

INITIATE AN ASSESSMENT OF FEDERAL LAND LAWS TO IDENTIFY LEGAL AND REGULATORY PROBLEMS CONTRIBUTING TO FEDERAL LAND MANAGEMENT "GRIDLOCK"

The uncoordinated and sometimes conflicting web of federal land laws, regulations, and policies is a major barrier to habitat restoration and sustainable forests and rangelands.

In the late 1960s, it had become evident that accumulating federal law dealing with land management, wildlife, and the environment were producing significant conflict and confusion in the management of the federal lands. In response, the President and the Congress authorized the Public Land Law Review Commission composed of distinguished citizens to address this problem. The Commission offered no specific, substantive proposals.

The problem was exacerbated by a spate of legislation coming to bear on federal land management agencies around 1970. Among these Acts were: National Environmental Policy Act of 1969 (which created the Council on Environmental Quality), Wild Horse and Burros Protection Act of 1971, Marine Mammals Protection Act of 1972, Federal Advisory Committee Act of 1972, Endangered Species Act of 1973, Forest and Rangeland Renewable Resources Planning Act of 1974, Federal Land Policy and Management Act of 1976, and the National Forest Management Act of 1976. The 1995 version of The Principal Laws Relating to Forest Service Activities listed 104 laws passed from 1872 - 1969 that influenced agency activities. From 1970 - 1993, an additional 934 such laws were placed on the books. Volumes of case law have evolved, further complicating the issues.

Management of federal lands has become increasingly centralized, confused, and inefficient resulting in a condition commonly known as "gridlock" where management (including that for wildlife) comes to a halt. A technical assessment of the specific legal and regulatory factors contributing to the problem of "gridlock" is needed along with options for resolution. ■

RECOMMENDATION

The Administration should initiate an assessment of federal land laws. It should be conducted by well-qualified natural resource management and legal professionals. They should be directed to conduct a rigorous, technical assessment of the compatibility between federal land management laws and regulations and regulatory environmental laws and regulations. The detailed requirements of each should be listed, along with specific areas of conflict and overlap with other statutes and rules. Options for resolution should be developed. The effort should have staff and funds necessary to carry out the assigned task with a time certain for completion – say, two years.