction. It was amended in 1974 to include all federal and federally assisted construction projects.

With passage of the National Historic Preservation Act of 1966 (NHPA), Congress took a significant step toward a comprehensive leadership role by enacting a program for the preservation of historic sites. The NHPA is the underlying structural basis of a national program to coordinate and support public and private efforts to identify, evaluate, and protect historic and archeological resources in the United States (U.S. Department of the Interior, 1993). NHPA recognizes the need for an increased federal role in historic preservation to ensure future generations "a genuine opportunity to appreciate and enjoy the rich heritage of our nation." However, preservation law has never appeared to exist exclusively within the federal domain. NHPA authorizes the National Register of Historic Places, creates the Advisory Council of Historic Preservation, provides further considerations for National Historic Landmarks, and creates procedures for approved state and local government programs. Amendments to NHPA, passed in 1980, provide support for archeological resource protection by requiring federal agencies to develop programs to inventory and evaluate historic resources. As with many of these statutes, the NHPA focuses on the preservation of structures and objects and gives little consideration to activities or nontangible features. In some regards, it has significant limitations in protecting American Indian heritage, containing a religious property exclusion that makes protection of some sites difficult. However, in an effort to rectify the situation, Congress passed amendments to NHPA in 1992 to encourage tribal governments of American Indians, Alaska Natives, or Native Hawaiians to participate in administering the federal preservation program through nomination of traditional religious and cultural properties to the National Register of Historic Places, or by applying for grants to preserve cultural heritage.

The Department of Transportation Act of 1966 declares a ". . . national policy that special effort should be made to preserve . . . historic sites." Programs undertaken by the Federal Highway Administration, Federal Aviation Administration, Urban Mass Transit Administration, and the U.S. Coast Guard will not be approved if they require use of land from any historic site of national, state, or local significance, unless there is no "feasible and prudent alternative" but to use such lands, and unless the programs include all possible planning, including excavation, to minimize harm to the historic properties.

The most sweeping environmental legislation enacted to date has been the National Environmental Policy Act of 1970 (NEPA). Among other things, it brought protection of archeological resources within the scope of planning for the human environment. It declares the federal government's continuing responsibility to "preserve important historic, cultural, and natural aspects of our national heritage, and maintain whenever possible, an environment which supports diversity and variety or individual choice." NEPA is clearly relevant to the preservation of culturally significant American Indian sites that are threatened by certain activities of federal agencies. However, like most other protection

statutes, NEPA is a procedural statute, which requires federal agencies to collect information and consider environmental impacts of any "proposed major federal action." Also, NEPA's impact is limited by the requirement that the advisory council formed to review such matters be virtually powerless beyond commenting on the "major federal action."

On May 15, 1971, President Nixon, by executive order, acknowledged the federal government's responsibility for encouraging the protection and enhancement of the nation's cultural resources. The president declared that the federal government should provide leadership in preserving, restoring, and maintaining the historic and cultural environment of the nation. Special responsibility was given to heads of federal agencies to survey and locate all historic sites under federal jurisdiction and to initiate proceedings to secure the entry of such sites on the National Register of Historic Places. The order was a significant step in further committing the national government to a policy of historic preservation.

Of all the laws currently in place for archeological protection, one of the most extensive in scope is the Archaeological Resources Protection Act of 1979 (ARPA). It essentially strengthened control over vandalism where the Antiquities Act was lacking. ARPA's primary emphasis is on permitting to control archeological site disturbance. The critical provisions of ARPA make it illegal to excavate or remove archeological resources from federal or American Indian lands without a permit from the federal land manager.

> ARPA offers greater protection for archaeological resources on public lands than did prior federal law. ARPA's definition of "archaeological resource" includes a wide range of artifactual, contextual, and environmental information and can expand as archaeologists begin to use new types of information. ARPA's enforcement provision gives federal land managers the tools necessary to curtail commercial looting of archaeological sites and trading in illegally obtained archaeological resources.
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> Additionally, ARPA clarifies federal policy concerning the development of archaeological resources and establishes a comprehensive program for the management of the remaining archaeological resources on public lands and Indian lands. ARPA gives the federal land managers considerable discretion to deny permits if development is inconsistent with land management plans or if conservation is more appropriate. ARPA leaves the resolution of conflicts with natural resource development to other federal laws; implicitly, ARPA says that the public interest in such cases requires preservation only of "archaeologically significant" resources. ARPA also contains the first statutory recognition of Indian religious and cultural interest in archaeological resources and offers them a greater role in archaeological resource management. (Northey, 1982, p. 112)

But Ward (1992) has noted that "the most troubling aspect of ARPA is its lack of provisions insuring confidentiality" (p. 819). There is no legal mechanism in the United States to protect unidentified areas. This exposure to sacred sites violates the basic principles of many American Indian religions. Most federal protective schemes require site identification and evaluation. It seems that constitutionally, more weight is given to the sixth amendment requirements of confrontation and public trial. Inconsistencies such as this show that the U.S. legal system is often not an appropriate forum for cultural resource resolution. However, Congress has acknowledged, through several amendments to the NHPA, that vigorous preservation law is indeed a national priority. For example, the

1992 amendments codified federal agency responsibilities for stewardship of historic properties under their jurisdiction.

The archeological resource demonstrates the growing interest of individual states in managing federal lands. Characteristic of the inconsistent legal role in regulating archeology are the often differing state and federal mandates covering archeological site destruction. States, determined to control land management on their own terms, often find federal regulations a bitter pill to swallow. This and other problems prevail when the issue is cultural resource management. Generally, other major problems include

- Lack of external review. Local land managers are empowered to make important decisions about archeological site disturbance, guided only by uniform regulations. When there is a review process, the treatment of archeological resources is unexceptional.
- Lack of integration with other statutory requirements. The myriad statutes do not create a logical comprehensive scheme for the management of cultural resources. Rather, they merely provide for consultation and information gathering.
- Federal archeological resource regulations are confusing, often inconsistent and vague. Uniform federal regulations are intended to be sufficiently detailed so that federal land managers can "fully exercise their authority under the Act," but they fail to recognize the site-specificity of many archeological resources. Federal agencies are not able to take a strong proactive stand with respect to CRM. Enforcement difficulties and the integration of federal archeological efforts have hampered many cultural protection efforts.

Archeologists in the Forest Service as well as other land managing agencies often march to the beat of their own drummer, interpreting federal regulations as they see fit. The Forest Service is under a "multiple-use" mandate, which requires equal consideration of all resources on national forests. However, the timber resource has been predictably dominant, with less consideration given to cultural resources. The federal agencies make their own regulations based on legislation passed by Congress. The singular focus on national historic sites means that specific archeological resources are often overlooked.

Archeological heritage is part of our national heritage. As with most other natural resources, preservation often conflicts with other priorities. Hence, the role of legislation, i.e., governmental action, reflects the growing concern that archeological resources will be lost forever. A distinct feature of U.S. cultural protection is our reliance on federal regulation of lands. As Runte (1979) points out, early efforts toward cultural protection of American heritage had nothing to do with protecting great works of art as was common in European legal systems. Instead the American effort was one of protecting historic monuments. When early legislation was passed, the federal and state governments owned vast tracts of land, especially in the West and South. It was on these tracts that most of the historic monuments were found and subsequently were placed under federal and state protection.

The plethora of cultural protection statutes reflects the growth of society's involvement in archeology and historic preservation. Considering archeology as a public resource is a stretch for many people. Primarily, archeology educates the public, providing people with a sense of history and the historical processes involved. Archeology fills in details of the unknown. Secondarily, recreation and entertainment endeavors are becoming part of the American lifestyle. Archeology in this sense is reflected in exhibition and interpretation of archeological remains at many local, state, and national parks.

Cultural resources on public lands are addressed in representative legislation, but little can be done about managing cultural resources on private or state lands. From a Forest

Service perspective, the latter can become a dilemma. Many national forests contain numerous private inholdings. Moreover, national forests are often bordered by state, county, and private lands. Federal action is limited to peripheral action, such as withholding federal funds or licenses. Thus far, statutory provisions have addressed participation and dialogue, the importance of which cannot be understated. Such processes have been formalized with the American Indian Religious Freedom Act, which provides for the participation of Indian groups in policymaking concerning the destruction of sacred objects on federal lands. But it has been merely a procedural exercise, failing to actively protect cultural resources.

Cultural resource management must also be extended to sacred sites. Often, temporal and contextual considerations of artifacts are overlooked. A pervasive flaw in each of the statutory schemes is the "objectification of the things to be protected." Statutory mandate could be used to protect sacred places. However, there is a need to create a logical, comprehensive scheme for managing cultural resources. Current statutes focus on consultation and information gathering. Many American Indians might find it ironic that cultural resource protection comes from a western legal perspective.

Capsule History of the Forest Service

The Forest Service, an agency within the U.S. Department of Agriculture, manages about 191 million acres of federal land. The National Forest System is spread among 44 states and Puerto Rico, and is primarily responsible for managing the nation's timber resource on federal lands. The Forest Service is a well-documented agency (Dana & Fairfax, 1980; Steen, 1976; Wilkinson, 1984), and its full history will not be repeated here. However, identifying some key issues in its administrative development will explain the direction it has taken in cultural resource management. The Forest Service provides a particularly good example of an agency's role in administrative decision-making.

Historic events and personalities involved in the Forest Service have contributed to the present condition of the agency, which might be described as turbulent. The legacy of Gifford Pinchot has had a strong impact on the Forest Service. Pinchot was instrumental in the agency's formative years, collaborating with President Theodore Roosevelt to set aside millions of acres as forest reserves under the General Revision Act (1891). Congress subsequently halted further reservation in six western states, but not until after Roosevelt designated 148 million acres in those very states. Considering that today's national forests cover 191 million acres, this number is significant. These formative years were characterized by Pinchot's leadership, under which the national forests were established primarily for timber production. This and other Forest Service traditions came to have the force of law under very general statutes (Wilkinson, 1984).

Pinchot's conviction that the national forests were to be managed "for the benefit of the home-builder first of all" and "for the greatest good of the greatest number in the long run" essentially resulted in the tradition of management for timber production (Pinchot, 1947, pp. 261, 262). This tradition has been apparent throughout the history of the Forest Service. "The setting for making agency law is especially welcoming when a broad statutory mandate is coupled with an old, respected, and aggressive agency. The Organic Act of 1897 is the broadest of charters, . . . a blank check, made out to the Forest Service, to manage these lands as it saw best" (Wilkinson, 1984, p. 7).

Other traditions were established early on in the Forest Service, one of which was that of management mainly by foresters. The thinking was that because the Forest Service primarily practiced silviculture—the caring for and cultivation of trees for timber produc-

tion—it made sense to hire professional foresters to run the organization (Wilkinson, 1984). Another tradition easily developed was that of decentralization. The Forest Service extolled the virtues of management in the field, close to the ground in the national forests, not at the national headquarters in Washington, DC.

Although it seems that litigation now drives policy in many ways, this has not always been the case. Despite the cross-current with its commodity orientation, the agency exhibited conservation authority. The Forest Service acted aggressively during its early years to establish its powers to conserve resources, and this activism prevailed in its early years. It was the first government agency to designate primitive area tracts. More recently, in the early 1970s, it campaigned to establish minimum stream flow in the nation's forests. It also attempted to impose a conservation requirement on mining activities in the national forests.

Despite the traditional focus on timber, the national forests were never subject to intensive harvesting. However, the post–World War II housing boom led to a tenfold increase in timber production. The practices and attitudes of Forest Service personnel had to shift in response to higher timber demands. However, the West opening up and becoming more accessible through both air travel and highways also meant an increase in outdoor recreation in the national forests. This increase in recreational use led to unexpectedly intense scrutiny of the Forest Service. Fundamentally, federal timber harvesting changed from a private proprietary function to a visible public one, dramatically altering the course of the Forest Service.

From its inception, the Forest Service has been primarily a natural resources agency. Until World War II, the development of certain basic policies were borne from traditions rather than from legislation. The national forests were relatively free of legal controversy for many years. Their custodial, rather than timber-producing, role was apparent until World War II. Most disputes with the Forest Service were brought on by timber contractors, and most resulted in decisions upholding the agency's administrative discretion. After World War II, societal trends led to intense scrutiny of the Forest Service. The period between the mid-1960s and the passage of the National Forest Management Act in 1976 might be described as "years of turmoil." Legal standards, both legislative and judicial, are now very much a part of federal timber policy (Coggins et al., 1993).

By the 1970s, the Forest Service timber policies had been severely challenged by four significant events:

(1) The 1969 *Parker v. United States* case foreshadowed the troubles over wilderness designation that have haunted the Forest Service since.
(2) Alleged overcutting in the Bitterroot National Forest in Montana led to a devastating indictment of Forest Service management, which led to congressional guidelines on clearcutting. In 1972, a Senate subcommittee proposed limits on clearcutting that were later incorporated into the 1976 National Forest Management Act.
(3) Legislatively mandated timber sales in the Tongass National Forest in Alaska were highly criticized. In 1973, the ninth circuit court required reconsideration of the Tongass cutting program.
(4) Disputes over harvesting practices in the Monongahela National Forest in West Virginia permanently altered national forest management. The fourth circuit court in 1974 held that the Organic Act of 1897 forbade clearcutting. Congress responded by passing the pivotal National Forest Management Act (NFMA).

Findings from the United States Forest Service

Practically speaking, CRM on Forest Service lands is a difficult issue. Even with passage of the Antiquities Act in 1906, CRM has only recently been implemented. Administrative and procedural mandates followed by federal land managing agencies, including the Forest Service, are ambiguous at best. Legislative mandates for the three largest federal land managing agencies include little administrative guidance for cultural resources. Current legislation affords protection of cultural resources in many instances, but it has been a slow process of legislative passage, codification, regulation, and enforcement. In a survey of Forest Service employees in Southern California, respondents strongly agreed that federal agencies responsible for law enforcement lack the money, time, and personnel to protect cultural resources (Conner et al., 1993).

Cultural resource management in the Forest Service is a fairly recent development. Passage of the National Historic Preservation Act of 1966 was instrumental in developing the CRM program; it is in part why the Forest Service hired its first archeologist in 1967. Because CRM is largely a response to legislation, the administration is supposed to offer general guidance to the individual regions. However, responses to a survey mailed out to regional archeologists in the Forest Service showed that the agency lacks consistency in management of resources.

Each Forest Service region has its own regional archeologist, responsible for guiding cultural resource policies for the forests in that region. The nine regional Forest Service archeologists were initially contacted by phone and letter, and asked if they would be willing to fill out a short questionnaire for this study. The primary goal of the project was to determine the methods by which cultural resources were managed in each Forest Service region and to discover CRM's relationship with ecosystem management. To achieve this purpose, 10 questionnaires were mailed—one to each of the nine regions and one to the Washington office (WO). The questionnaire consisted of five qualitative questions.

Of the 10 questionnaires mailed, 7 were returned. Given the qualitative nature of the survey and the small number of respondents, these results were treated as seven separate interviews. Participant responses were entered into a central data file, and the results follow.

There was a great degree of variation among the Forest Service regions with regard to CRM. But all respondents agreed that little direction was received from the WO, which was one of the nonrespondents. From the survey, two key conclusions were reached: first, that there is no real mandate for CRM; and second, guidance that is given is often inconsistent with local beliefs and interpretation of the cultural resource.

The regional archeologists were first asked, "What, if any, direction do you receive from the Washington Office (WO)? How do you perceive your role in cultural resources management?" Most respondents stated that direction from WO comes in the form of manual direction and formal policy statements. The WO serves as a buffer for legislation, regulation, and national partnerships. However, it is the individual region's role to disseminate and ensure the implementation of policy and direction. Generally, regions claim to be autonomous, but there is an emphasis on consistency of interpretation.

The respondents discussed the reality of management difficulties based on the tradition of decentralization in the Forest Service. One of the respondents described managers as "reactive, top-down, and compliance-driven." Other respondents depicted the WO as too far removed, asserting that "the best policy letters originate from the regions themselves, go to the WO, and then are redirected back to the regions." Also, another claimed that "there is very little direction in CRM received from the WO. In fact, very little communication at all." Inter-regional cooperation was addressed as well: "Autonomy in re-

gions is problematic, as there is little consistency. There is very little team spirit among Regional Archaeologists."

Participants were also asked, "Describe the way in which cultural resources are classified in your agency and region. And how does it differ from region to region?" The responses differed from chronological (i.e., prehistoric, historic, or "traditional cultural") classification, recreation resource classification, or classification pursuant to state regulations. The participants were also asked to comment on "How useful do you think the current system is?" Most respondents articulated that there are many difficulties: "The system works adequately if applied well by personnel who understand it. Additionally, any system is only as good as the people running it." Also, it was stated that CRM needs to become more visible: "Regional archaeologists need to become better salespeople in order to make the system better." There was also criticism aimed at the WO because it was perceived as providing too little guidance. One respondent believed that there has been no system at the regional and national level because of inconsistencies and lack of standardization. "The current system is terrible because the lack of WO direction feeds the autonomy, thus no coherent national CRM program."

When asked for "Possible alternatives to the system or how you think it might be changed to become more effective," participants agreed that any improvement must originate from the top. The concept of cultural resources must be accepted within the entire agency before any drastic changes can be made. Presently, there is no accountability, and "no one in charge." CRM must be reorganized and a mission must be defined (or redefined). One recommendation was to standardize and develop an automated database that can be used by other federal agencies, as well as by state and local agencies. Another person recommended the creation of a national CRM team, for a concerted effort to make a decision on implementing such systems and supporting that decision.

> The single biggest improvement I can imagine does not relate to the technical aspects of taxonomic systems; but rather to the concept of cultural resources within the agency. In my opinion cultural resources have been one of the more indigestible of the new or non-traditional resources which changing public values and expectations have compelled us to address. In my experience cultural resources have rarely been fully accepted as stand-alone resources with intrinsic value; nor have they often been fully integrated into agency planning or decision-making processes. Cultural resources are classified by many in the agency as a necessary evil to be dealt with in support of real (e.g. commodity production) projects or activities.

The historic character of the Forest Service affects contemporary resource management decisions. Respondents believed that "both multiple-use and natural resource history have come back to haunt CRM. It has no legacy in the Forest Service." They also believed that "at this point, CRM is tolerated as a minor nuisance, an unfortunate diversion from the land base." As discussed earlier, the legacy of the Forest Service has been one of multiple-use management. Subsequently, one response stated that "multiple-use and stewardship are still the main emphases in some regions. The long emphasis on timber production stymied even some of the more progressive managers." The commodity-based orientation of the Forest Service has led some managers to view "CRM as an obstacle or encumbrance to agency activities. Its only role is for the sake of adhering to a myriad of federal laws and regulations." There is little "value" placed on cultural resources. According to one survey respondent,

> The agency has maintained a devotion to the concepts of multiple-use and sustained yield of commodities from the public lands long past the point where the majority of the public supports our position. It is first and foremost a *natural resources* agency with an emphasis on commodity production within a conceptual matrix of 19th century conservation. Cultural resources in the form of historic properties, archaeological sites, and traditional cultural properties have been long viewed as obstacles to the primary mission. The programs which the agency has set in place to address cultural resources were created in response to legal requirements. The resulting programs (as reflected clearly in funding priorities) have most often been viewed as justified as support to other primary natural resource management activities.

Implications

Currently, federal legislation is separately interpreted by each land managing agency. The legislation is ambiguous enough, and without consistent regulation, CRM becomes meaningless. Also, judicial inconsistencies in statutory interpretation often hinder CRM efforts. Incorporating cultural values into Forest Service employee training, or reinterpreting current legislation more consistently, would begin to alleviate the inconsistencies. Recognizing the diversity of employees leads to a broader understanding of the values of other cultural groups. Whether or not protection is deemed the highest priority, some comprehensive management scheme must be enacted, not only within an agency such as the Forest Service, but also across agencies. The following might be considered:

- Increased collaboration between land managing agencies. This means consistent application of legislation within each agency and increased cooperation between agencies.
- An extended inventory of cultural resource sites, perhaps an extended version of NEPA's Environmental Impact Statement (EIS) requirement. This might be an undertaking similar to Secretary of the Interior Bruce Babbitt's biological inventory on federal lands.

Two examples come to mind. In the Columbia River Gorge National Scenic Area of Washington and Oregon, contemporary political processes are becoming an integral part of protecting cultural resources in the area (Rogers, 1993). In 1986 Congress passed the Columbia River Gorge National Scenic Area Act. The next year Oregon and Washington ratified the bi-state Columbia River Gorge Compact. The Columbia River Gorge Act has two overriding purposes: first, to protect and enhance the scenic, natural, recreational, and cultural resources; and second, to promote economic development consistent with the first objective. The commission established under this act consists of 12 members, who oversee activities that might affect the Columbia River Gorge. The National Scenic Area is also affected by local and state organizations and four tribal governments. The commission pledged to work with the various constituencies to ensure protection of treaty rights as well as protection and enhancement of the region's cultural and natural resources. The subsequent management plan has served as a model for cultural resource protection. Its elements include:

- recognition that tribal authorities are often in the best position to determine the significant aspects of their own culture
- prohibition of uses that would adversely affect significant cultural resources
- avoidance as the preferred method of cultural resource protection

- consultation with the Cultural Advisory Committee, which has a mandatory review role.

Rogers (1993) states that the spirit of this act is evident and enforceable. The Columbia River Gorge National Scenic Area Commission has encouraged open communication and clear government involvement, which has been overlooked in the past.

Local ordinances in California have also proved to be effective tools in managing cultural resources. Mono County has enacted a local ordinance to protect cultural resources from vandalism and desecration. The ordinance was passed in light of a looting case, *California v. Tischler,* in which the defendant desecrated an American Indian grave. Jurisdiction was a major problem, because federal and state officials were unsure whether the grave was on federal land. Unknown jurisdiction over grave sites and artifacts, as well as uncertainty about which agency at which level could best handle cultural resource protection, led to the creation of an intertribal, interagency standing committee. Local involvement is an effective way of enforcing cultural resource protection for several reasons.

- Local authorities are more likely to react to community will.
- Federal or state statutes may be seen as overkill for a particular local crime.
- Local trials often educate the public about site vandalism.
- Local controls can trigger the trafficking provisions of ARPA.

Research on both archeology and federal land management is extensive, but consolidating the two is a challenge. The intricacies of federal land policy and cultural resources leave many unanswered questions. Preserving artifacts as resources has been placed within the purview of federal land management because society not only generates but also uses cultural resources.

Future efforts toward understanding and implementing CRM within the Forest Service context need to investigate the role of cultural resources in ecosystems. In particular they need to aggressively explore

- the public's perception of cultural resources, and the level of financial commitment persons might be willing to make to protect cultural resources, i.e., economic valuation of cultural resources
- the role of the legal system in shaping CRM policy. As addressed previously in this article, legislation and subsequent litigation often result in disparate agendas of CRM than the initial policy had intended.
- the feasibility of implementing a broader and more comprehensive CRM policy
- the political factors that affect CRM.

Federal agencies closely associated with land management, such as the Forest Service, must become involved in both studying and implementing the above suggestions. Congress must be willing to discuss and promote the idea of cultural resources on a national scale. Additionally, judicial decisions are highly important in the analysis of legal issues surrounding CRM. Finally, those groups most affected by CRM, i.e., cultural groups whose history can be observed through physical objects, must be included in any decision making about CRM.

The complex nature of human social systems has a significant role in federal land policy. Four key subsystems contribute to the functioning and development of society: economy, government, culture, and law. This article has focused on the cultural aspect of the social system, especially as it relates to the other subsystems. The Forest Service incorporation of ecosystem management necessarily involves humans as a part of the process in two ways. First, people are involved as decision makers in the form of policy,

as expressed in all four subsystems. Second, culture serves as a unique subsystem because the past existence of humans on the landscape necessitates human interaction as part of the ecosystem. The laws and subsequent policies that have been enacted reflect the cultural role in human social systems.

The Forest Service is attempting to integrate the social component into research on forest ecosystems. Currently, much of the literature focuses on protection of cultural resources in the form of artifacts. Alternatively, cultural resources legislation has increased some forms of public participation. However, protection of sites from looting and vandalism is only one piece of this complex puzzle.

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