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CONFLICT TO COOPERATION

Collaborative Management of Federal Lands in Michigan





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Conflict to Cooperation: Collaborative Management of Federal Lands in Michigan

By Jason Hayes

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Introduction

The actions of federal land managers can often set private landowners and the general public at odds with government agencies. This conflict can take several forms: overly strict rule enforcement, intractability in settling boundary disputes, delays in issuing permits and stringent restrictions on accessing public lands.

Michigan has more federal land than any other state in the Midwest.* One-tenth of the Great Lakes State — 3.6 million acres — is owned and managed by the federal government.¹ The average proportion of federally owned land in the other Midwest states is less than 3 percent.² While the share of federal lands in Michigan is significantly less than in many western states — such as California, Idaho, Utah, Oregon, Washington, Wyoming and Nevada — the state ranks 15th nationally in total federal acreage.³ This comparatively high level of federal ownership and oversight creates unique and pressing management issues for government land managers, as well as private property owners in Michigan.

Graphic 1: Federal Land in Michigan



Source: *The National Atlas of the United States of America*

* Federal lands in the state of Michigan include those lands managed by the U.S. Forest Service (often called national forests), the Bureau of Indian Affairs, the U.S. Fish and Wildlife Service and the National Park Service.

As is often the case with federal lands in western states, many private landowners and members of the broader public believe that access to Michigan's federally owned lands is increasingly limited. Examples of this changing perception and restrictive management practices that might fuel this perception appear below in the section titled "Land Use Conflicts." As demonstrated in those stories, there is an increasing concern that federal managers, working under a complex legislative and regulatory system, are managing public lands toward a state of wilderness. These managers are seen as increasingly limiting the use of federal lands to only a narrow set of activities, such as nonmotorized recreation.

Meanwhile, federal land managers reveal that they often feel caught between a rock and a hard place. They report that they are required to achieve multiple goals simultaneously when overseeing public lands, and sometimes these goals are in conflict with each other. Multilayered and complex laws and regulations, paired with pressure from diametrically opposed and vocal interest groups, make it nearly impossible to simply select one "right answer" for land use decisions. At the same time, federal officials insist that they work to manage forest resources with the utilitarian guiding principle of "managing for the greatest good, for the greatest number, in the longest run."⁴

The dynamic relationships between private property rights, historical land use, environmental concerns, and complex legal and regulatory rules effectively ensure that conflicts will arise between private landowners and federal land managers. However, not all conflicts need to end in court or in drawn-out and expensive disputes. Collaborative management practices exist and have been used across the nation. These practices could provide valuable lessons for resolving the confrontations that may arise between private landowners, communities and federal land managers in Michigan.

This paper will briefly review some of the laws governing federal lands, as well as describe some of the conflicts that have arisen. It then gives examples of collaborative management approaches that have avoided or resolved conflicts in Michigan and around the country. Applying them more frequently in Michigan could help reduce conflicts across the state and lead to improved environmental outcomes, as well as increased public access to Michigan's national forests.

The Process Predicament

A number of requirements — legislative, administrative and public demands — impose competing priorities on federal land managers. They develop in part because of two competing views of how to best manage the environment. The first view is a desire to manage nature and natural resources to promote human flourishing and human progress. The second view sees the natural environment as intrinsically valuable and worthy of protection no matter the impact of management on human well-being. The first view is often labeled conservation, or a "people first" mindset. The second view is often labeled preservation, or "nature first."

Those diverging world views are two ends of a spectrum and most people would probably land somewhere in between them. But the fact that these extremes are strongly advocated for often forces land managers to choose between the demands of one view or the other.

In the U.S. Forest Service, the early conservationist attitudes toward public land management corresponded to those of the agency's first leader, Gifford Pinchot. Pinchot served as the first chief of the Forest Service, from 1905-10, and infused the agency with his utilitarian and "people first" view of natural resource management. One of Pinchot's most recognizable quotes captured his attitude: "Conservation means the wise use of the earth and its resources for the lasting good of men."⁵

Federal legislation at the time appeared similarly focused. For example, section 475 of the law that governs national forests, titled the "purposes for which national forests may be established and administered," encouraged the anthropocentric and utilitarian concept that federal lands should be protected to ensure a continuous supply of natural resources as a means of promoting economic growth and human betterment. To that end, this law states that the forests should be protected, but makes clear that they are protected for the purpose of meeting human needs: "No national forest [federal lands] shall be established, except to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States."⁶

Since that time, federal agencies have moved away from that utilitarian mindset and have been increasingly influenced by the preservationist, or "nature first," view. Much of this movement can be traced back to early environmentalists, like John Muir, the founder of the Sierra Club. Muir shunned the notion that the natural environment existed to benefit humanity and instead treated public land management as a type of quasi-religious crusade.⁷ Muir viewed nature as intrinsically valuable and fought to have it preserved in as close to an untouched-by-human-hands form as possible.

This preservationist tone has had a growing influence on federal policy since Muir's time, and it now often takes a leading role. But there is still a strong and dynamic tension between "human first" and "nature first" attitudes in public land management. Often that tension, paired with stakeholder pressures and litigation threats, can compel federal land managers to limit proposed or ongoing activities, effectively playing it safe and moving management toward a de facto preservationist end.⁸ That is because, when conflicts arise over appropriate uses, competing priorities can make it costly and difficult for federal land managers to settle on an approach that can deal with various conflicts and issues. As result, managers often choose to just hold off on making any decisions.

Federal land managers recognize how these competing interests can effectively stall management of national lands and preclude any but the most basic wilderness recreation uses. They refer to

this reality as their “process predicament.”^{*} These competing world views have been represented in laws such as the Multiple-Use Sustained Yield Act, the Endangered Species Act, and many other laws and administrative rules. Conservation-focused legislation requires federal managers to allow natural resources — timber, water, wildlife, minerals — on or under federal lands to be used, or extracted, as a means of meeting basic human needs. Preservation-focused legislation, however, often forbids that same resource use and extraction, focusing instead on protecting natural areas in an allegedly pristine state. Handling these conflicting directives only increases the process predicament for federal land managers, as attempting to resolve these conflicts requires maneuvering through and around significant procedural hurdles.

Land Use Conflicts

This section describes the numerous reports, media investigations and court documents that show how federal environmental laws and regulations are impeding traditional uses of federal lands in Michigan and creating a heightened perception of confrontation between private citizens and public land managers. Forest Service representatives recognize that confrontations occur. But they also note that most interactions between private landowners and public land managers are either positive or benign and do not receive media attention.[†]

Federal land managers also express a strong desire to treat property owners fairly, to respect private property rights and to recognize the vital and historical links that property owners and local residents have to the land. They deny they would attempt to use strong-arm techniques and point, again, to their utilitarian goal of managing forest resources to promote the greatest good, for the greatest number, in the longest run.⁹ Despite these reassurances, the examples below demonstrate that many locals perceive this government agency — the Forest Service — as intractable and point to the conflicts that still do occur. A few of the recent conflicts over Michigan’s national forests are described below.

U.S. v. Hinkson

In a 2017 U.S. District Court case, Roy Hinkson fought the Forest Service over a boundary dispute involving an inherited family cabin located on the edge of Hiawatha National Forest.¹⁰ Court documents indicate that a close family friend, Alfred Repp, had erected the cabin on his 40-acre parcel of land in the 1950s. A fire destroyed that cabin in 1976, and Repp rebuilt it two years later, with the help and input of the Forest Service. At that time, federal officials asked Repp to locate

* “The Process Predicament: How Statutory, Regulatory, and Administrative Factors Affect National Forest Management” (U.S. Forest Service, June 2002), <https://perma.cc/6S6A-V57C>. This study describes the process predicament: “Too often, the Forest Service is so busy meeting procedural requirements, such as preparing voluminous plans, studies, and associated documentation, that it has trouble fulfilling its historic mission: to sustain the health, diversity, and productivity of the nation’s forests and grasslands to meet the needs of present and future generations.”

† This information is based on telephone interviews conducted by the author with U.S. Forest Service staff on Feb. 15, 2018. For an additional example, please see the discussion documented in “Camp Cook Integrated Resource Public Meeting Minutes” (Nahma Township, Sept. 28, 2016), <https://perma.cc/K8CN-DCNY>.

the rebuilt cabin 25 feet east of its original location to ensure it would be located entirely within the boundaries of his property.

For more than 60 years, the original cabin and the rebuilt cabin were used regularly for deer hunting and recreation by both Repp and the Hinkson family. Hinkson eventually inherited the rebuilt cabin and the parcel of land in 2013. But then in 2014, the Forest Service ordered surveys of the site and determined that the rebuilt cabin still encroached on the national forest.

Rather than working with Hinkson to rectify the encroachment and to seek some form of resolution — as they had done in the 1970s — federal officers set up a sting operation and charged Hinkson with a crime. On opening day of deer season, state and federal agents rushed into the area and pulled Hinkson and his hunting partners from their deer blinds, informing them they had committed as many as 30 different violations. But the officers issued only three tickets related to constructing a cabin and permanent deer blinds on federal lands.*

Hinkson immediately removed the deer blinds and attempted to find an amicable agreement by offering to purchase federal land around the cabin or to swap eight acres of his nearby land for the eight acres of public lands on which the cabin sat to rectify the boundary dispute. Federal officials refused his offers, and Hinkson took the issue to court. The following spring, Forest Service officials visited Hinkson's property again and wrote additional tickets, claiming his bird feeder and wood pile were "garbage" that had been left on federal lands. They also requested that federal prosecutors upgrade the original charge from a misdemeanor to a "federal criminal case."¹¹

The final court ruling eventually found Hinkson not guilty, noting that he had not intended to violate federal law when he inherited the cabin in 2013. The judge's ruling further noted that the Forest Service's charges and actions, if successful, would produce "an absurd result," and called its decision to pursue criminal charges against Hinkson "peculiar."¹²

The sting operation and later court proceedings stand in stark contrast to the amicable efforts the Forest Service employed with the original landowner to relocate the cabin in the 1970s. This episode serves as one example of how the agency's approach to conflict with a local landowner in Michigan may have changed over nearly half a century.

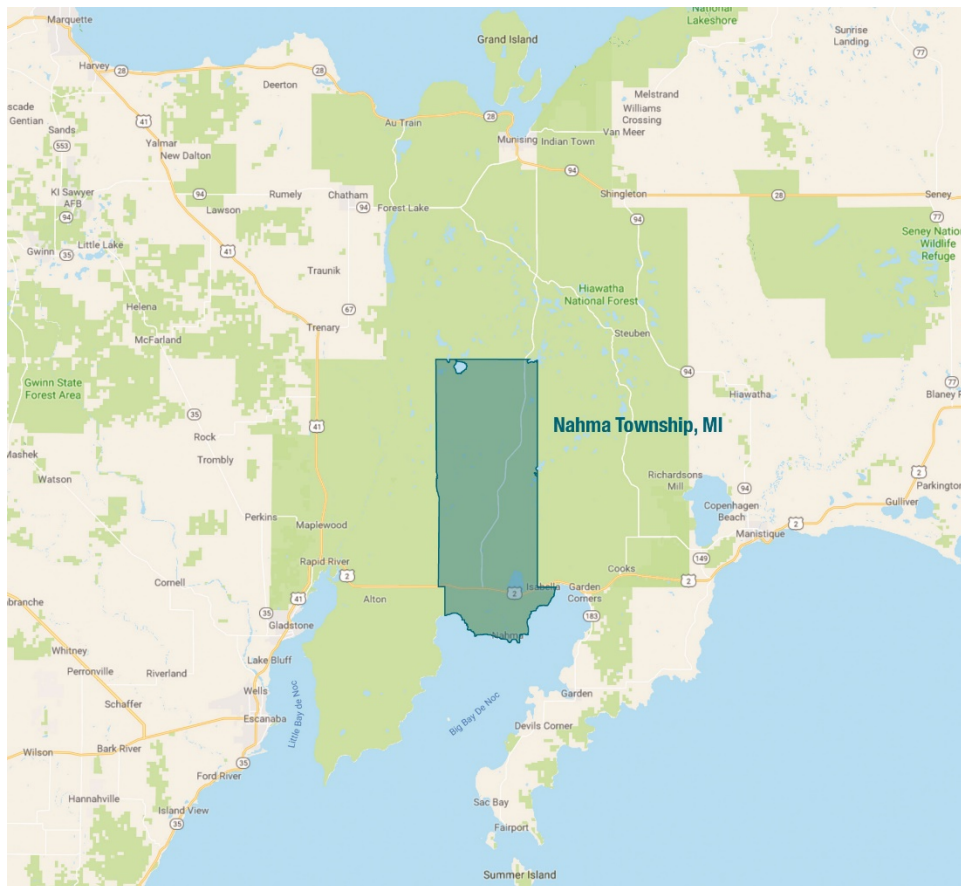
Camp Cooks Project in Nahma Township, Michigan

Nahma Township is a small community of about 500, located on the shores of Lake Michigan in Michigan's Upper Peninsula. Established in 1856 as a timber and sawmill community, Nahma has long-standing ties to the land, with people living there 75 years before the Hiawatha National Forest was established in 1931.¹³ Area residents enjoy the snowmobile, off-road, and hiking trails their grandparents built and fish the same spots and hunt in the same blinds as their parents did when they were children.¹⁴

* The alleged violation was of 36 C.F.R. § 261.10(a), which prohibits the following: "Constructing, placing, or maintaining any kind of road, trail, structure, fence, enclosure, communication equipment, significant surface disturbance, or other improvement on National Forest System lands or facilities without a special-use authorization, contract, or approved operating plan when such authorization is required."

Today, Nahma Township and the surrounding area sit within the boundaries of Hiawatha National Forest. The rugged beauty of places in the Upper Peninsula, including the township, also attracts outdoor adventurers who come from all over to enjoy its natural environment. Outdoor recreation is now a key source of income for area residents who were once employed in logging or mining.¹⁵

Graphic 2: Nahma Township, Michigan



Source: Google Maps

In August 2016, the Forest Service released a draft plan, known as the Camp Cooks Integrated Resource Management Project, which called for closing 95 percent of “Operational Maintenance Level 1” roads — trails for off-road vehicles such as four-wheelers and snowmobiles — near Nahma Township. The plan also called for decommissioning over 16 miles of “illegal” off-road trails. The Forest Service based its plan to close these popular trails on the assertion that they were “contributing to resource damage to wetlands or riparian floodplains.”¹⁶

Forest Service officials presented their plan, in what appeared to be a nearly complete form, at a well-attended Nahma Township meeting in September 2016. Having had no prior public consultation with Forest Service officials, local residents believed that they were expected to simply sign off on the recommended closures. Not surprisingly, they strongly opposed the closures and expressed concerns that the public meeting had only been held to check off the “public input” requirement for an already-completed plan.¹⁷ Their comments at the public

meeting indicated a belief that Forest Service officials were attempting to force an end to long-established hunting, fishing, and recreational uses of the area and that those actions would have severe impacts on the local economy. Forest Service employees disagreed, repeatedly stating that “no decision has been made” regarding road or trail closures and that the public meeting was being held to give the community an opportunity to comment.¹⁸

Michigan State Sen. Tom Casperson and State Rep. Ed McBroom also voiced their opposition to the plan in emails, in person at the September meeting and in an official letter addressed to the Forest Service district office and the National Environmental Policy Act coordinator for the region. Casperson and McBroom asked the Forest Service to “abandon this proposed project and work with local units of government, users and organizations to determine how this public land can further enhance the local communities.”¹⁹ In public statements at these meetings, Sen. Casperson also noted that Michigan’s Department of Natural Resources was opposed to the plan.²⁰

Cabin Closures in Ottawa National Forest

Over the past 60 years, outdoorsmen have used more than 150 cabins (or camps, as they’re commonly called), each leased on one-acre lots along the Ontonagon River in the western Upper Peninsula, in what is now the Ottawa National Forest.²¹ For many years, the area was owned by the Upper Peninsula Power Company, which had planned to develop the area to produce hydroelectric power. When the company decided to forego development, it signed the 25-year leases with residents. Each lease charged \$366 annually, and the terms allowed leaseholders to build cabins in the area. Each year, the leases brought in \$35,000 to townships in the area and nearly \$10,000 in annual property taxes to Ontonagon and Gogebic counties.²²

The cabins and the use of the forested area around them had become a local tradition, and two to three generations have used these cabins each year for recreation, hunting and relaxation. Owners treated their cabins as second homes, and some spent several months of the year in them.²³

In 1992, the federal government acquired the land from the Upper Peninsula Power Company and the Trust for Public Land, adding over 30,000 acres to the Ottawa National Forest.²⁴ At the time, the Forest Service informed leaseholders that the agency would not renew leases when their current 25-year terms ended and leaseholders would have to vacate and remove or demolish their cabins. Federal officials reasserted those expectations in an April 2016 letter to all leaseholders.²⁵ In January 2017, the last of the signed leases expired and, under the terms of the lease, owners of the cabins were given an additional 90 days to remove their personal property from the area and vacate the cabins.²⁶

Leaseholders petitioned the Forest Service to have the permits renewed, but Forest Service officials responded that the original leases were a legal agreement — a 25-year, nonrenewable lease. They also noted that during the initial transfer of the lands to federal ownership, the Forest Service had continued to honor the terms of those leases, but that it was not within the agency’s authority to sign additional leases on public property. Furthermore, the Forest Service argued that leases were restricting public access in nearby areas of the national forest.

Residents argued that given the remote nature of the area, only the most dedicated of outdoor enthusiasts would attempt the difficult trip to the area. Public use of the area was limited at best, so the notion that anyone was being kept from using the surrounding area was inaccurate. Furthermore, the owners noted, it was common practice to leave the cabins unlocked and open to occasional public use. In one example provided by cabin owners, inclement weather had forced a local Boy Scout troop to seek shelter in one of the cabins while on a camping trip in the area. This sort of use was normal and expected.²⁷

In response to the Forest Service's refusal to renew the leases and to allow these residents to continue their use of the area and cabins, the Michigan Senate — led by Sen. Casperson — passed a nonbinding resolution asking the Forest Service to offer current leaseholders special-use permits under the auspices of the federal Recreation Residence Program. The resolution looked to build on the Forest Service's expectation of ensuring federal lands were open to public use.²⁸

Forest Service representatives have noted that while thousands of Recreation Residence Program permits exist across the nation — some even within Michigan's federally owned forests — the program was not actively soliciting new permit locations. They argued that attempting to apply the program to this area would, in their opinion, unnecessarily encumber public lands.²⁹

As of February 2018, the Forest Service had not renewed the leases, and discussions with Forest Service employees indicate that about half the cabins had already been removed or destroyed.³⁰ Cabins still remaining in the area have been posted with signs declaring the cabins are now "Property of the United States" and that "All persons are prohibited under penalty of the law from committing trespass."³¹ The signs also refer to federal legislation prohibiting entry to certain government-owned structures and threaten trespassers with "a fine of up to \$5,000 and or 6 months imprisonment."³² Public comments on social media platforms offered representative commentary on the issue: "The United States Forest Service evicted hundreds of camp owners, only to put up No Trespassing signs? Does not seem to be opening up the land for recreational use!"³³

Collaborative Management: Solutions to Conflicts Over Federal Lands

The above examples indicate how interactions between federal land managers and private property owners, recreation groups and local communities can be contentious. But there are many examples of successful collaborative management efforts helping to smooth over similar disputes, both in Michigan and elsewhere. They can help groups that are often at odds to reduce conflicts and find solutions that work for everyone. These examples could provide a framework for similar efforts in Michigan's national forests.

While these examples are not silver bullets, they do offer a suite of possible solutions. The central theme running through each of these situations is that they take time and require both sacrifice and a degree of personal effort on the part of each stakeholder or participant. They will likely fail without a serious commitment from each of the parties.

Land Swaps and Land Transfers

In an interesting land deal near Livingston, Montana, the Forest Service has considered trading a small “sliver of public land” for a much larger area of private land it believes better fits with the character of the nearby Custer Gallatin National Forest.³⁴ The small parcel of public land — only 0.8 acres — had been partially developed and includes a historic hay barn that was mistakenly built on public lands by a previous landowner.³⁵

The owner of the larger private area, Ed Bazinet, wants the smaller piece because he “fell in love with [the barn] for nostalgic reasons” and because the narrow strips of land cut through the middle of his 320-acre ranch.³⁶ Strips of land like the one running through Bazinet’s ranch were originally reserved by the federal government to ensure public access to public lands that bordered private property. These “cattle driveways,” as they were called, can be a source of controversy for private landowners, public land managers and people seeking to access public lands.³⁷ But in this case, Bazinet is willing to donate 60 acres of adjacent pasture, plus more than 440 acres of nearby land, to the Forest Service in exchange for ownership of the sliver that contains the historic barn.³⁸

Trading over 500 acres for a 0.8-acre strip of land running through the middle of a private ranch would seem to be an excellent deal for the government and the public. The Forest Service and local environmental interests support the trade, calling the land to be donated a “kind of wetland wonderland.”³⁹

But one thing may yet stand in the way of completing the deal: The Forest Service is requiring a further \$9,000 payment in addition to Bazinet’s donation of more than 500 acres. The agency is effectively suggesting that Bazinet’s donation would merely give him the opportunity to purchase the sliver of public land running through the middle of his property. One federal land manager said that federal law requires the agency to receive cash for the sale of public lands. Bazinet argues that the offer “doesn’t make sense,” as the area he is offering has a far greater market value than the area he is seeking to own. For their part, Forest Service officials are seeking donations from local environmental and wildlife conservation groups to cover the \$9,000 price of the land.⁴⁰

Despite the one hold up in the example above, there is potential to use land swaps like this to address contentious boundary disputes, encroachments or similar property issues. In the past, other federal programs have facilitated transfers, swaps or trades of lands from national forests or federal wilderness areas to private owners, states or municipalities. Those transfers typically are agreed to only with the assurance of payment and/or an exchange of lands of equal value and better suited to public use.

A few of the programs and laws that facilitate land transfers are discussed below.

Federal Land Policy and Management Act

The Federal Land Policy and Management Act has helped authorities manage land transfers in western states on BLM lands. It can also help the agency manage forest lands. Sections 205 and 206 give the Secretary of Agriculture authority to “acquire ... [public lands] by purchase,

exchange, donation, or eminent domain,” and to dispose of public lands within the National Forest System by exchange “where the Secretary concerned determines that the public interest will be well served by making that exchange.”⁴¹ If Congress were to amend the act to allow its application outside of western states, it may offer a way to resolve property disputes in Michigan’s national forests.

Recreation Residence Program

The Recreation Residence Program, known informally as the “Cabin in the Woods” program, was established by Congress in 1915 to encourage family recreation within the National Forest System.⁴² Under the program, the Forest Service established quarter-acre lots or tracts on which private improvements — cabins — were authorized as a “special use” of the area, with permits given to allow their construction.⁴³ These permits allowed the owners of the cabins a renewable, 20-year special use permit with specific restrictions.⁴⁴

Traditionally, the permit does not give cabin owners property rights, as with a lease. They have occupancy rights, but “security and privacy” rights exist “only within the walls of their cabin, not on the grounds.”⁴⁵ The permit may be revoked by the Forest Service at any time, and the Cabin Fee Act of 2014 requires permittees to pay a tiered annual license fee from \$650 to \$5,650, with tiers based on the location and appraised value of the lot on which the cabin is located.⁴⁶ The cabin cannot be used as a rental property, and owners may not use the cabins as their primary or permanent residence. There are also restrictions on structure size, use of exterior paint and fencing. Outbuildings and gardens are prohibited, with the latter prohibition intended to avoid invasive species infestations.⁴⁷

Discussions with Forest Service officials indicate their belief that the residency program has served its purpose.⁴⁸ Consequently, it is no longer being actively promoted. At its peak, the program allowed almost 20,000 cabins nationwide, but it now has less than 15,000.⁴⁹ Almost 5,000 cabins have been “taken out of public land ownership through land exchanges or lost to natural disasters.”⁵⁰

Expanding or renewing this program could allow for additional areas and cabins in Michigan’s national forests — such as the cabins in the Ottawa National Forest — to be added to it. That could help encourage public access, especially in distant, backcountry areas.

Small Tracts Act

The Small Tracts Act of 1983 gave the federal government additional powers to sell or trade National Forest System lands that were not transferable under the authority of the Secretary of Agriculture. However, this act was limited to lots smaller than 40 acres and valued below \$150,000.⁵¹ One purpose of Small Tracts Act was to remove from Forest Service oversight lands that might be contentious or troublesome for the department to manage, including lands that abut private property, are encroached on by development, are reserved for road rights-of-way or are improperly surveyed.⁵²

Congress has attempted to amend this legislation to increase the value of lands that could be sold and to make other changes, with the express purpose of the reducing costs for the Forest Service and allowing for “more efficient management by eliminating isolated parcels of federal land.”⁵³

Townsite Act

The Townsite Act is limited to the 11 contiguous western states and Alaska.* It allows for the sale, at fair market value, of up to 640 acres of National Forest System lands “adjacent to or contiguous to an established community.” The lands sold must be used for purposes that outweigh the public benefits of retaining the lands, such as housing, economic development, public schools, public health facilities or recreation.⁵⁴

Good Neighbor Authority

The Good Neighbor Authority is at least partly inspired by the efforts of former Reagan-era Secretary of the Interior James G. Watt, who pushed federal agencies to implement a “good neighbor policy” with states.⁵⁵ The GNA has been recently authorized under both the 2014 Farm Bill and 2014 Appropriations Act as a means to encourage federal agencies to recognize the importance and value of working collaboratively with state governments in managing federal lands. Under the GNA, states can oversee watershed restoration and necessary forest management projects for the Forest Service.⁵⁶

Support for the GNA program is based on a critique of federal lands management, specifically that federal land managers — facing budget and staffing restrictions, regulatory and legal impediments, and a variety of other pressures — have not been able to effectively manage the lands over which they have authority.† Many national forest lands have been stuck in the process predicament and left in an increasingly unmanaged state while permitting and planning activities drag out for years or even decades. Unmanaged and overgrown lands have become a safety hazard and entry point for disease and insect infestations. Dead and dying forests, with heavy loads of shrubs and grasses, become magnets for fires in drier seasons, risking the forests themselves, as well as adjacent state lands and private properties.⁵⁷

The best method of managing this “tinder box of old-growth trees ravaged by disease and insects” is through actively removing heavy fuel loads, by spacing and thinning overgrown stands, removing dead or dying trees and lessening thick brush and grass.⁵⁸ Failing that active and deliberate style of forest management, recent history has demonstrated, another form of fuel

* Those 11 states are Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

† Secretary of the Interior, Ryan Zinke, expressed this concern in a July 17, 2018, meeting where the author was present. The meeting, which took place at the Department of the Interior, was held to explain the agency’s reorganization efforts. Zinke noted that the agency needed to be a “business partner rather than adversary” and a “better neighbor” with the states. He went on to describe how much of the fire hazard, weeds and invasive species that states were dealing with were coming from federal lands. The secretary has repeatedly called for the department to be a better neighbor and partner in other public presentations as well. “Interior Sec. Zinke Favors ‘Good Neighbor Policy’ For National Parks” (KELOLAND TV, May 25, 2018), <https://perma.cc/V3UD-CQBW>.

removal and forest renewal will occur. If human managers cannot or will not reduce fuel loads in federal forests, then age, wildfire, disease, and pest infestations will do it for them, often with substantial costs for both national forest budgets and adjacent property owners.*

Under the GNA program, state and federal governments are able to cooperatively ensure that essential forest and watershed management activities are being carried out. With their new ability to manage at a much larger scale — with private lands, state lands, and now some federal lands open to management opportunities — state foresters are able to manage at a landscape or ecosystem-wide level.⁵⁹

Balancing management across a more diverse landscape allows forest managers to meet a broader mix of ecological, recreational and economic requirements. At the same time, they can reduce the potential for large-scale wildfires and better control the pest and disease infestations that have plagued many national forests over the past several decades.⁶⁰ This type of management, however, does mean that the preservationist, nature-first mindset that has influenced federal lands management cannot be the only management option. More intensive management activities — harvesting, road building, silviculture, and maintenance — are an essential aspect of maintaining overall forest health and biodiversity.⁶¹ The GNA program is still in its early stages, and the areas open to state managers are limited, though growing.

Michigan reports that it was the second state to take advantage of the GNA program, with the Forest Service and the Michigan Department of Natural Resources signing a 10-year agreement in October 2015. After signing the initial agreement, timber contracts were approved for areas in the Huron-Manistee National Forest in Michigan's Lower Peninsula in 2016. In these sales, the Michigan Department of Natural Resources serves as a proxy, working with the Forest Service by overseeing and awarding timber contracts on federal lands to private contractors who do the work as prescribed by federal managers. Timber sale revenues are retained in the state to help ensure further work on the forests can continue.⁶²

Bill O'Neill, chief of Michigan's Department of Natural Resources Forest Resources Division noted:

The success of this first contract is a great example of how this partnership will continue to maintain and create healthy forest conditions, as called for in the national forests' management plans, while providing additional wood fiber to industry.⁶³

More projects are being targeted in the Hiawatha and Ottawa National Forests as well as Huron-Manistee. In 2018, Good Neighbor Authority timber sales are expected to reach 3,639 acres across the

* Shawn Regan, "Money To Burn," *National Review*, Nov. 13, 2017, <https://perma.cc/KXT7-DUPN>. While Michigan's much more humid climate may not lend the state to the massive fires often seen in western states, oak, ash and pine trees have suffered from bark beetle and associated diseases. For more information, see: Bill Cook, "Oak Wilt in Michigan's Forest Resource" (Michigan State University Extension, April 2012), <https://perma.cc/N7YR-FVTE>; "Michigan Invasive Species" (State of Michigan, 2018), <https://perma.cc/FHE9-BEJB>; "Pine Shoot Beetle North America Quarantine Area" (U.S. Department of Agriculture, Jan. 11, 2016), <https://perma.cc/59ZW-GJA3>; "Cooperative Emerald Ash Borer Project" (U.S. Department of Agriculture, Aug. 1, 2018), <https://perma.cc/YHM4-F4BH>.

state.^{*} Michigan's Department of Natural Resources is working within each national forest to identify Good Neighbor Authority projects for 2019, with work expected cover around 6,000 acres.⁶⁴

Citizen, Sportsmen, and Business Alliances

In some areas, careful work by state managers, along with alliances between sportsmen groups and private businesses, have successfully overcome management disputes on federal lands and preserves.

Camp Cooks Task Force: Hiawatha National Forest

One benefit of planning for the Camp Cooks Integrated Resource Management Plan is that it encouraged Nahma Township residents and businesses to take a more active role in the management of Hiawatha National Forest. Businesses and residents formed a task force to become involved in Forest Service planning, and to ensure community comments on the impacts the proposed road closures would have on recreation in the area — and, by extension, their community's economy — would be taken into account. Soon after a contentious public meeting in fall 2016, the task force met with the Forest Service, Michigan DNR, county road officials and electricity utility representatives to begin working with the Forest Service on road and resource planning.⁶⁵

Community input has had an impact on the integrated resource management process; it has helped change the Forest Service's plan for road closures in Hiawatha National Forest. As described previously, the initial public draft of the plan recommended that 95 percent of "Operational Maintenance Level 1" roads in the Nahma area be closed and that over 16 miles of what the Forest Service termed "illegal" off-road-vehicle trails be decommissioned.[†] The task force recognized that these closures would have a heavy impact on the area's tourism economy, as many visitors to the area come specifically to use the trails and roads, and many local business serve those visitors.

Media reports indicate that as a result of the public meetings, some trails that receive the most public use, and hence were the source of the most active public concern, were "drawn out" and will be given "separate consideration" as part of the Forest Service plan. The resident-led task force was able to work with the Forest Service "to detail a viable plan to create a restricted multi-use designated trail on and along the Nahma Grade, the former railroad long since abandoned and offered as part of the Michigan Rails-to-Trails Program."⁶⁶

Everglades Headwaters National Preserve

A 2011 proposal by U.S. Fish and Wildlife Service officials to create a new wildlife refuge in the headwaters of the Everglades provoked a strong negative and public reaction from local landowners and wildlife groups. Federal wildlife managers claimed they were interested in protecting the area to enhance habitat for black bears and Florida panthers. But during the initial

* Totals for each national forest are as follows: 1,336 acres in the Huron-Manistee National Forest, 1,455 acres in the Ottawa National Forest and 848 acres in the Hiawatha National Forest.

† "Camp Cooks Integrated Resource Management Project" (U.S. Forest Service, Aug. 30, 2016), <https://perma.cc/99R3-PARZ>. By closed or decommissioned, the draft plan did not only mean they would no longer be maintained; it meant that the roads and trails would be gated, blocked by felled trees, rocks, etc. so that passage by any means other than foot would be difficult, if not impossible.

public outreach to test reactions to the proposal, Fish and Wildlife Service employees encountered as many as 600 people at meetings, most of whom were strongly opposed to expanding the preserve.⁶⁷

Media reports indicated that opposition was based on an initial planning document map showing a “study area” for the proposed refuge. Initial reports said the refuge area would be 150,000 acres, but the mapped area covered over one million acres. Wary outdoor, sporting, and recreation groups viewed the proposal as a land grab and a prelude to federal restrictions on traditional access and recreation activities, including hunting, fishing, off-road-vehicle access, and boating. The president of the Florida Airboat Association described his group’s resistance to the plan as being “against any federal sprawl,” stating, “We don’t condone the ‘lock it up, keep it out’ theory.”⁶⁸

Recognizing the lack of support for the proposal, the Fish and Wildlife Service reached out to the Florida Fish and Wildlife Commission — state level managers — whom it knew had cultivated a long-term relationship with property owners, ranchers, hunters and fishers, and recreation groups around the state. Without state managers’ previous investment of time and effort to build trust and familiarity with local stakeholders, it is likely the proposal would have failed. But that trust, and a demonstrated willingness to protect and promote long-standing hunting and fishing rights, allowed commission employees to step in and broker an agreement between hunting groups and federal managers.

Florida Fish and Wildlife Commission employees headed two groups: the Sportsman’s Trust Group and an assembly of landowners called the Northern Everglades Alliance. These two groups held monthly meetings and outings with state and federal government managers, where they worked through outstanding issues and built trust. An important initial concession on the part of the Fish and Wildlife Service was to openly recognize the rights of residents to continue to hunt and recreate in a new refuge, and to then sign an agreement stipulating that the Florida Fish and Wildlife Commission would manage and oversee hunting within the new federal lands.⁶⁹ With this commitment from the U.S. government, a 2012 memorandum of understanding between federal and state managers garnered the support of both landowners and sportsmen groups across the state.⁷⁰

In the same area, the state government is also employing another conservation technique that works with private landowners to build their trust at the same time it helps to ensure the long-term conservation of sensitive areas.⁷¹ In 2016, Florida Gov. Rick Scott approved the purchase of almost 4,000 acres of conservation easements within privately owned cattle ranches located in or near the headwaters of the Everglades.⁷² Rather than expropriating and preserving the areas — which would have caused widespread resistance for negatively impacting private property rights — the state signed permanent agreements to purchase the right to develop these areas from ranchers. The concept behind protecting the ranches from development is that doing so will bolster the financial well-being of area ranchers by allowing traditional cattle ranching to continue while also keeping areas that provide fresh water to the Everglades region undeveloped.⁷³ Though the land remains in private hands, the easements on the properties require that they never be sold or used for development purposes.

Big Cypress National Preserve

Also in the state of Florida, and also at the center of the debate over how much access the public is granted to protected areas, is the story of the Big Cypress National Preserve. Previous examples in this paper have demonstrated how federal control can limit traditional public uses. This example, however, involves a single federal manager who was willing to go against the wishes of environmental special interests and also withstand preservationist pressures from within his own agency. Pedro Ramos, the superintendent of Big Cypress National Preserve, both listened to local residents and looked at the original intentions of the area's designation as a preserve and argued that restricting traditional access would be "breaking the law."⁷⁴

Originally established by Congress in 1974, the Big Cypress National Preserve was meant to protect the natural environment while also maintaining traditional hunting, fishing and recreational activities — including motorized access. One description of its creation called the preserve "a tremendous victory, born of a partnership among environmentalists, sportsmen, local Indian tribes and residents who did not want to see the area turned into a planned airport."⁷⁵

In 1988, the federal government acquired 146,000 acres around the preserve, with the intent of adding this "addition" to the preserve's original 582,000 acres.⁷⁶ Contrary to congressional intentions, which had specifically allowed for oil and gas exploration, as well as hunting, fishing, and trapping in the original preserve and the addition lands, federal managers immediately ordered that the use of existing off-road-vehicle trails in these lands cease.* Environmental groups in the area actively supported efforts to ban motorized access and pushed for even more restrictions, as well as arguing for a wilderness designation.⁷⁷ Matthew Schwartz, executive director of the South Florida Wildlands Association, argued that the wilderness designation would protect the area's "essentially wild character" and halt any further attempts at development.⁷⁸

But long before the additional area was considered for the preserve, it had been partially developed and inhabited. The "Gladesmen" who lived and recreated in the area had used homemade swamp buggies and a variety of off-road vehicles for recreation, hunting and other uses.⁷⁹ Looking back at the history of use, the president of the Big Cypress Sportsmen's Alliance, Lyle McCandless, argued that for over six decades, a mix of recreational and commercial activities had been the norm for the area: "[F]arming, ranching, timber removal, oil exploration, air strips, tram roads, private homes, private hunting cabins, existing off-road vehicle trails, etc., to say nothing of the fact that the 147,000-acre Addition Lands are divided by I-75, a four-lane interstate highway."⁸⁰ McCandless argued that this level of activity refuted the notion that the area could possibly be considered "untrammelled by man," or considered for a wilderness designation.⁸¹

As was the case with the initial preserve designation, the focus of the addition was to protect wetlands and fresh water resources, as well as endangered Florida panthers, black bears and several other protected species.⁸² But in its plan to create the preserve, Congress had clearly stated that the National

* Based on February 27, 2018, telephone interview conducted by the author with Nick Wiley, chief conservation officer for Ducks Unlimited. Mr. Wiley was formerly the executive director of the Florida Fish and Wildlife Conservation Commission. While it would still be technically possible to hunt in the area, banning motorized access effectively halted hunting activities in all but the border areas of the addition lands, and for all but the most physically capable of residents.

Park Service “shall permit hunting” in the preserve.⁸³ Pedro Ramos publicly disagreed with the environmental groups that were pushing for further restrictions on traditional activities and argued that he had a legal imperative to allow their continued use. He acted to remove the restrictions.⁸⁴

Environmental groups litigated the issue, and in 2014, a court ruling recognized the rights of residents and sportsmen to continue traditional uses of the area.⁸⁵ The presiding judge wrote, “The Preserve and Addition ... have both a conservation mandate and a mandate to allow multiple uses, including recreational [off-road-vehicle] use on designated trails.”⁸⁶

While the courts ruled in favor of residents and sportsmen groups, the end result was a solid compromise between conservation and preservation. It’s unlikely this outcome would have been realized were it not for the efforts of a federal manager who recognized the value of collaborating with, and listening to, a variety of voices. Ramos demonstrated an expectation that the preserve would be managed to meet multiple public interests.

Conclusion

Federal lands are managed under an increasingly complex and contentious array of legislative and regulatory pressures. Added to this mix are the growing list of public and special interest demands on how those lands should be managed and used. The dynamic back-and-forth between conservationist and preservationist worldviews pressures federal land managers to fit widely diverging land uses into a shrinking land base.

Rather than forcing managers to linger in the “process predicament” that has stalled management decisions and endangered both public and private lands, public policy should turn to collaborative management efforts that have the potential to provide a path forward.

By recognizing the efforts and commitment of other land managers and stakeholders around the nation, and applying the lessons those examples provide, the collaborative measures described in this paper could provide solutions to avoid conflicts in Michigan’s federally owned lands. Proper management of those public lands could lead to improved forest health and increased public access and use of Michigan’s great outdoors.

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