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APPROVED
AUG 17 1974

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 13 1974

MEMORANDUM FOR THE PRESIDENT

**Subject: Enrolled Bill S. 2296 - Forest and Rangeland
Renewable Resources Planning Act of 1974
Sponsor - Sen. Humphrey (D) Minnesota and 5 others**

*Posted
8/17/74*

*To Archives
8/19/74*

Last Day for Action

August 17, 1974 - Saturday

Purpose

Authorizes and directs the Secretary of Agriculture to make renewable resource assessments and develop renewable resource programs for planning and budgeting purposes within the National Forest System.

Agency Recommendations

Office of Management and Budget

Approval (Signing Statement attached)

Department of Agriculture

Approval (Signing Statement attached)

Council on Environmental Quality

Approval

Council of Economic Advisers

Approval

Department of Justice

Defers to Agriculture

Department of the Interior

No objection

Department of Transportation

No objection



Discussion

S. 2296 would authorize and direct the Secretary of Agriculture to establish an elaborate long-range planning and budgeting system concerning all National Forest System renewable resources. In addition to the new long-range planning aspects of the enrolled bill, it has the affect of increasing Congressional involvement in Forest Service planning. The major features of S. 2296, which would become effective for fiscal year 1977, are summarized below:



1. Requires the preparation of a Renewable Resource Assessment which includes: supply and demand analysis; inventory of present and potential renewable resources; a description of Forest Service programs and responsibilities; and, a discussion of factors affecting the use, ownership, and management of forest, range and other associated lands.
2. Directs the development and submission to the President of a Renewable Resource Program which includes alternative approaches for protection, management, and development of the National Forest System under the principles of multiple-use and sustained-yield.
3. Requires submission by the President to the Congress of the Assessment, Program, and a detailed "Statement of Policy," the latter "intended to be used in framing budget requests by that Administration" for the Forest Service, beginning in January of 1976 and thereafter following each updating; either House of the Congress could disapprove the Statement of Policy by resolution and the Congress could revise or modify it by law.
4. Directs explanation by the President of the specific reasons for the lesser program, in any of his budget requests for the Forest Service that are less than called for in the Congressionally approved Statement of Policy.
5. Mandates the elimination by the year 2000 of all work backlogs for the renewable resources of the National Forest System so that intensive multiple-use sustained-yield management will be possible throughout the system -- annual budget requests must be made at a level to remove such backlogs.
6. Places private operator costs for contract road building in connection with timber sales and operations within the Federal budget totals, and apparently requires that the levels of such road building be provided for in appropriation acts.

The enrolled bill passed in both Houses by a voice vote.

While Agriculture generally supported the long-range planning aspects of S. 2296 in reporting on the bill, the Department has in the past opposed those provisions numbered 3, 4, and 5 above, on the grounds that they would unduly limit Presidential flexibility and discretion in preparing annual operating plans and attendant budget requests.

However, in reporting on the enrolled bill, the House Agriculture Committee took the position that:

"In essence, the bill's major provisions reform current procedures for establishing and attaining National goals for the National Forest System management and related activities of the Forest Service in Research and Cooperative programs on other lands. It provides for better resource inventories and analyses of short-term and long-term uses, demands, and supplies of renewable resources. Where presently only the Forest Service and the Administration set program goals and policies, under the proposed legislation both the Administration and Congress, will jointly establish such goals and policies."



Agency views

In its enrolled bill letter, Agriculture strongly recommends approval and concludes that "the strong Congressional policy support for long-range forestry which S. 2296 would provide is a benefit that far outweighs the provisions of the bill which seek to influence Presidential prerogatives." Concurring with Agriculture, CEA and CEQ recommend approval while Interior and Transportation have no objection to approval. Finally, Justice advises that while the "one House resolution veto mechanism in section 7(a) (in item no. 3 above) violates the provisions of Article I, section 7 of the Constitution," it defers to Agriculture as to whether this bill should receive Executive approval.

Arguments against approval

1. The one House disapproval of the President's Statement of Policy would unconstitutionally inject the Congress into the detailed management of the National Forest System.

2. By requiring a detailed Presidential explanation of budget requests which deviate from Congressionally approved policy, S. 2296 provides special and perhaps unwarranted budgetary focus on the National Forest System programs and creates a bad precedent.
3. The enrolled bill is not consistent with the basic objectives of the Budget and Accounting Act of 1921 and the recently enacted Congressional Budget and Impoundment Control Act of 1974 in that it reduces both the Executive and Legislative branches' flexibility in the annual budget and appropriation process.
4. The requirement to reduce all backlogs of needed conservation measures by the year 2000 may not be realistic and further may not be a Presidential objective in years to come.

Arguments for approval

1. S. 2296 would significantly elaborate on the Forest Service's procedure and schedule for long-range planning.
2. It would provide for a meaningful improvement in the renewable resource information base of the Forest Service, and accordingly afford better data for budgeting and other management decision making.
3. Assuming the process is used by Department and Forest Service management to consider and present a variety of alternatives for program and budget decisions, it can be a useful bill.
4. Provisions for Congressional disapproval of Executive proposals have been included in recently approved legislation (H.R. 7130, Congressional Budget and Impoundment Control Act of 1974).
5. Although flexibility is diminished, the President is not restricted from submitting his own budget program for the Forest Service or the Congress from providing whatever levels they may decide upon.

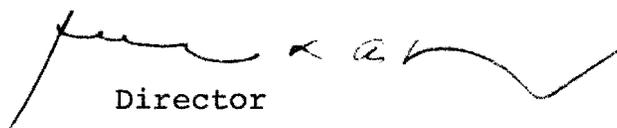


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On balance, we believe the arguments for approval outweigh those in favor of disapproval. Furthermore, remedial legislation can be submitted early in the 94th Congress to eliminate the major deficiencies in the enrolled bill (provisions 3 and 4 cited on page 2 of this memorandum), and we understand from informal discussions with Committee staff that the Agriculture Committees might be receptive to this action.

Attached, for your consideration, is a draft signing statement prepared by this Office.




Director

Enclosures

8/16

Before release check
the date of the signed Bill.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY

722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

August 8, 1974

MEMORANDUM FOR W. H. ROMMEL, ASSISTANT DIRECTOR
FOR LEGISLATIVE REFERENCE
OFFICE OF MANAGEMENT AND BUDGET

ATTENTION: Mrs. Garziglia

Re: S. 2296, To provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the productivity and other values of certain of the Nation's lands and resources, and for other purposes

The Council on Environmental Quality recommends that the President sign the above enrolled bill.


Gary L. Widman
General Counsel



THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

August 8, 1974

Dear Mr. Rommel:

This is in response to your request for the Council's views on Enrolled Bill S. 2296.

We believe the bill's provisions are consistent with the need for better long-term planning and management of the nation's renewable resources contained in the national forests. Therefore, we would recommend that the President sign this bill.

Sincerely,



Herbert Stein

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 8 - 1974

Dear Mr. Ash:

This responds to your request for our views on the enrolled bill S. 2296, "To provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the productivity and other values of certain of the Nation's lands and resources, and for other purposes."

We would have no objection to the President's approval of the enrolled bill.

The bill would direct the Secretary of Agriculture to establish a comprehensive program for the management of renewable resources on Forest Service lands. The program would be based on an inventory of present and potential renewable resources, an analysis of present and anticipated uses and consideration of present programs and policies and their interrelationships. The program would include an inventory of the needs and opportunities for public and private program investments, an identification of anticipated costs and benefits, a discussion of priorities and a study of personnel requirements.

The bill provides detailed procedures for Congressional approval of the program, and beginning with the fiscal budget for the year ending September 30, 1977, budget requests presented by the President to the Congress governing Forest Service activities shall indicate the extent to which the programs and policies projected under the budget meet the policies approved by Congress. When the budget recommends a course that does not meet the policies approved by Congress, the President shall give reasons for approving the lesser programs or policies.

The enrolled bill addresses the management of renewable resources on lands administered by the National Forest Service, and it would not affect the programs of this Department.

Sincerely yours,



[Handwritten Signature]
Assistant Secretary of the Interior

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D.C. 20503

Department of Justice
Washington, D. C. 20530

AUG 9 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Ash:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 2296, the "Forest and Rangeland Renewable Resources Planning Act of 1974".

S. 2296 concerns various measures to facilitate long-range planning and financing of resources administered by the Department of Agriculture, through the Forest Service. Section 7(a) of the enrolled bill provides that:

. . . Following the transmission of such Assessment, Program, and Statement of Policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such Statement of Policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such Assessment, Program, and Statement of Policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the Statement of Policy.

Further, notwithstanding any other provision of the bill, Congress may revise or modify the Statement of Policy transmitted by the President and it will be used in framing budget requests.

It is the position of the Department of Justice that this one House resolution veto mechanism in Section 7(a) violates the provisions of Article I, section 7 of the Constitution.



The language of the Constitution clearly indicates that the veto power of the President was intended to apply to all actions of Congress which have the force of law. It would be difficult to conceive of language and history which could more clearly require that all such action of the two Houses be subject to either the President's approval or his veto. Two provisions of Article I, section 7 are involved. Thus, the Constitution provides first that every bill which passes the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President for his approval or disapproval. If disapproved it does not become law unless repassed by a two-thirds vote of each House (Art. I, Sec. 7, clause 2). At the Convention it was recognized that Congress might evade this provision by passing resolutions rather than bills. During the debate on this clause, James Madison observed that--

"if the negative of the President was confined to bills; it would be evaded by acts under the form and name of Resolutions, votes &***."

Madison believed that additional language was necessary to pin this point down and therefore

"proposed that 'or resolve' should be added after 'bill' *** with an exception as to votes of adjournment &c."



Madison's notes show that "after a short and rather confused conversation on the subject," his proposal was, at first, rejected. 2 M. Farrand, The Records of the Federal Convention of 1787 301-02 (1937 Rev. ed.) ("Farrand"). However, at the commencement of the following day's session, Mr. Randolph, "having thrown into a new form" Madison's proposal, renewed it and it passed by a vote of 9-1. 2 Farrand 303-05. Thus, the Constitution today provides in the last paragraph of Article I, section 7:

"Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question Of Adjournment) shall be presented to the President ***; and before the Same shall take Effect, shall be approved by him, or being disapproved by him shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill."

The intent of this clause was clearly to prevent resolutions designed to evade the specified legislative procedure.

The purpose of the veto was not merely to prevent bad laws but to protect the powers of the President from inroads. Leading participants in the Convention of 1787, such as James Madison, Gouverneur Morris and James Wilson, pointed out that the veto would protect the office of President against "encroachments of the popular branch" and guard against the legislature "swallowing up all the other powers." 2 Farrand 299-300, 586-87. In The Federalist (No. 73), Hamilton states that the primary purpose of conferring the veto power on the President is "to enable him to defend himself." Otherwise he "might be gradually stripped of his authorities by successive resolutions, or annihilated by a single vote."



It is clear that the veto was to apply to repeals and not just enactment of new laws. The application of the President's veto to repeals was specifically discussed. During a debate concerning what majority should be necessary to overcome a veto, it was pointed out that a 3/4 vote would make it too difficult to repeal bad laws. 2 Farrand 586. However, Madison pointed out that "As to the difficulty of repeals, it was probable that in doubtful cases the policy would soon take place of limiting the duration of laws so as to require renewal instead of repeal." Id. at 587. It was clear therefore that repeal was thought of as a full legislative process, subject to the veto power and not something that could be accomplished without participation of the Executive. At the same time, as Madison observed, Congress was always free to avoid this problem by limiting the duration of legislation, as it often does.

If it is argued that Section 7(a), after receiving Executive approval, would be valid, then there seems to be no limit to the powers of Congress to upset the historic concept of executive-legislative relations by reserving the right in legislation to amend or repeal the statute by one House resolution. This would avoid presentation of subsequent legislative decisions to the President as contemplated by Article I, Section 7. See R. Ginnane, The Control of Federal Administration by Congressional Resolutions and Committees, 66 Harv. L. Rev. 569, 594-95 (1953); J. P. Harri-, Congressional Control of Administration 205-06, 238-40 (Brookings, 1964); Statement of Erwin N. Griswold, National



Emergency, Hearings before the Senate Special Committee on the Termination of the National Emergency, 93d Cong., 1st Sess., Part 3, 741-747 (1973); L. Henkin, Foreign Affairs and the Constitution 121 (Foundation Press, 1972). But see J. & A. Cooper, The Legislative Veto and the Constitution, 30 G.W.L. Rev. 467 (1962); The Constitution of the United States, Analysis and Interpretation, S. Doc. No. 39, 88th Cong., 1st Sess. 135 (1964).

Of course we cannot deny that the practice of providing in statutes for amendment or repeal of legislative authority by one House resolution has continued for some years. There are new proposals made in each Congress not only for legislative action by one House resolution but by concurrent resolution or by action by one or more committees of Congress. An important example is section 5(c) of the War Powers Act, 87 Stat. 555 (1973), passed over the President's veto, despite a veto message including the statement that the concurrent resolution provision for terminating certain powers of the President was unconstitutional. State Dept. Bull., Nov. 26, 1973, p. 662. The House Committee Report on the War Powers Act (93-287) considered this question and, without making any attempt to come to grips with the language of the Constitution, concluded that the provision was valid because there was "ample precedent" for it. In support the report noted that most of the important legislation enacted for the prosecution of World War II provided for termination of powers upon adoption of concurrent resolutions, including the Lend-Lease Act, First War Powers Act, Emergency Price Control Act and others. See Ginnane, supra; Harris, supra. Admittedly, the Executive branch has not been entirely consistent as far as articulating its position has been concerned. E.g., R. Jackson, A Presidential Legal Opinion, 66 Harv. L. Rev. 1353 (1953). Nevertheless, we do not believe that the matter can be determined by recent usage alone. Although custom or practice can be a source of constitutional law, the cases indicate that this can occur if the test is ambiguous or doubtful but not where the practice is clearly incompatible with the supreme law of the land. McPherson v. Blacker, 146 U.S. 1, 27 (1892); Inland Waterways v. Young, 309 U.S. 517, 525 (1940); Field v. Clark, 143 U.S. 649, 691 (1892); Nixon v. Sirica, 487 F. 2d 700, 730 (D.C. Cir. 1973) and cases cited therein (McKinnon, J., concurring in part). Here, as noted, the recent practice contradicts the clear text of Article I, Section 7.

Moreover, if one is to look to constitutional precedent, the recent trend toward the use of Congressional veto devices is not the only relevant practice. The contemporaneous construction of the Constitution that was followed until recent times points in an entirely different direction. A careful analysis of the practice compiled by the Senate Judiciary Committee in 1897 beginning with the first Congress through the nineteenth century shows that concurrent resolutions were limited to matters "in which both House have a common interest, but with which the President has no concern." They never "embraced legislative provisions proper." S. Rep. No. 1335, 54th Cong., 1st Sess. 6 (1897). The report concluded that the Constitution requires that resolutions must be presented to the President when "they contain matter which is properly to be regarded as legislative in its character and effect." Id. at 8, quoted in part in 4 Hinds' Precedents of the House of Representatives § 3483.

It appears that it was not until 1919 that it was seriously suggested that Congress could make an affirmative policy or legislative decision by a resolution not presented to the President. Actual enactments of this kind did not begin until the 1930's. Ginnane, supra at 575. Thus, if any deference is to be given to practice and precedent, we believe that the practice begun with the adoption of the Constitution and continued uniformly for approximately 150 years is entitled to far greater weight than the more recent, sporadic and often debated examples of lawmaking by resolution.

Subject to your consideration of the above observations, the Department of Justice defers to the Department of Agriculture as to whether this bill should receive Executive approval.



Sincerely,

A handwritten signature in cursive script that reads "W. Vincent Rakestraw".

W. Vincent Rakestraw
Assistant Attorney General



GENERAL COUNSEL

OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

AUG 9 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Ash:

This is in reply to your request for the views of the U.S. Department of Transportation on S. 2296, an enrolled bill:

"To provide for the Forest Service, Department of Agriculture, to protect, develop, and enhance the productivity and other values of certain of the Nation's lands and resources, and for other purposes."



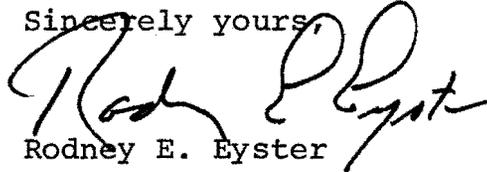
The bill outlines the procedures for a national effort to protect our National Forest System. To fulfill this goal, the bill establishes target dates. By December 31, 1975, a Renewable Resource Assessment is to be prepared by the Secretary of Agriculture outlining the present situation. On the same date, a comprehensive Renewable Resource Program is to be submitted to the President by the Secretary of Agriculture. There is provision made for updates of both the Assessment and the Program. An inventory of all National Forest System Lands is to be kept by the Secretary of Agriculture and as part of the Program he must also prepare land management plans.

The bill also stresses the role of Congress as the watchdog of the Program. The Secretary of Agriculture will assist Congress by preparing an annual report to be submitted with the budget. The bill sets the year 2,000 as a target year for the successful operation of the Program.

Finally, there is a provision for installation of a proper system of transportation to service the National Forest System. This will have no effect on the activities within the jurisdiction of this Department.

The U.S. Department of Transportation would have no objection to this bill receiving executive approval.

Sincerely yours,



Rodney E. Eyster





DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250



August 9, 1974

Honorable Roy L. Ash, Director
Office of Management and Budget
Washington, D.C.

Dear Mr. Ash:

As requested by your office, here is our report on the enrolled enactment S: 2296, the "Forest and Rangeland Renewable Resources Planning Act of 1974."

This Department strongly recommends that the President approve the enactment.

S. 2296 would establish a framework and procedure for assessing the national forestry resource situation and for planning for the future management, use and supply of those resources. Specifically, the legislation calls for the Secretary to prepare a comprehensive Renewable Resource Assessment every ten years and to prepare and recommend a long-range Renewable Resource Program. The Program would include an inventory of specific resource needs and investment opportunities; outputs, anticipated results, and cost; a discussion of priorities for accomplishing the Program goals; and a study of personnel requirements. In transmitting the Assessment and Program to the Congress, the President would send forward a Statement of Policy to be used by him in framing fiscal budget requests for Forest Service activities. In submitting annual budget requests, the President would be required to explain the extent to which the budget meets or fails to meet the Statement of Policy.

Section 8 of the enactment establishes the year 2000 as the target date by which time all backlogs of needed resource treatments on National Forest lands will have been eliminated and directs that the annual budget shall contain requests for orderly elimination of such backlogs. Section 9 requires that the financing of forest development roads be considered both budget authority and outlays as defined in the Congressional Budget and Control Act, and that such financing be covered by appropriations acts.

Although the Congress was not willing to accommodate all our recommendations in regard to some of the less desirable provisions of this legislation, our review of the enrolled enactment indicates that the conferees have basically remedied the concerns we had during its development. First, the scope of the bill has been clearly limited to those matters within the jurisdiction and authority of the Forest Service. Secondly, while the bill imposes some additional requirements upon the President in developing and submitting annual requests, it does not unduly restrict the President's flexibility and discretion to fashion annual budgets as he deems appropriate. In fact, procedures



Honorable Roy L. Ash

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established by the bill can improve both Executive and Congressional budget formulation and attendant decision making.

Third, in regard to the requirement that annual budgets from the present until the year 2000 contain requests to eliminate all backlogs of needed resource treatments on the National Forests, mechanisms are available to the President through the new Budget Control Act to offset the apparent rigidity of this provision.

Finally, in regard to the National Forest transportation system, we believe section 9 of S. 2296 is a constructive means of dealing with the nagging problem of financing forest roads and trails. The basic impact of this provision is to require the identification of the value of timber purchaser road construction as a cost to and outlay of the government. Given the requirements and directions in the new Budget Control Act, this provision does not alter the opportunities Congress already has of influencing the scope and extent of timber purchaser road construction. It has the advantage of causing the display of National Forest road construction programs as a whole, and thus will foster an understanding of the component parts of the road program, as well as of their relationship to timber sale programs.

In the attached supplemental statement, we discuss each of these foregoing issues in more detail.

S. 2296 provides an orderly framework and procedure for developing sound national forestry policy and improving resultant program planning and funding decisions. This framework will do much to assure that future generations of Americans have adequate supplies of timber and related forest resources. The legislation will place before the Congress and the public the information necessary to understand the national forestry resource situation in relationship to other national needs and considerations. And it will provide a much-needed long-range perspective from which both the Executive and the Congress can weigh forest policy issues and decisions. As you know, we have already taken a long-range perspective in our program planning with the development of the Environmental Program for the Future. This will serve as the base for the Renewable Resource Program called for under section 3 of the enactment.

We recognize that S. 2296 still contains a number of phrases and provisions which seek to emphasize funding of forestry programs without direct consideration of other worthy Federal programs. Yet the key to the balancing among all Federal activities is still the appropriations process, which is not altered by the enactment. The Congressional Budget Control Act causes significant improvements in the appropriations process including a number of steps aimed at measuring the relative values of the various Federal programs. S. 2296, itself, contains no "penalty" clauses; nor does it include provisions which mandate levels of funding. We thus conclude that the strong Congressional policy support for long-range forestry planning which S. 2296 would provide

Honorable Roy L. Ash

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is a benefit that far outweighs the provisions of the bill which seek to influence Presidential prerogatives.

For these reasons, we strongly urge the President to approve the Forest and Rangeland Renewable Resources Planning Act of 1974.

We would also recommend that a signing ceremony be arranged to call attention to this important legislation. A proposed signing message for notifying the House and the Senate of the signing is enclosed.

Sincerely,



RICHARD A. ASHWORTH
Deputy Under Secretary



USDA SUPPLEMENTAL STATEMENT RELATING TO
SELECTED MAJOR PROVISIONS OF S.2296



Scope of the Bill

The short title of the enrolled enactment is "Forest and Rangeland Renewable Resources Planning Act of 1974." While the broader terminology of the Senate bill has been retained in the title, section 11 of the enactment clearly limits the bill, as our report had urged, to "those matters within the scope of the responsibilities and authorities of the Forest Service on the date of this Act." Section 11 also directs the Secretary to "avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies."

Section 7 - National Participation

Subsection (a) provides that the President shall submit the Assessment and Program to the Speaker of the House and President of the Senate on the date Congress first convenes in 1976 and thereafter at each updating. Accompanying these documents would be a detailed Statement of Policy to be used by the Administration in framing budget requests for Forest Service activities in the program period ahead. Subsection (a) further provides that the President will carry out established programs in accordance with the Statement of Policy unless the Congress by resolution disapproves the Statement within 60 calendar days of continuous session.

The Statement of Policy required by subsection (a) will put before the Congress national forestry policies in a more visible, coherent, and integrated manner than at present. In our view, this is a more orderly and desirable procedure for reviewing Forest Service policy than the current piece-meal review which our programs and policies now receive through routine congressional oversight.

We are aware, however, that this visibility could also make forestry policy more vulnerable to congressional change. We also recognize that subsection (a) imposes an additional requirement upon the President which has the potential to somewhat limit his prerogatives in fashioning annual Forest Service budget requests. However, we believe that budget development need not be impeded by these new requirements.

The Statement of Policy is not described or defined in subsection (a), nor is the manner in which the President must use the Statement in framing annual budgets. This lack of specificity gives the President the opportunity to develop the format and depth of the Statement and to relate forestry program needs to other Federal needs and such other factors as he deems appropriate. In effect, the President will have the opportunity to establish an improved standard and base against which the Congress can discuss and weigh annual appropriations decisions for Forest Service activities.



Subsection (b) directs that beginning with FY 1977, budget requests governing Forest Service activities shall express in qualitative and quantitative terms the extent to which programs and policies projected under the budget meet or fail to meet the Statement of Policy. In any case where the President's budget fails to meet the policies, the President shall set forth specific reasons for recommending the lesser program.

The effect of this provision is to formalize the explanations and justifications we are now required to provide Appropriations Committees during hearings on annual appropriations acts covering Forest Service activities. Because it will relate annual budget actions to long-range policies, this provision can actually result in strengthening the Administration's position during congressional consideration of annual appropriations requests.

Subsections (c), (d), (e), and (f) of section 7 require annual reports on the progress in implementing the Program and set out certain provisions and contents to be included in the annual report. This Department would want to evaluate and account for progress in implementing the Program as an internal management tool and believes it reasonable to share that evaluation with the Congress.

In summary, we believe section 7 of S. 2296 is basically a positive and beneficial measure. Although it will increase administrative workload associated with budget development and increase the depth of analysis and explanation required in submitting budget requests, section 7 does open new mechanisms for communicating national forestry goals and needs to the Congress. Through these new procedures we have an opportunity to develop a higher level of congressional appreciation and understanding of the total forest resource picture.

Section 8 - National Forest System Program Elements

This section reiterates the need for the Secretary of Agriculture to develop and administer National Forest System resources in accord with the Multiple Use-Sustained Yield Act. To further this resource management concept, the Congress would set the year 2000 as the target year by which all backlogs of needed resource treatments would be eliminated. Section 8 further provides that annual budgets will contain requests for funds to eliminate such backlogs in an orderly fashion. The budget request for this purpose may be adjusted when backlogs no longer exist, when the cost of restoration outweighs benefits or when the total supplies of renewable resources are adequate to meet future needs.

The elimination of backlogs is unquestionably a worthy objective which will benefit future generations of Americans. In the past several Congresses the scope of these backlogs and our inability to eliminate them has created

widespread congressional concern. The energy crisis of the past year created additional concern about future adequate supplies of natural resources and reinforced the congressional desire that the nation not face a forest products shortage. Section 8 is a culmination of this congressional concern.

We recognize that section 8 could be construed to commit indefinite levels of federal funds over a long period of time and that it therefore seeks to reduce to some degree the President's flexibility to fashion annual Forest Service budgets. We also recognize that future economic conditions and perhaps events of nature might result in this provision becoming too stringent and unreasonable, thereby creating fiscal hardships. However, should this occur, and should the contingencies provided for in this provision not be sufficient mechanisms exist for the President to inform the Congress of this situation and to seek relief from or repeal of this provision. For the present, we do not believe this provision would unduly limit Presidential flexibility.

Section 9 - Transportation System

The thrust of this section is to emphasize the importance of an active forest development road building program and to declare that the financing of the construction and maintenance of forest development roads shall be used to enhance local, regional and national benefits. This section also contains new language which would require that the financing of forest development roads be considered as budget authority and outlays as defined in the Congressional Budget and Impoundment Control Act of 1974. It also provides that such financing will be effective in the same manner as required for new spending authority as specified by section 401(a) of that Act. The effect of this provision is to require that financing of the overall forest roads program, whether by appropriated funds or through timber purchaser credits, shall be covered by an appropriations act.

Given enactment of the Congressional Budget Control Act it appears that section 8 does not add significantly to the budgeting tools Congress already has. One of the major thrusts of the Act was to end so-called "backdoor spending" approaches and to recognize in the Federal budget the full costs and expenditures of implementing government programs. Section 9 of S. 2296 has the same purpose of "daylighting" what the Committees consider "backdoor spending" by the Forest Service in using the timber purchaser credit approach to build roads.

Timber purchaser construction of forest development roads could now be construed as an outlay under the Budget Control Act. If this occurred, then the only effect of section 9 of S. 2296 would be to emphasize and assure that financing of roads by timber purchasers conforms to the provisions of the new Budget Control Act.

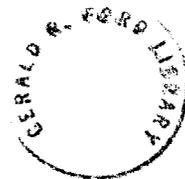
In any event, analysis of section 9 indicates that it does not markedly



restrict Presidential flexibility to formulate Forest Service budgets. It also does not reduce or restrict authority to utilize the timber purchaser credit approach to construction of forest development roads. It could have the effect of creating a paper increase in the amount of funds required to conduct Forest Service activities, but it does not increase real cash outlays by the Federal Government. It might be argued that the visibility of financing roads through timber purchasers would make this approach more vulnerable to congressional limitations. However, it should be noted that our budget explanations already compare the number of miles of road constructed through appropriated funds to the miles to be constructed by timber purchasers. Conceivably, the Appropriations Committees could now limit the timber purchaser construction method through special conditions in the appropriations acts.

In summary, the inclusion of this new language in S. 2296 appears to eliminate the concerns which we have raised previously during the development of this legislation.





To the Senate:

Today I have signed S. 2296, the Forest and Rangeland Renewable Resources Planning Act of 1974.

While this Act contains several provisions which tend to influence Presidential discretion in formulating annual budget requests for our national forestry programs administered by the Forest Service of the Department of Agriculture, I believe that the benefits of this legislation outweigh these concerns.

The Forest and Rangeland Renewable Resources Planning Act of 1974 directs the Secretary of Agriculture to prepare a comprehensive Assessment of the nation's forestry resource situation every ten years. This Assessment will include such vital information as an inventory of forestry resources and opportunities for increasing their yields. It will also include an analysis of present and anticipated uses of, demand for, and supply of renewable forest resources.

The Act also requires the Secretary to prepare a long-range Renewable Resources Program to guide the future management and development of our Nation's forest and related resources. In transmitting the Assessment and Program, the President will also submit to the Congress a Statement of Policy which he will use in framing annual budget requests for the Forest Service.

This Act is one of the most significant pieces of forestry legislation to be enacted in recent years. It provides for an orderly framework and procedure for developing sound national forestry policy and for improving forestry program planning and funding decisions. It will build upon and strengthen the long-range program planning which we have already developed within the Forest Service--the Environmental Program for the Future.

In addition, the data gathered and displayed in the Assessment and the goals projected under the long-range Program will place before the Congress and the public the information necessary to understand the national forestry resource situation in relationship to other national needs and considerations.

In this period of energy shortages, we have become critically aware of the need to act now to prevent shortages of other resources and materials. The Forest and Rangeland Renewable Resources Planning Act provides us the means for planning now national programs which will assure that future generations will have adequate supplies of forest and related resources.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 513

Date: August 14, 1974

Time:

8:30 a. m.

FOR ACTION:

✓ Michael Duval

✓ Fred Buzhardt

✓ Bill Timmons

cc: Dave Gergen - FYI

cc (for information):

Warren K. Hendriks

Jerry Jones

*Supporting care
of the
Timmons - Shively act*

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, August 14, 1974

Time: 2:00 p. m.

SUBJECT: Enrolled Bill S. 2296 - Forest and Rangeland Renewable Resources Planning Act of 1974



ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

1c
Marion Harshbarger
8-13-74

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 13 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2296 - Forest and Rangeland
Renewable Resources Planning Act of 1974
Sponsor - Sen. Humphrey (D) Minnesota and 5 others

Last Day for Action

August 17, 1974 - Saturday



Purpose

Authorizes and directs the Secretary of Agriculture to make renewable resource assessments and develop renewable resource programs for planning and budgeting purposes within the National Forest System.

Agency Recommendations

Office of Management and Budget	Approval (Signing Statement attached)
Department of Agriculture	Approval (Signing Statement attached)
Council on Environmental Quality	Approval
Council of Economic Advisers	Approval
Department of Justice	Defers to Agriculture
Department of the Interior	No objection
Department of Transportation	No objection

Discussion

S. 2296 would authorize and direct the Secretary of Agriculture to establish an elaborate long-range planning and budgeting system concerning all National Forest System renewable resources. In addition to the new long-range planning aspects of the enrolled bill, it has the affect of increasing Congressional involvement in Forest Service planning. The major features of S. 2296, which would become effective for fiscal year 1977, are summarized below:



1. Requires the preparation of a Renewable Resource Assessment which includes: supply and demand analysis; inventory of present and potential renewable resources; a description of Forest Service programs and responsibilities; and, a discussion of factors affecting the use, ownership, and management of forest, range and other associated lands.
2. Directs the development and submission to the President of a Renewable Resource Program which includes alternative approaches for protection, management, and development of the National Forest System under the principles of multiple-use and sustained-yield.
3. Requires submission by the President to the Congress of the Assessment, Program, and a detailed "Statement of Policy," the latter "intended to be used in framing budget requests by that Administration" for the Forest Service, beginning in January of 1976 and thereafter following each updating; either House of the Congress could disapprove the Statement of Policy by resolution and the Congress could revise or modify it by law.
4. Directs explanation by the President of the specific reasons for the lesser program, in any of his budget requests for the Forest Service that are less than called for in the Congressionally approved Statement of Policy.
5. Mandates the elimination by the year 2000 of all work backlogs for the renewable resources of the National Forest System so that intensive multiple-use sustained-yield management will be possible throughout the system -- annual budget requests must be made at a level to remove such backlogs.
6. Places private operator costs for contract road building in connection with timber sales and operations within the Federal budget totals, and apparently requires that the levels of such road building be provided for in appropriation acts.

The enrolled bill passed in both Houses by a voice vote.

While Agriculture generally supported the long-range planning aspects of S. 2296 in reporting on the bill, the Department has in the past opposed those provisions numbered 3, 4, and 5 above, on the grounds that they would unduly limit Presidential flexibility and discretion in preparing annual operating plans and attendant budget requests.

However, in reporting on the enrolled bill, the House Agriculture Committee took the position that:

"In essence, the bill's major provisions reform current procedures for establishing and attaining National goals for the National Forest System management and related activities of the Forest Service in Research and Cooperative programs on other lands. It provides for better resource inventories and analyses of short-term and long-term uses, demands, and supplies of renewable resources. Where presently only the Forest Service and the Administration set program goals and policies, under the proposed legislation both the Administration and Congress, will jointly establish such goals and policies."



Agency views

In its enrolled bill letter, Agriculture strongly recommends approval and concludes that "the strong Congressional policy support for long-range forestry which S. 2296 would provide is a benefit that far outweighs the provisions of the bill which seek to influence Presidential prerogatives." Concurring with Agriculture, CEA and CEQ recommend approval while Interior and Transportation have no objection to approval. Finally, Justice advises that while the "one House resolution veto mechanism in section 7(a) (in item no. 3 above) violates the provisions of Article I, section 7 of the Constitution," it defers to Agriculture as to whether this bill should receive Executive approval.

Arguments against approval

1. The one House disapproval of the President's Statement of Policy would unconstitutionally inject the Congress into the detailed management of the National Forest System.

2. By requiring a detailed Presidential explanation of budget requests which deviate from Congressionally approved policy, S. 2296 provides special and perhaps unwarranted budgetary focus on the National Forest System programs and creates a bad precedent.

3. The enrolled bill is not consistent with the basic objectives of the Budget and Accounting Act of 1921 and the recently enacted Congressional Budget and Impoundment Control Act of 1974 in that it reduces both the Executive and Legislative branches' flexibility in the annual budget and appropriation process.

4. The requirement to reduce all backlogs of needed conservation measures by the year 2000 may not be realistic and further may not be a Presidential objective in years to come.

Arguments for approval

1. S. 2296 would significantly elaborate on the Forest Service's procedure and schedule for long-range planning.

2. It would provide for a meaningful improvement in the renewable resource information base of the Forest Service, and accordingly afford better data for budgeting and other management decision making.

3. Assuming the process is used by Department and Forest Service management to consider and present a variety of alternatives for program and budget decisions, it can be a useful bill.

4. Provisions for Congressional disapproval of Executive proposals have been included in recently approved legislation (H.R. 7130, Congressional Budget and Impoundment Control Act of 1974).

5. Although flexibility is diminished, the President is not restricted from submitting his own budget program for the Forest Service or the Congress from providing whatever levels they may decide upon.

* * * *



On balance, we believe the arguments for approval outweigh those in favor of disapproval. Furthermore, remedial legislation can be submitted early in the 94th Congress to eliminate the major deficiencies in the enrolled bill (provisions 3 and 4 cited on page 2 of this memorandum), and we understand from informal discussions with Committee staff that the Agriculture Committees might be receptive to this action.

Attached, for your consideration, is a draft signing statement prepared by this Office.



Director

Enclosures

Humphrey
Mondale
Huddleston
Metcalf
Manzfield
McIntyre

STATEMENT BY THE PRESIDENT

I am signing with pleasure S. 2296, the Forest and Rangeland Renewable Resources Planning Act of 1974.

This Act establishes an integrated process, open to Congress and the public, for planning and managing the timber, grazing, environmental, and recreational resources of our National Forest System.

It calls for maintaining a long term perspective in the year to year management of our forestry resources.

It requires that the public benefits and the public costs of alternative policies and management actions be clearly set forth for public review and for Congressional determination.

It provides for an open dialogue between the Executive Branch and the Congress in the formulation of policy and in the resolution of differences. Furthermore, it places emphasis on the requirement to develop a detailed body of factual and analytical information on which to base that dialogue.

Viewed in this light, S. 2296 is a bill appropriate to our times.

Viewed from another perspective, the bill contains provisions which could involve Congress in the management of our National Forest System to a degree that would be unique and, in my judgment, undesirable. Further, these provisions could inhibit Executive and Legislative efforts to achieve a proper balance in meeting our national priorities and in carrying out a major program with due regard for its relative costs and benefits.

But I am certain that Congress neither intended nor desires that S. 2296 be interpreted so as to produce such results, and I am confident that we can and will develop and manage our great National Forest resources in a responsible manner and in a spirit of creative compromise.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 513

Date: August 14, 1974

Time:

8:30 a. m.

FOR ACTION: Michael Duval
Fred Buzhardt
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones

✓ cc: Dave Gergen - FYI

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, August 14, 1974

Time: 2:00 p. m.

SUBJECT: Enrolled Bill S. 2296 - Forest and Rangeland Renewable Resources Planning Act of 1974



ACTION REQUESTED:

___ For Necessary Action

XX For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

JAN

See if they want a signing statement -
ASAP -) 11/14/74

[Handwritten signature]

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

August 9, 1974

Honorable Roy L. Ash, Director
Office of Management and Budget
Washington, D.C.



Dear Mr. Ash:

As requested by your office, here is our report on the enrolled enactment S. 2296, the "Forest and Rangeland Renewable Resources Planning Act of 1974."

This Department strongly recommends that the President approve the enactment.

S. 2296 would establish a framework and procedure for assessing the national forestry resource situation and for planning for the future management, use and supply of those resources. Specifically, the legislation calls for the Secretary to prepare a comprehensive Renewable Resource Assessment every ten years and to prepare and recommend a long-range Renewable Resource Program. The Program would include an inventory of specific resource needs and investment opportunities; outputs, anticipated results, and cost; a discussion of priorities for accomplishing the Program goals; and a study of personnel requirements. In transmitting the Assessment and Program to the Congress, the President would send forward a Statement of Policy to be used by him in framing fiscal budget requests for Forest Service activities. In submitting annual budget requests, the President would be required to explain the extent to which the budget meets or fails to meet the Statement of Policy.

Section 8 of the enactment establishes the year 2000 as the target date by which time all backlogs of needed resource treatments on National Forest lands will have been eliminated and directs that the annual budget shall contain requests for orderly elimination of such backlogs. Section 9 requires that the financing of forest development roads be considered both budget authority and outlays as defined in the Congressional Budget and Control Act, and that such financing be covered by appropriations acts.

Although the Congress was not willing to accommodate all our recommendations in regard to some of the less desirable provisions of this legislation, our review of the enrolled enactment indicates that the conferees have basically remedied the concerns we had during its development. First, the scope of the bill has been clearly limited to those matters within the jurisdiction and authority of the Forest Service. Secondly, while the bill imposes some additional requirements upon the President in developing and submitting annual requests, it does not unduly restrict the President's flexibility and discretion to fashion annual budgets as he deems appropriate. In fact, procedures



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OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

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Honorable Roy L. Ash



2

established by the bill can improve both Executive and Congressional budget formulation and attendant decision making.

Third, in regard to the requirement that annual budgets from the present until the year 2000 contain requests to eliminate all backlogs of needed resource treatments on the National Forests, mechanisms are available to the President through the new Budget Control Act to offset the apparent rigidity of this provision.

Finally, in regard to the National Forest transportation system, we believe section 9 of S. 2296 is a constructive means of dealing with the nagging problem of financing forest roads and trails. The basic impact of this provision is to require the identification of the value of timber purchaser road construction as a cost to and outlay of the government. Given the requirements and directions in the new Budget Control Act, this provision does not alter the opportunities Congress already has of influencing the scope and extent of timber purchaser road construction. It has the advantage of causing the display of National Forest road construction programs as a whole, and thus will foster an understanding of the component parts of the road program, as well as of their relationship to timber sale programs.

In the attached supplemental statement, we discuss each of these foregoing issues in more detail.

S. 2296 provides an orderly framework and procedure for developing sound national forestry policy and improving resultant program planning and funding decisions. This framework will do much to assure that future generations of Americans have adequate supplies of timber and related forest resources. The legislation will place before the Congress and the public the information necessary to understand the national forestry resource situation in relationship to other national needs and considerations. And it will provide a much-needed long-range perspective from which both the Executive and the Congress can weigh forest policy issues and decisions. As you know, we have already taken a long-range perspective in our program planning with the development of the Environmental Program for the Future. This will serve as the base for the Renewable Resource Program called for under section 3 of the enactment.

We recognize that S. 2296 still contains a number of phrases and provisions which seek to emphasize funding of forestry programs without direct consideration of other worthy Federal programs. Yet the key to the balancing among all Federal activities is still the appropriations process, which is not altered by the enactment. The Congressional Budget Control Act causes significant improvements in the appropriations process including a number of steps aimed at measuring the relative values of the various Federal programs. S. 2296, itself, contains no "penalty" clauses; nor does it include provisions which mandate levels of funding. We thus conclude that the strong Congressional policy support for long-range forestry planning which S. 2296 would provide

Honorable Roy L. Ash

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is a benefit that far outweighs the provisions of the bill which seek to influence Presidential prerogatives.

For these reasons, we strongly urge the President to approve the Forest and Rangeland Renewable Resources Planning Act of 1974.

We would also recommend that a signing ceremony be arranged to call attention to this important legislation. A proposed signing message for notifying the House and the Senate of the signing is enclosed.

Sincerely,



RICHARD A. ASHWORTH
Deputy Under Secretary



THE WHITE HOUSE
WASHINGTON

August 14, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS
FROM: WILLIAM E. TIMMONS *wt*
SUBJECT: Action Memorandum - Log No. 513
Enrolled Bill S. 2296 - Forest and
Rangeland Renewable Resources
Planning Act of 1974



The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

But I am certain that Congress neither intended nor desired