Part IV
Appendix
NEPA Case Law and Statistical Tables

Appendix

SELECTED 1994 NEPA CASE LAW

Standing

Sierra Club v. Robertson, 28 F.3d 753 (8th Cir. 1994). The Sierra Club and State of Arkansas sought judicial review of the Forest Service's Amended Land and Resource Management Plan (LRMP) for the Ouachita National Forest in west-central Arkansas and southeast Oklahoma. The plaintiffs first sought a preliminary injunction barring two sales proposed under the plan, on the grounds that the Forest Service improperly denied them the right to an administrative review. After their motion was denied by the district court, the plaintiffs again moved for a preliminary injunction, arguing that the timber sales violated both the National Forest Management Act (NFMA), which requires the Forest Service to take into account the multiple uses and sustained yield of the products and services of national forests in preparing LRMPs, and NEPA, and were arbitrary and capricious. After again being denied, the plaintiffs sought judicial review of the plan itself as violative of NFMA and NEPA. The district court granted the Forest Service summary judgment, finding that the plan satisfied the directives of both NFMA and NEPA.

The Eighth Circuit affirmed the district court's denial of a preliminary injunction with respect to the two proposed sales. The court further refused to grant the plaintiffs standing to challenge the Forest Service's plan and dismissed the suit. In finding that the plaintiffs lacked standing to sue, the court first cited the three requirements to establish standing under the 1992 Supreme Court decision, *Lujan v. Defenders of Wildlife*, 112 S.Ct. 2130 (1992): (1) the plaintiff must have suffered an "injury in fact;" (2) there must be a causal connection between the injury and the conduct complained of that is "fairly . . . trace[able] to the challenged conduct of the defendant;" and (3) it must be "likely," as opposed to merely "speculative," that the injury is redressable by a decision favorable to the plaintiff.

The court found that the claim failed on the first injury in fact component of standing. It concurred with the Forest Service's characterization of the Ouachi-

ta LRMP as "a general planning tool," which "provides guidelines and approved methods by which forest management decisions are to be made," but which does not "dictate that any particular site-specific action causing environmental injury must occur." Because several events must transpire before an environmental change can come about under an LRMP—including proposal of a site-specific action, subjection of that proposal to NFMA and NEPA analysis, and adoption of the action by the Forest Service—standing would not be granted to challenge the plan per se.[21]

Roadless Areas

Smith v. U.S. Forest Service, 33 F.3d 1072 (9th Cir. 1994). The Forest Service awarded the Gatorson timber sale to a logging company operating in the Colville National Forest in Washington State. The Forest Service had prepared an EIS for the forest plan for the Colville National Forest, and subsequently issued a final EA for the Gatorson Sale, with a finding of no significant impact beyond that addressed in the Forest Plan EIS.

Plaintiff Smith, a frequent recreational user of the area affected by the sale, sued the Forest Service and logging company seeking to enjoin the sale on the grounds that the EA was inadequate. Smith argued first that the area affected by the sale contained in excess of 5,000 acres of roadless land that the Forest Service never considered for classification as wilderness, as required by the Washington State Wilderness Act (WSWA). Second, Smith argued that the EA was inadequate under NEPA in its failure to address the effect of the sale on a separate tract of 6,000 acres, part of which was inventoried by the Forest Service under the Wilderness Act of 1964.

The district court entered summary judgment for the defendants, holding that the Forest Service was not acting in an arbitrary and capricious manner when it decided that the uninventoried tract in excess of 5,000 acres was actually two smaller tracts of land, divided by a jeep trail. The court further held that the WSWA barred its review of the agency's decision with respect to the second tract, since a reviewing court has jurisdiction only over uninventoried areas of greater than 5,000 acres.

The Ninth Circuit upheld the first portion of the district court's holding, finding that the factual record supported a conclusion that the Forest Service was not arbitrary and capricious in its decision that the jeep trail rendered the first area roaded. Because of the existence of the jeep trail, the Service properly concluded that the area was actually two roadless areas of less than 5,000 acres each. The court reversed, however, the second part of the district court's holding. It found that the EA was inadequate in its failure to consider the effect of the sale on the neighboring 6,000 acres, even though it had been partially inventoried. The court found that, though judicial review over the wilderness designation might have been precluded under the WSWA, under that act and NEPA, the court retained jurisdiction over the roadless determination and decision not to consider the area in its EA. The court

held that the Service should have at least considered the "no action" alternative to development of the parcel. Under the WSWA, judicial review of the wilderness option is only foreclosed for first-generation forest plans. However, the wilderness option for inventoried land "may be revisited in second-generation forest plans," at which time the decision becomes justiciable. Therefore, the court stated:

> *Clearly, under the WSWA, the agency is not required to preserve any [congressionally] released roadless area for wilderness consideration in second-generation Forest Plans… But the possibility of future wilderness classification triggers, at the very least, an obligation on the part of the agency to disclose the fact that development will affect a 5,000 acre roadless area.*

Because in a second-generation Plan the area might be designated as wilderness, the Forest Service should have included discussion of the "no action" alternative in its EA.

Further, because the roadless character of an area has environmental significance, the Forest Service should have examined the potential impact of the sale on the roadless area in its EA. The 6,000 acre area considered in the EA did not include "the remaining thousands of acres of roadless land . . . to the west of [the 6,000 acres] that will no longer be part of a 5,000 acre roadless expanse [after the sale]." In remanding the case, the court refused to find that, though "the decision to harvest timber in a 5,000 acre roadless area is environmentally significant," an EIS is per se required under such circumstances.

Forest Management Plans

Seattle Audubon Society v. Lyons, 871 F.Supp. 1291 (W.D.Wash. 1994). In April, 1993, a conference was held in Portland, Oregon, attended by the President, Vice President, and other government officials and representative stakeholders, as the first step in a massive effort by the executive branch to meet the legal and scientific needs of forest management in the Pacific Northwest. The conference resulted in the formation of three working groups, including the Forest Ecosystem Management Assessment Team (FEMAT), organized to conduct a conservation and management assessment of all federal forests within the range of the Northern Spotted Owl. FEMAT, an interagency, interdisciplinary team, was asked to "develop a set of options for management of all federal forests within the owl's range that would comply with existing laws, maintain biological diversity, provide for sustainable levels of timber harvest, and support rural economies and communities."

Based on the FEMAT report, which winnowed down from an initial fifty-four identified alternatives, ten alternatives chosen for final intensive review, and finally one recommended alternative, the Secretaries of Agriculture and the Interior adopted a management plan for an area including forests in northern California, Oregon, and Washington. The Secretaries directed the Forest Service and the Bureau of Land Management

(BLM), in conjunction with other relevant federal agencies, to prepare a joint draft supplemental EIS (DSEIS) to accompany the plan. After incorporating and conducting further research based on the more than 100,000 comments received after publication of the DSEIS, the Secretaries issued a final SEIS (FSEIS). Additional comments received on the FSEIS were responded to in the Record of Decision (ROD) accompanying the Secretaries' decision to incorporate the recommendations of the FEMAT report into the management plan.

The forest management plan adopted pursuant to the FEMAT report contains four main components: (1) reserve areas in which logging and other ground-disturbing activities are generally prohibited to protect the ecosystem and conserve the spotted owl and other species; (2) unreserved areas designated as "matrix," in which timber harvest may proceed subject to compliance with environmental laws; (3) an aquatic conservation strategy which contains a system of key watersheds where activities are restricted to conserve aquatic species; and (4) a monitoring and evaluation program. In addition, six percent of lands are allocated as adaptive management areas for experimentation in areas near communities affected by the reduction in timber sales. Altogether, the plan protects about eighty percent of late successional old-growth trees from programmed timber harvest; makes provisions for protection of the owl and the marbled murrelet, both threatened species, as well as other species; and provides provisions for protection of the aquatic ecosystem, water quality, and fish habitat.

Following the adoption of the plan, twelve environmental organizations, including the Seattle Audubon Society, sued the Secretaries seeking invalidation of the plan or injunctive relief against its implementation under NEPA, the National Forest Management Act (NFMA), and the Administrative Procedures Act (APA). The Northwest Forest Resource Council (NFRC), an association of loggers, mill owners, and others in the timber industry, also sued under a variety of statutes.

After rejecting a wide spectrum of claims brought by the various plaintiffs, the district court found in favor of the federal defendants, holding that none of the claims and arguments would justify invalidation of the plan or a remand to the agencies. Rather, the court held that the Secretaries and the respective federal agencies had acted reasonably, and not arbitrarily or capriciously, in adopting the plan based on FEMAT's report. The following discussion addresses a selection of the plaintiffs' claims.

The court rejected an argument by NFRC that the agencies acted improperly by adopting an ecosystem planning approach. The court first noted that: "The agencies for years had operated independently and sometimes in conflict. In the current plan they have cooperated and have analyzed not just individual species but ecosystems." Noting that NFMA "requires planning for the entire biological community - not for one species alone," that "[b]oth agencies must comply with NEPA," and that "the ESA

requires federal agencies to carry out their administrative programs so as to conserve listed species and the ecosystems on which they depend . . . there is no way the agencies could comply with the environmental laws without planning on an ecosystem basis."

The court also found that the so-called "viability provision," promulgated by the Secretary of Agriculture pursuant to NFMA, was valid and properly applied. The provision requires that: "Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area." The court found the provision compatible with the objective of NFMA that forests be maintained for multiple use. It further held that the Secretaries did not act arbitrarily or capriciously in finding that the FEMAT report-based plan was properly based on the viability provision, as well as on NFMA more broadly. The court gave further support to the ecosystem approach in finding that the Secretaries could divide the planning process into two stages—the overall plan and specific projects within the overall forest. It stated: "To require planning be done only on an individual forest basis would be unrealistic."

The court went on to uphold the FSEIS against a number of NEPA challenges. It held that the FSEIS was in compliance with NEPA with respect to: (1) NEPA's basic EIS standards that an EIS provide the decisionmaker with useful information, as well as provide the public with a chance for meaningful participation; (2) agency objectivity, finding that though there was a clear early preference for the alternative ultimately chosen, a "thorough and fair analysis of the ten alternatives was made;" (3) use of the FEMAT report, since there was sufficient representation by federal agents within FEMAT such that independent verification of its findings before their adoption was not necessary; (4) the range of alternatives considered, which included a broad enough spectrum of possibilities, including an appropriate "no action" alternative; (5) provision of adequate protection for the northern spotted owl, the marbled murrelet, and aquatic and other land-based species, safeguarded by the monitoring procedures established by the plan; (6) adequate acknowledgment as to where there was incomplete data in the plan; (7) sufficient discussion of the cumulative impacts of the plan, including those in federal forests, those on non-federal land, and those arising from non-federal actions; (8) the extent to which any irretrievable commitments of resources had been made; (9) discussion of mitigation measures included, and monitoring to insure that the objectives of the plan were being met and conditions were not significantly changing; (10) discussion of the impacts of timber harvest on water and air quality, and on climate change; (11) the economic effects of the plan; (12) the funding necessary for carrying out the plan; and (13) the incorporation into the FSEIS and ROD of public comments.

After finding the FSEIS adequate on all of the foregoing grounds, the court granted summary judgment to the federal defendants, refusing to invalidate or

remand the plan. The district court's decision was upheld by the Court of Appeals for the Ninth Circuit. 80 F.3d 1401 (9th Cir. 1996).

Range of Alternatives

Natural Resources Defense Council, Inc. v. U.S. Dept. of Navy, 857 F.Supp. 734 (C.D.Cal. 1994). The National Marine Fisheries Service (NMFS) promulgated a regulation that authorized the taking of marine mammals over a five-year period as a result of a United States Navy weapons-testing program which would involve the underwater detonation of explosives in an area off of the California coast known as the Outer Sea Test Range (OSTR). The Navy planned to proceed with a specific weapons test, the ship-shock trial of the U.S.S. John Paul Jones, pursuant to a Letter of Authorization issued by NMFS pursuant to the regulation. Prior to promulgation of its regulation, NMFS prepared an EA, which found no significant impact on the environment resulting from its proposed regulation. After receiving a comment that alternatives to the regulation should have been considered in the EA, NMFS issued a supplemental EA with discussion of alternative sites within and outside of the OSTR. The Navy issued a separate EA concluding that no significant impact on the environment was likely to result from the U.S.S. John Paul Jones test.

The Natural Resources Defense Council (NRDC) sought a preliminary injunction against both the implementation of the NMFS regulation and the specific Navy test authorized by NMFS. NRDC claimed that the challenged regulation and authorization letter violated the Marine Mammal Protection Act (MMPA) and NEPA. Specifically, NRDC argued that NMFS and the Navy failed to adequately consider possible alternative sites for the planned test and other weapons testing.

In granting the preliminary injunction against both the regulation and the particular test proposed by the Navy, the district court found that NMFS failed to adequately consider alternative sites in determining that a test in the planned area would cause the "least practicable adverse impact" on marine mammal species, as required by the MMPA. The MMPA establishes a general "moratorium" of the "taking and importation" of "marine mammals." The Secretary of Commerce may permit the "incidental" taking of marine mammals over a period of time not exceeding five years if the taking will have a "negligible impact" on the species affected and regulations are prescribed setting forth "the least practicable adverse impact" on the species. Under NEPA, agencies are required to consider a reasonable range of alternatives to their proposed actions. Therefore, NMFS should have considered alternatives, in addition to the "no action" alternative, in conjunction with the proposal of its regulation. With respect to the particular test to be undertaken by the Navy, NRDC had identified offshore areas with lower population densities than those present in the test area proposed by the Navy.

Because NRDC had demonstrated a "near-certain probability of success in showing a NEPA violation," and failure to issue the injunction would likely result in irreparable harm to marine species, the court granted NRDC's motion for a preliminary injunction.

NEPA Disclosure Requirements

Conservation Law Foundation, Inc. v. Dept. of Air Force, 864 F.Supp. 265 (D.N.H. 1994). Pursuant to the Base Closure and Realignment Act (BCRA), the Commission on Base Realignment and Closure decided to close the Pease Air Force Base within the boundaries of the Town of Newington and Portsmouth, New Hampshire. The United States Air Force (USAF) proposed transferring the base to a local development authority for development into an international trade hub. The USAF issued a final EIS on the Disposal and Reuse of Pease Air Force Base, which included a response to EPA concerns about the extent to which development at the closed base would effect ozone problems in southern New Hampshire. The EIS concluded that development would impair the ability of the state to achieve the proper ozone precursor reductions mandated by the 1990 Clean Air Act (CAA) amendments. Accordingly, the Pease Development Authority (PDA), EPA and the New Hampshire Department of Environmental Services entered into a Memorandum of Understanding (MOU) addressing the EPA's air quality concerns by requiring a surface transportation study, a traffic model, a master transportation plan, and a carbon monoxide analysis. The USAF incorporated the MOU into the Record of Decision (ROD), following comments on the final EIS.

The Conservation Law Foundation (CLF) filed a citizen suit pursuant to the CAA, alleging violations of NEPA and its regulations against the USAF, and violations of the CAA against the USAF and EPA. PDA was granted a motion to intervene as a defendant, and the CLF suit was consolidated with an action brought by the Town of Newington alleging violations of NEPA, CERCLA, the Federal Facilities Agreement, and the CAA. Specifically related to NEPA, the CLF claimed that the EIS failed to address: (1) the full scope of the environmental costs and benefits relative to ozone precursor emissions; (2) relevant studies on carbon monoxide; (3) the impact on neighboring Maine's ozone levels; (4) alternative air quality mitigation measures; and (5) the impact on surrounding wetlands.

With respect to the NEPA claims, the district court held that the BCRA, which contains a sixty day time limit during which challenges to base closure decisions may be made under NEPA, does not place any time limits on NEPA claims which assert challenges to actions subsequent to the base closure, rather than related to the base closure itself. Thus, the action was allowed to stand. The court found further that the USAF violated NEPA by failing to discuss conformity of its proposed action with the CAA in the final EIS, or issuing a supplemental EIS to discuss the issue. Instead, the USAF had responded improperly to the EPA concerns about air quality by

entering into an MOU later incorporated into the ROD. Because NEPA requires that an EIS contain all relevant environmental information in order to allow public comment prior to a final agency decision, reliance on the MOU, which contained post-EIS air quality studies, though sufficiently in compliance with the CAA, was improper for NEPA purposes. Rather, a supplemental EIS containing the air quality information should have been prepared and subject to public comment. The court directed the USAF to prepare a supplemental EIS addressing the issues identified by CLF.

GATT and NEPA

Public Citizen v. Kantor, 864 F.Supp. 208 (D.D.C. 1994). In the third case of its type, Public Citizen sought injunctive and declaratory relief requiring the United States Trade Representative (USTR) and the Office of the United States Trade Representative (OTR) to prepare an EIS for the Uruguay Round of negotiations on the General Agreement on Tariffs and Trade (GATT). The plaintiff further sought to require adoption by the OTR of "methods and procedures" to insure future compliance with NEPA. Two prior cases in the D.C. circuit seeking to compel the USTR and OTR to prepare EISs for the Uruguay Round and the North American Free Trade Agreement (NAFTA) were resolved in favor of the government. Both resulted in a finding that the Administrative Procedures Act (APA), which is the statutory basis for citizen actions against federal defendants under NEPA, did not apply to the international agreements, because APA review requires "final agency action," which is not met where Congress provides that only the President may take final action. *Public Citizen v. United States Trade Representative*, 782 F.Supp. 139 (D.D.C.) aff'd on other grounds, 970 F.2d 916 (D.C.Cir. 1992); *Public Citizen v. United States Trade Representative*, 822 F.Supp. 21 (D.D.C.), rev'd, 5 F.3d 549 (D.C.Cir. 1993), cert. denied, 114 S.Ct. 685 (1994).[22]

The court held that in this case, as in the two before, though the agency's role is closely bound with that of the President in conducting international trade negotiation, "[u]ntil submitted the agreement remained a moving target subject to alteration by the President," and "[e]ven after submission, the legislation is not the result of 'final agency action.'" Thus, the Uruguay Round falls outside of the scope of the APA, and is not subject to judicial review on NEPA grounds. Under the same reasoning, the court refused to compel the OTR to implement procedures for conducting environmental review of trade negotiations. The court wrote that the "possibility of future harm to members of plaintiff organizations is too speculative given the 'uncertainty not only about the precise terms of any final agreements, but, more fundamentally, about whether there will ever be final agreements at all.'" Finally, the court rejected an argument by Public Citizen that the USTR and OTR should be required to prepare an EIS for the Uruguay Round under the Mandamus Act, which provides courts with the "extraordinary" remedy to "compel an

officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff" where no other statutory basis for suit exists. The court felt that uncertainty about whether the Mandamus Act forms the basis of a substantive right, whether the United States waived its sovereign immunity not to be sued in passing the Act, and whether plaintiffs could establish standing, required it to reject Public Citizen's motion.

SELECTED 1995 NEPA CASE LAW

Standing

Sierra Club v. Marita, 46 F.3d 606 (7th Cir. 1995). Plaintiff environmental organizations brought a suit seeking to enjoin timber harvesting, road construction or reconstruction, and the creation of wildlife openings at the Nicolet and Chequamegon National Forests in northern Wisconsin under the forest management plans developed by the Forest Service for those areas. The plaintiff groups claimed that the Service violated NEPA, the National Forest Management Act (NFMA), and the Multiple Use-Sustained Yield Act (MUSYA), by failing to properly consider certain ecological principles of biological diversity.

Specifically, the plaintiffs argued that the Forest Service should have employed the science of conservation biology in drafting the management plans. Conservation biology is an approach which predicts that biological diversity can only be maintained if a given habitat is sufficiently large so that populations within that habitat will remain viable in the event of disturbances. Because the plans for the two forests divided up large tracts of forest into a "patchwork" of different habitats and uses, the plaintiffs argued that sustainability could not be maintained within these "patches" unless each were sufficiently large so as to extend across an entire landscape or regional ecosystem. Failure to employ conservation biology principles in assigning plots as different habitats, according to the groups, constituted a violation of the Forest Service's mandate to manage the forests for sustainability of multiple uses, taking into consideration the environmental impacts of plans, under NEPA, NFMA, and MUSYA.

The Service argued that the plaintiffs lacked standing to challenge the management plans without attacking any specific action under the plans. It further argued that, because no specific action had yet taken place under the plan, it was not ripe for judicial review. The district court held that the plaintiffs had standing to challenge the forest management plan, and that it was ripe for review. The court granted summary judgment for the Service, however, on the merits of the case, holding that because of the uncertain nature of the application of many theories of conservation biology, the Service had not erred in failing to apply it, and so had not violated NEPA, NFMA, or MUSYA.

The Court of Appeals for the Seventh Circuit upheld the findings of the district court. The court first held that forest management plans, because they "speak

in mandatory terms," themselves specify and implement particular actions. The court stated that, like zoning requirements: "The plans clearly require certain projects to be undertaken and indicate what their effects may be . . . That 'the Service has yet to actually inflict the injury through the development of site-specific projects does not render the injury "conjectural" or "speculative" and therefore does not deprive plaintiffs of standing to challenge the plan.'" Applying standing requirements under NEPA, the court found that, "[o]nce the plan has passed administrative review, the procedural injury has been inflicted . . . [and] [t]o the extent that the Sierra Club suffered a procedural injury, it is directly tied to an underlying, particularized interest." Thus, the plaintiffs had met the requirements for standing established under *Lujan v. Defenders of Wildlife*, 112 S.Ct. 2130 (1992).[23] Finally, the court felt that "[w]aiting until an actual timber sale occurs under the plan will not clarify the presentation of issues; arguments over the plans' sufficiency as a whole or the procedures followed in developing the plans with regard to diversity are as concrete now as they will ever become." Following the same line of reasoning, the court held that the plans were ripe for judicial review.

The court went on to reject the Sierra Club's claims that the Service should have employed conservation biology in developing the forest management plans. The court agreed with the plaintiffs that NFMA and MUSYA require "Forest Service planners to treat the wildlife resource as a controlling, co-equal factor in forest management and, in particular, as a substantive limitation on timber production," and that under NEPA "the Service is required to 'utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences.'" However, the court concurred with the district court, holding that "conservation biology is not a necessary element of diversity analysis insofar as the regulations do not dictate that the service analyze diversity in any specific way." Further, the court believed that the methodology which the Forest Service chose to utilize was neither irrational nor arbitrary and capricious. Rather, though "NFMA's diversity provisions do substantively limit the Forest Service's ability to sacrifice diversity in [trade-offs among competing interests], and NEPA does require that decisions regarding diversity comply with certain procedural requirements," the Service in the two management plans "neither ignored nor abused those limits." Accordingly, summary judgment for the Forest Service was affirmed.

Cumulative Impacts

Oregon Natural Resources Council v. Marsh, 52 F.3d 1485 (9th Cir. 1995). In 1962, Congress authorized the Army Corps of Engineers to build three dams in southern Oregon's Rogue River Basin. The Corps completed the first two, and was one-third through the construction of the last, the Elk Creek Project, when this litigation was initiated. The Oregon Natural Resources Council (ONRC) sought to enjoin the construction of the dam, alleging in part that the Corps had violat-

ed NEPA by failing to prepare adequate documentation of the likely environmental effects in its supplemental EIS for the Elk Creek dam. In particular, the ONRC argued that the Corps had failed to consider the cumulative impacts of the dam, in conjunction with the previous two, on populations of wild coho salmon and steelhead trout which pass through those portions of the Rogue River designated as Wild and Scenic under the Wild and Scenic Rivers Act, and of which Elk Creek is a tributary.

Prior to this case, the Ninth Circuit reversed a district court decision not to grant the injunction, holding that the Corps must consider the cumulative impacts of the third dam. The Corps prepared a second supplemental EIS, which formed the basis of this case. In the second EIS, the Corps discussed the cumulative impacts on two specific water quality factors—temperature and turbidity—and their effects on fish and fisheries production. The Corps argued that the Ninth Circuit's earlier decision only mandated a discussion of those two issues, in addition to those issued raised during its scoping process. The ONRC argued, conversely, that the Corps should have considered a much broader range of cumulative impacts, including the effects on the spawning and rearing habitat of the coho salmon and steelhead trout located in Elk Creek.

The Ninth Circuit agreed with the ONRC, and held that the Corps must prepare an additional, third supplemental EIS discussing the impact of the Elk Creek Project in conjunction with the two earlier dams, "with regard not just to those factors specifically identified by us, but to all environmental factors essential to an informed agency decision." The court refused to hold that the partially constructed dam need be demolished on the basis of its decision, only that a supplemental EIS containing a complete discussion of cumulative impacts must be prepared before construction might proceed.

Circuit Judge Rymer concurred in the majority's opinion to the extent that it denied the ONRC relief in the form of removing or modifying the dam. He dissented, however, on the issue of cumulative impacts, finding that the Corps had made an adequate discussion of the impacts of the dam in conjunction with the two existing dams. Judge Rymer believed that, because the Corps failed to identify issues relevant to water quality other than turbidity and temperature in its scoping process, the detailed discussion in the second supplemental EIS of those two issues was adequate.

Significant New Circumstances

Alaska Wilderness Recreation & Tourism Ass'n v. Morrison, 67 F.3d 723 (9th Cir. 1995). After the Alaska Pulp Company (APC) closed its mill in Sitka, Alaska, the Forest Service terminated its 50-year timber sales contract, set to expire in 2011, with APC. Following cancellation of the sales contract, the Forest Service decided to offer some of the uncut timber formerly reserved for APC for sale to the Ketchikan Pulp Company (KPC), another timber company with a 50-year contract, set to expire in 2004. Additional

uncut timber would be periodically offered for sale to other lumber companies. The Forest Service completed an EIS for the entire Tongass National Forest, which contains the APC timber in question, at the time it prepared its forest plan for the area. In addition, site-specific EISs were prepared for the uncut APC areas. After cancellation of the APC contract, the Forest Service prepared brief supplemental evaluations, concluding that because the forest plan "direction and need for timber and timber-related jobs had not changed," the conditions underlying the initial EISs were not significantly altered, and thus no new EISs were required under NEPA or the Alaska National Interest Lands Conservation Act (ANILCA).

A coalition of environmental groups, tourist associations, native communities and fishing interests sought to enjoin the harvest of the uncut APC timber. The groups argued that the cancellation of the contract presented the Forest Service with alternatives to the sale of the timber not available when the contract with APC was in existence. The district court denied the plaintiffs' motion, agreeing with the Forest Service that "the new circumstances created by the cancellation of the APC contract [were] not 'significant' because the contract was, in the district court's words, 'but a means to an end—supporting a timber harvest in the Forest consistent with the objectives of the [Tongass Land Management Plan].'" Thus, though NEPA requires that agencies prepare supplemental EISs whenever "significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts" arise, such was not the case here, and no new EIS need be filed.

The Ninth Circuit disagreed with the findings of the district court, first issuing an emergency temporary injunction, and then extending the injunction while the case was remanded for a determination whether the injunction should continue pending the Forest Service's compliance with NEPA and ANILCA.

In so holding, the court agreed with the plaintiffs' contention that the cancellation of the contract presented the Forest Service with the opportunity to consider a broader range of viable alternatives for the relevant areas than was available when the timber was contracted for harvesting to APC. The previous EISs "took into account other needs and uses only to the extent that they permitted contract requirements to be met." The cancellation represented "an event requiring serious and detailed evaluation by the Forest Service," and the Service's "decision not to reconsider land use alternatives in an EIS after providing public notice and conducting proceedings in keeping with the requirements of NEPA and ANILCA was not reasonable."

The court rejected arguments by the Forest Service that the Tongass Timber Reforms Act (TTRA), which amended ANILCA, required the Forest Service to make its primary mission seeking to meet market demand for timber, finding instead that TTRA gave the Forest Service enhanced flexibility in meeting market demand, while not relieving the Ser-

vice of compliance with other statutory law, including NEPA and ANILCA.

Three days after the filing of the court's opinion, Congress enacted the Emergency Supplemental Appropriations for Additional Disaster Assistance for Anti-Terrorism Initiatives, which included a rider stating that EISs prepared for a timber sale "shall be deemed sufficient if the Forest Service sells the timber to an alternate buyer," and specifically referencing the areas subject to controversy in this case. The court found, however, that the rider:

> *offers no new statutory basis on which to analyze the matter at issue here: the cancellation of a preexisting timber sales contract on the EIS process. Consideration of alternatives is the 'heart' of the public decision-making process which culminates in the EIS . . . There is not the slightest indication that Congress intended . . . to vitiate the EIS process by eliminating the consideration of alternatives requirements of NEPA and ANILCA.*

Critical Habitat Designation

Douglas County v. Babbitt, 48 F.3d 1495 (9th Cir. 1995). In a case of first impression, the Ninth Circuit held that NEPA does not apply to a decision by the Secretary of the Interior to designate critical habitat for an endangered or threatened species under the Endangered Species Act (ESA).

Following litigation brought by environmental groups, *Northern Spotted Owl v. Hodel*, 716 F.Supp. 479 (W.D.Wash. 1988), the Secretary listed the Northern Spotted Owl as an threatened species under Section 4 of the ESA. The Secretary put off designating the owl's critical habitat until information had been gathered. The Secretary ultimately issued a final designation of critical habitat consisting of over six million acres of federal land. At the time of the designation, the Secretary concluded that an EIS need not be prepared, pursuant to a Department of Interior policy that determinations made under Section 4 of the ESA were not subject to NEPA.

Douglas County filed suit seeking declaratory and injunctive relief, alleging that the Secretary failed to comply with NEPA in designating a critical habitat. The Secretary in turn charged that Douglas County lacked standing to bring the action. The district court granted the county standing, and granted summary judgment on behalf of the county, finding that NEPA was applicable to the Secretary's designation of critical habitat.

The Ninth Circuit agreed with the district court that the county had standing to bring suit. Based on claims by the county that land management practices on federal land could affect adjacent county-owned land, the County had described "concrete, plausible interests, within NEPA's zone of concern for the environment, which underlie the County's asserted procedural interests."

The court went on to hold, however, that NEPA does not apply to the designation of a critical habitat. After rejecting Douglas County's assertion that absent an irreconcilable statutory conflict between

NEPA and the ESA, NEPA must be complied with, the court laid out three primary reasons underlying its holding. First, the court found that ESA procedures have displaced NEPA requirements and made "the NEPA procedure seem 'superfluous.'" Further, the mandate under the ESA that the Secretary must designate any area without which the species would become extinct conflicts with the requirements of NEPA since "in cases where extinction is at issue, the Secretary has no discretion to consider the environmental impact of his or her action." The court believed that the procedural requirements of the ESA would provide adequate safeguards against the exercise of "unchecked discretion" by the Secretary.

Second, the court found that NEPA does not require an EIS for actions that preserve, or do not alter, the natural physical environment. The court believed the designation of critical habitat prevents human interference with the environment, and NEPA only applies to human actions to effect change on the environment.

Finally, the court found that the ESA furthers the goals of NEPA in its own right, without requiring the preparation of an EIS. Relying on the Sixth Circuit's analysis in Pacific Legal Foundation, the court placed its finding on four bases: (1) the ESA's purpose would be frustrated by application of NEPA to the designation process because the ESA prevents the Secretary from considering environmental impact other than those directly related to the preservation of the species in that process; (2) similarly, NEPA would not be furthered by application to the ESA because the Secretary does not have the discretion to consider factors not listed in the ESA when making a designation; (3) the purpose of NEPA, preserving the human environment, is furthered by the ESA; and (4) the legislative histories of both acts indicate that Congress did not intend that the Secretary prepare an EIS prior to making a critical habitat designation.

Accordingly, the Ninth Circuit remanded the case for consideration of whether the injunction granted by the district court should remain in place in light of its ruling that NEPA does not apply to critical habitat designation decisions.

Significant Impacts

Friends of Fiery Gizzard v. Farmers Home Administration, 61 F.3d 501 (6th Cir. 1995). Environmental groups brought an action seeking to enjoin a proposed water impoundment and treatment project in Tennessee until the Farmers Home Administration (FHA) had prepared an EIS. The district court denied the groups' application, finding that where a project will have no significant adverse effects on the human environment, the fact that people served by the project would enjoy the benefit of an improved water supply did not mean that the agency needed to prepare a full EIS for the project.

The Sixth Circuit affirmed the district court's decision, holding that the conclusion of the EA prepared for the project, that it would have a purely beneficial

impact on the environment, justified the decision by the FHA not to prepare an EIS. The FHA prepared an EA when the reservoir site was proposed, concluding that, because the only likely impacts of the project would be to enhance "the living environment of the residents of the area," there would be no significant impact on the environment requiring the preparation of an EIS. The crux of the Sixth Circuit's opinion upholding the FHA's conclusion not to prepare an EIS turned on its decision that the FHA's finding that a positive impact on the environment did not implicate the EIS requirement was correct. Where no significant adverse environmental impacts would accompany the beneficial impacts of the proposed project, "the agency was free to dispense with a full-scale [EIS]."

ENDNOTES

[21] This case should be compared to *Sierra Club v. Marita*, 46F.3d 606 (7th Cir. 1995), which granted standing to the environmental group in its challenge of the Forest Service's forest management plans for the Nicolet and Chequamegon National Forests in Wisconsin, holding that forest management plans are justiciable in a reviewing court.

[22] The first of these two cases, addressing the USTR's decision not to prepare an environmental analysis under NEPA for the Uruguay Round and NAFTA, appears at 23 *Environmental Quality* 157, (1992). The second, which appears at 24 *Environmental Quality* (1993) 362, addressed NEPA and NAFTA.

[23] See discussions of *Lujan's* standing requirements under discussion of *Sierra Club v. Robertson*, 28 F.3d 753 (8th Cir. 1994).

Environmental Impact Statements Filed by Federal Agencies, 1994

Agency	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
Agriculture	172	104	102	89	59	65	117	118	75	68	89	138	145	129	156	108
Commerce	54	53	36	25	14	24	10	8	9	3	5	8	13	12	14	11
Defense	1	1	1	1	1	0	0	0	2	0	0	0	0	1	0	4
Air Force	8	3	7	4	6	5	7	8	9	6	11	19	20	19	19	21
Army	40	9	14	3	6	5	5	2	10	8	9	9	21	14	7	13
COE	182	150	186	127	119	116	106	91	76	69	40	48	45	56	37	53
Navy	11	9	10	6	4	9	8	13	9	6	4	19	9	6	13	18
Energy	28	45	21	24	19	14	4	13	11	9	6	11	2	15	13	26
EPA	84	71	96	63	67	42	16	18	19	23	25	31	16	4	12	8
GSA	13	11	13	8	1	0	4	0	1	3	0	4	3	15	6	8
HUD	170	140	140	93	42	13	15	18	6	2	7	5	7	2	1	3
Interior	126	131	107	127	146	115	105	98	110	117	61	68	64	79	71	98
Transportation	277	189	221	183	169	147	126	110	101	96	80	100	87	129	90	125
TVA	9	6	4	0	2	1	0	1	0	0	0	3	0	3	3	1
Other	98	44	76	55	22	21	26	15	17	20	23	18	24	29	23	35
TOTAL:	1,273	966	1,033	808	677	577	549	521	455	430	370	477	456	513	465	532

1993 Environmental Impact Statements Filed with the Environmental Protection Agency by Federal Agencies

Agency	Totals by Subject Matter	Totals
Department of Agriculture		156
Natural Gas and Oil: Driling and Exploration	4	
Forestry and Range Management	104	
Comprehensive Management Plans	1	
Parks, Recreation Areas, Wilderness Areas, National Seashores	13	
Land Acquisition or Disposal, Management/ Jurisdiction Transfer	10	
Watershed Protection and Flood Control	7	
Pesticides, Hebicides Use	6	
Other Water Projects	1	
Mining	1	
Mining (Non-Energy)	5	
Railroads	1	
Road Improvements	2	
Miscellaneous Information	1	
Department of Commerce		14
Wetlands, Estuary, and Ocean Use (Sanctuary, Disposal, etc.)	3	
Fisheries	7	
Wildlife Refuges, Fish Hatcheries	4	
Department of the Air Force		19
Military Installations (Conventional, Chemical, Nuclear, etc.)	17	
Nuclear Development (e.g., Fuel, Reactors)	1	
Aircraft, Ships, and Vehicles	1	
Department of the Army		7
Military Installations (Conventional, Chemical, Nuclear, etc.)	3	
Defense Systems	2	
Buildings for Federal Use	1	
Space Programs	1	
Department of the Navy		13
Military Installations (Conventional, Chemical, Nuclear, etc.)	12	
Dredge and Fill	1	

1993 Environmental Impact Statements Filed with the Environmental Protection Agency by Federal Agencies *(continued)*

Agency	Totals by Subject Matter	Totals
Department of the Army, Corps of Engineers		37
Military Installations (Conventional, Chemical, Nuclear, etc.)	1	
Beach Erosion, Hurricane Protection, River/Lake Bank Stabilization	4	
Navigation	5	
Dredge and Fill	4	
Watershed Protection and Flood Control	8	
Other Water Projects	7	
Fisheries	1	
Multi-Purpose Impoundments	1	
Pesticides and Herbicides Disposal	1	
Road Improvements	2	
Mining (Non-Energy)	1	
Mining	1	
Municipal and Industrial Water Supply Systems (Not Multi-Purpose Impoundments)	1	
Department of Energy		13
Power Facilities: Transmission	4	
Power Facilities: Fossil	1	
Power Facilities: Hydroelectric	1	
Power Facilities: Conservation and Other	1	
Natural Gas and Oil: Transportation, Pipeline, Storage	2	
Natural Gas and Oil: Drilling and Exploration	1	
Radioactive Waste Disposal	2	
Nuclear Development (e.g., Fuel, Reactors)	1	
Environmental Protection Agency		12
Sewage Treatment and Sewage Facilities	1	
Wetlands, Estuary, and Ocean Use (Sanctuary, Disposal, etc.)	5	
Industrial Wastewater Facilities, Mining Pollution Control	1	
Emission Standards	1	
Power Facilities: Fossil	1	
Natural Gas and Oil: Drilling and Exploration	3	
General Service Administration		6
Buildings for Federal Use	4	
Road Improvements	2	

1993 Environmental Impact Statements Filed with the Environmental Protection Agency by Federal Agencies *(continued)*

Agency	Totals by Subject Matter	Totals
Department of Housing and Urban Development		1
Buildings, Federally Licensed or Assisted (Including Production Facilities)	1	
Department of Health and Human Services		2
Buildings for Federal Use	2	
Department of the Interior		71
Buildings, Federally Licensed or Assisted (Including Production Facilities)	3	
Natural Gas and Oil: Drilling and Exploration	6	
Natural Gas and Oil: Transportation, Pipeline, Storage	1	
Municipal and Industrial Water Supply System (Not Multi–Purpose Impoundments)	3	
Multi–Purpose Impoundments	1	
Navigation	2	
Land Acquisition or Disposal, Management Jurisdiction Transfer	3	
Parks, Recreation Areas, Wilderness Areas, National Seashores	19	
Forestry and Range Management	13	
Mining (Non–Energy)	7	
Comprehensive Resource Management	2	
Other Water Projects	1	
Wildlife Refuges, Fish Hatcheries	5	
Nuclear Development (e.g., Fuel, Reactors)	1	
Power Facilities: Transmission	1	
Wetlands, Estuary, and Ocean Use (Sanctuary, Disposal, etc.)	1	
Miscellaneous Information	1	
Hazardous and Toxic Substance Disposal	1	
Nuclear Regulatory Commission		3
Power Facilities: Nuclear	1	
Radioactive Waste Disposal	1	
Tennessee Valley Authority		3
Pesticides, Herbicides Use	1	
Miscellaneous Information	1	
Comprehensive Resource Management	1	

1993 Environmental Impact Statements Filed with the Environmental Protection Agency by Federal Agencies *(continued)*

Agency	Totals by Subject Matter	Totals
Department of Transportation		90
Road Construction	76	
Airport Improvements	6	
Bridge Permits	2	
Mass Transportation	5	
Railroads	1	
Federal Energy Regulatory Commission		9
Natural Gas and Oil: Transportation, Pipeline, Storage	3	
Power Facilities: Hydroelectric	5	
Power Facilities: Natural Gas	1	
Department of Justice		6
Buildings for Federal Use	6	
Department of Veterans Affairs		3
Cemetery Development	3	
Total Federal EISs		465

Source: U.S. Environmental Protection Agency, Office of Federal Activities, unpublished data, Washington, DC, 1994.

1994 Environmental Impact Statements Filed with the Environmental Protection Agency by Federal Agencies

Agency	Totals by Subject Matter	Totals
Department of Agriculture		108
Natural Gas and Oil: Driling and Exploration	2	
Forestry and Range Management	67	
Wildlife Refuges, Fish Hatcheries	1	
Parks, Recreation Areas, Wilderness Areas, National Seashores	9	
Land Acquisition or Disposal, Management/ Jurisdiction Transfer	4	
Watershed Protection and Flood Control	4	
Pesticides, Hebicides Use	5	
Other Water Projects	1	
Mining	1	
Mining (Non-Energy)	4	
Comprehensive Resource Management	1	
Housing Subdivisions/New Communities	1	
Buildings for Federal Use	2	
Road Inprovements	1	
Miscellaneous Information	5	
Department of Commerce		11
Wetlands, Estuary, and Ocean Use (Sanctuary, Disposal, etc.)	3	
Fisheries	5	
Wildlife Refuges, Fish Hatcheries	3	
Department of the Air Force		21
Military Installations (Conventional, Chemical, Nuclear, etc.)	21	
Department of the Army		13
Military Installations (Conventional, Chemical, Nuclear, etc.)	11	
Defense Systems	2	
Buildings for Federal Use	1	
Department of Defense		4
Military Installations (Conventional, Chemical, Nuclear, etc.)	3	
Defense Systems	1	
Department of the Navy		18
Military Installations (Conventional, Chemical, Nuclear, etc.)	18	

1994 Environmental Impact Statements Filed with the Environmental Protection Agency by Federal Agencies *(continued)*

Agency	Totals by Subject Matter	Totals
Department of the Army, Corps of Engineers		53
Military Installations (Conventional, Chemical, Nuclear, etc.)	2	
Beach Erosion, Hurricane Protection, River/Lake Bank Stabilization	2	
Navigation	14	
Dredge and Fill	5	
Watershed Protection and Flood Control	10	
Other Water Projects	12	
Multi-Purpose Impoundments	2	
Road Improvements	2	
Mining	1	
Municipal and Industrial Water Supply Systems (Not Multi-Purpose Impoundments)	3	
Department of Energy		26
Power Facilities: Transmission	3	
Power Facilities: Fossil	9	
Power Facilities: Conservation and Other	6	
Natural Gas and Oil: Transportation, Pipeline, Storage	2	
Hazardous/Toxic Substance Disposal	1	
Radioactive Waste Disposal	2	
Nuclear Development (e.g., Fuel, Reactors)	1	
Other Water Supply Projects	2	
Environmental Protection Agency		8
Sewage Treatment and Sewage Facilities	2	
Wetlands, Estuary, and Ocean Use (Sanctuary, Disposal, etc.)	1	
Nuclear Development (e.g., Fuel, Reactors)	1	
Power Facilities: Transmission	2	
Natural Gas and Oil: Drilling and Exploration	1	
Mining	1	
General Service Administration		8
Buildings for Federal Use	5	
Road Improvements	3	

1994 Environmental Impact Statements Filed with the Environmental Protection Agency by Federal Agencies *(continued)*

Agency	Totals by Subject Matter	Totals
Department of Housing and Urban Development		3
Buildings, Federally Licensed or Assisted (Including Production Facilities)	3	
Department of Health and Human Services		0
Department of the Interior		98
Buildings, Federally Licensed or Assisted (Including Production Facilities)	2	
Natural Gas and Oil: Drilling and Exploration	5	
Land Acquisition or Disposal, Management Jurisdiction Transfer	16	
Parks, Recreation Areas, Wilderness Areas, National Seashores	21	
Forestry and Range Management	19	
Mining (Non–Energy)	15	
Comprehensive Resource Management	2	
Other Water Projects	10	
Wildlife Refuges, Fish Hatcheries	7	
Miscellaneous Information	1	
Nuclear Regulatory Commission		4
Power Facilities: Nuclear	2	
Power Facilities: Conservation and Other	1	
Mining	1	
Tennessee Valley Authority		1
Comprehensive Resource Management	1	
Department of Transportation		125
Road Construction	102	
Airport Improvements	12	
Bridge Permits	7	
Mass Transportation	3	
Railroads	1	
Federal Energy Regulatory Commission		15
Power Facilities: Hydroelectric	14	
Power Facilities: Natural Gas	1	

1994 Environmental Impact Statements Filed with the Environmental Protection Agency by Federal Agencies *(continued)*

Agency	Totals by Subject Matter	Totals
Department of Justice		9
Buildings for Federal Use	9	
Department of Veterans Affairs		2
Cemetery Development	1	
Building for Federal Use	1	
Interstate Commerce Commission		3
Railroads	3	
Federal Emergency Management Agency		1
Building for Federal Use	1	
National Aeronautics and Space Administration		1
Space Programs	1	
Total Federal EISs		532

Source: U.S. Environmental Protection Agency, Office of Federal Activities, unpublished data, Washington, DC, 1995.

NEPA Cases by Agency for 1993

Agencies	Number of cases filed	Number resulting in injunctions	Number of injunctions from pre–1993 cases
Environmental Protection Agency	0	0	0
International Boundary and Water Commission	0	0	0
Health and Human Services	0	0	0
Federal Deposit Insurance Company	1	1	0
United States Postal Service	0	0	0
Department of Energy	1	0	1
Department of the Air Force	1	0	0
TVA	0	0	0
Interstate Commerce Commission	7	0	0
Nuclear Regulatory Commission	2	0	0
Department of the Interior	21	1	1
Department of Agriculture	23	3	0
Department of Commerce	5	1	0
Department of the Army	13	0	0
Department of the Navy	0	0	1
Department of Transportation	15	2	1
TOTAL	89	8	4

Causes of Action Filed Under NEPA in 1993

Causes of Action	1993	Pre-1993 where injunction issued in 1993-1994
Inadequate Environmental Impact Statement	23	0
No Environmental Impact Statement	38	3
Inadequate Environmental Assessment	19	1
No Environmental Assessment	16	0
No Supplemental Environmental Impact Statement	4	0
Other	13	0
TOTAL	113	4

Plaintiffs for NEPA Lawsuits in 1993

Causes of Action	1993	Pre-1993 where injunction issued in 1993-1994
Environmental Groups	40	1
Individuals for Citizen Group	38	1
State Governments	7	2
Local Governments	10	0
Business Groups	11	1
Property Owners or Residents	12	1
Indian Tribes	3	0
Other	0	0
TOTAL	121	6

NEPA Cases by Agency for 1994

Agencies	Number of cases filed	Number resulting in injunctions
Environmental Protection Agency	4	0
International Boundary and Water Commission	1	0
Health and Human Services	1	0
Federal Deposit Insurance Company	0	0
United States Postal Service	1	0
Department of Energy	3	2
Department of the Air Force	1	0
TVA	1	0
Interstate Commerce Commission	3	0
Nuclear Regulatory Commission	1	0
Department of the Interior	13	1
Department of Agriculture	33	5
Department of Commerce	6	1
Department of the Army	23	2
Department of the Navy	2	1
Department of Transportation	13	1
TOTAL	106	13

Causes of Action Filed Under NEPA in 1994

Causes of Action	1994
Inadequate Environmental Impact Statement	40
No Environmental Impact Statement	31
Inadequate Environmental Assessment	28
No Environmental Assessment	13
No Supplemental Environmental Impact Statement	7
Other	10
TOTAL	129

Plaintiffs for NEPA Lawsuits in 1994

Causes of Action	1994
Environmental Groups	56
Individuals for Citizen Group	26
State Governments	2
Local Governments	10
Business Groups	15
Property Owners or Residents	13
Indian Tribes	1
Other	0
TOTAL	123

Agencies Reporting No NEPA Litigation for 1993 and 1994

Department of Education
Department of Labor
Department of Veterans Affairs
American Battle Monuments Commission
Agency for International Development
Central Intelligence Agency
Committee for Purchase from People who are Blind or Severly Disabled
Export-Import Bank of the United States
Farm Credit Administration
Federal Election Commission
Federal Emergency Management Agency
Federal Energy Regulatory Commission
Federal Maritime Commission
Federal Labor Relations Authority
Federal Mine Safety and Health Review Commission
Federal Trade Commission
National Aeronautics and Space Administration (NASA)
Naional Labor Relations Board
National Science Foundation
Overseas Private Investment Corporation
Peace Corps
Pennsylvania Avenue Development Corporation
Small Business Administration
The Appalachian Regional Commission
United States Consumer Product Safety Commission
United States Department of Education
United States Information Agency
United States International Trade Commission
United States Merit System Protection Board

"The needs and aspirations of future generations make it our duty to build a sound and operable foundation of national objectives for the management of our resources for our children and their children. The future of succeeding generations in this country is in our hands. It will be shaped by the choices we make. We will not, and they cannot escape the consequences of our choices."

The Honorable Henry M. Jackson

On Passage of the National Environmental Protection Act, 1969

"[W]e can now move forward to preserve and enhance our air, aquatic, and terrestrial environments . . . to carry out the policies and goals set forth in the bill to provide each citizen of this great country a healthful environment."

The Honorable John D. Dingell

On Passage of the National Environmental Protection Act, 1969

"Maintaining and enhancing our environment, passing on a clean world to future generations, is a sacred obligation of citizenship. We all have an interest in clean air, pure tap water, safe food and protected national treasures. Our environment is, quite literally, our common ground."

President Bill Clinton