Factors Affecting Timely Mechanical Fuel Treatment Decisions

USDA Forest Service

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Introduction

Millions of acres of land nationwide are presently classified as being at high risk from wildland fire.[1] Governments, citizens, and their representatives have asked the Forest Service why it takes so much time to plan, decide on, and begin to implement mechanical treatments to reduce hazardous forest fuels. This year's severe wildfire situation has highlighted debates over the reasons the Forest Service has not been able to quickly reduce the wildland fire hazard situation. Debates have included allegations and counterarguments that the Forest Service appeals process is to blame. The debate currently swirls around projects termed "hazardous fuel reduction treatments" that can vary from using prescribed fire to harvesting trees (as well as various mechanical treatment and prescribed fire combinations).[2]

Mechanical fuel treatments, especially involving tree removal in overstocked forests, tend to be challenged most frequently. For that reason the focus here is on the mechanical aspect of hazardous fuel treatment. The Forest Service has compiled initial information about planning and implementing mechanical hazardous fuel treatments to focus the dialogue on those project decisions that are subject to appeal.

Conclusions

There are three general reasons it takes substantial time to plan for, make decisions on, and begin implementing Forest Service projects (including fuel hazard reduction projects): excessive analysis, ineffective public involvement, and management inefficiencies. There are a number of factors highlighted by fuel treatment examples, including: management uncertainty surrounding appeals and litigation, changing standards and guidelines, changing court interpretations, and supplementing documents to meet new requirements. Planning and decision delays are furthered by poor planning and decision-making. A deteriorating skills base and unclear or competing priorities combine with volumes of required paperwork and associated opportunities to misinterpret or misapply required procedures.

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[1] A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan, May 2002, USDA Forest Service, Washington, DC

[2] Hazardous fuel reduction includes fire use, biological methods, and mechanical treatments. Fire use consists of either setting prescribed fires or using natural ignitions to meet management goals. Using fire to reduce high fuel hazards is prohibitive in many areas due to the risk of escape. In these instances other treatments, including mechanical are used initially to prepare an area so that fire use is a safer alternative and resource objectives are achieved. Biologic methods include grazing, such as the use of goats. Mechanical fuel treatment can range from crushing brush and other fuels to removing trees that serve as ladder fuels to the crown.

Almost half (48%) of all decisions made in fiscal year 2001 and 2002[3] for mechanical treatments of hazardous fuel were appealed. During this time, the Forest Service made approximately 326 decisions (subject to administrative appeal procedures) to implement mechanical treatments that reduce hazardous forest fuels on National Forest System Lands. Of those decisions, 155 were actually appealed.[4] In addition, 21 decisions that were appealed have also been litigated. The number of appeals varies by Forest Service region, ranging from 11% in the Rocky Mountain Region to 100% in the Northern Region.

Results and Discussion

Planning Timeframe Reasons

A Forest Service report: "The Process Predicament - How Statutory, Regulatory, and Administrative Factors Affect National Forest Management" (June 2002)[5] provides three broad factors that have kept the agency from effectively addressing rapid declines in forest health, including hazardous fuel reduction. The factors include: excessive analysis, ineffective public involvement, and management inefficiencies.

Three hazardous fuels reduction projects using mechanical treatments were selected for review. Team members were contacted to highlight the factors that contributed to their planning and decision-making timeframes. The following results do not necessarily represent the 326 decisions identified in this paper.

Excessive Analysis

The "Process Predicament" paper addresses a number of factors that lead to excessive analysis for decisions. These include spending a growing amount of time and money on increasingly elaborate pre-decisional speculation about the environmental effects of proposed actions. Usually, this revolves around changing and new information that may affect a proposal. Analyzing and speculating on new information and effects add time and paperwork to the planning process. Likewise, ever-changing court interpretations add uncertainty for national forest managers that contributes to "bullet proofing" analyses and resulting time delays. On the mechanical treatment hazardous fuels projects we reviewed, team leaders reported that new or revised standards and guidelines for wildlife habitat protection, new species listing or habitat identification, and appeal or court-directed analysis supplementation all added significantly to time required but did not materially improve the proposed action.

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[3] Fiscal year 2002 data is as of June 27

[4] Figures are based on the number of decisions made. Some decisions may contain multiple projects. Administrative appeal periods may not have expired on some of the decisions issued that were subject to appeal. Additional administrative appeals may be filed and subsequent litigation may occur. Many non-mechanical fuel treatment decisions are not subject to administrative appeal. Additional studies are needed to determine the number of these decisions that are not subject to appeal.

[5] http://www.fs.fed.us/projects/

Ineffective Public Involvement

The "Process Predicament" Paper recognizes that the Forest Service encourages a collaborative approach that can yield better-informed decisions with broader public support than in the past. Collaboration takes time, but it can build constructive long-term relationships and dialogue, leading to decisions that are sustainable. Regardless of the collaboration efforts, not all citizens support Forest Service decisions. For example, in the fuels reduction project decisions we looked at, considerable time was invested in building community and interagency support for the proposed fuels treatment. Nevertheless, public involvement activities-however well executed-will not resolve the fundamental objections of some publics to the proposed project. In spite of the agency's best efforts, individuals or organizations opposed the projects and filed appeals and/or filed suit to stop the projects.

Management Inefficiencies

The "Process Predicament" Paper also states that poor planning and decision-making and a deteriorating skills base contribute to extended decision timeframes. For example, in the projects we reviewed, the interdisciplinary teams preparing the environmental analysis were unaware of some planning or administrative requirements (completed consultation or notice and comment), recent court cases, and required documentation, e.g. cumulative effects and information considered in analysis. Also, a deteriorating skills base and unclear or competing local priorities can contribute to sporadic planning work on each project.

Number of Decisions Appealed

While the agency recognizes there are multiple factors that affect its ability to decide on and implement fuels reduction projects, the number of mechanical fuel treatment decisions appealed shows how much this process can contribute to the overall process timeframe for agency fuel treatment decisions. Forest Service regional appeal data for fiscal years 2001 and 2002 (see table) were compiled for mechanical treatment decisions designed to reduce hazardous forest fuels on national forests. The data are based on an initial inquiry to the Forest Service Regional Offices. Due to the current fire situation, all data could not be completely verified. Thus, data are subject to further verification.

In fiscal year 2001 and 2002[6] the Forest Service made approximately 326 decisions (subject to administrative appeal procedures) to implement mechanical treatments that reduce hazardous forest fuels on National Forest System Lands. Of those decisions, approximately 155 were actually appealed. The following table displays the number of decisions subject to appeal and the actual number of appeals per Forest Service Region. With 100% of the decisions appealed in the Northern Region, 79% in the Pacific Southwest, 73% in the Southwestern Region, 67% in the Eastern Region, and 48% in the Pacific Northwest; the appeals process does add time to fuel reduction projects.

[6] Fiscal year 2002 data is as of June 27

Forest Service Region	Decisions Subject to Appeal	Decisions Appealed	Percent Appealed	Decisions Litigated	Percent Litigated
Northern[7]	53	53	100%	3	6%
Rocky Mountain[8]	46	5	11%	0	0%
Southwestern[9]	15	11	73%	2	13%
Intermountain[10]	97	17	18%	7	7%
Pacific Southwest[11]	42	33	79%	2	5%
Pacific Northwest[12]	50	24	48%	5	10%
Southern[13]	8	2	25%	0	0%
Eastern[14]	15	10	67%	2	13%
Alaska[15]	0	0	0%	0	0%
Total	**326**	**155**	**48%**	**21**	**6%**

Approximately half of all USDA Forest Service mechanical treatment decisions for hazardous fuels that were subject to appeal were appealed in fiscal year 2001 and 2002 (as of June 27). Approximately 6% were litigated.

The information displayed above will be subject to further verification and should be considered preliminary. Many individuals with the most current knowledge of fuel treatment decisions are currently on fire suppression assignments. However, the information displayed is believed to be reflective of the actual situation concerning mechanical fuel treatment decisions, appeals, and litigation.

Summary

There are multiple factors affecting planning and decision-making time for mechanical treatment projects to reduce hazard forest fuels. These include management uncertainty surrounding appeals and litigation, changing standards and guidelines, changing court interpretations, and supplementing documents to meet new requirements. Poor planning and decision-making, a deteriorating skills base, and unclear or competing priorities also contribute to the timeline.

Administrative appeals and litigation contribute significantly to the time it takes to plan for and decide on fuels projects prior to implementation. Approximately half of the mechanical fuel treatment decisions that were subject to appeal were appealed in fiscal year 2001 and 2002. Approximately six percent of the decisions were litigated.

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[7] Montana, Northern Idaho, North Dakota, and Northwestern South Dakota
[8] Colorado, Kansas, Nebraska, South Dakota, and Eastern Wyoming
[9] Arizona and New Mexico
[10] Southern Idaho, Nevada, Utah, and Western Wyoming
[11] California, Hawaii, Guam, and Trust Territories of the Pacific Islands
[12] Oregon and Washington
[13] Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, Virgin Islands, and Virginia
[14] Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and Wisconsin
[15] Alaska