

CRS Report for Congress

Proposals to Merge the Forest Service and the Bureau of Land Management: Issues and Approaches

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Summary

The Forest Service (FS) in the Department of Agriculture and the Bureau of Land Management (BLM) in the Department of the Interior are both directed to manage lands for multiple uses and sustained yields, but their unique histories have led to different laws, regulations, practices, and procedures in managing resources. The similar missions and neighboring and intermingled lands in separate Cabinet departments have led to frequent proposals, dating back to 1911, to transfer one agency to the other department or to consolidate them into one agency.

Proponents and critics cite various benefits and problems to a transfer or merger of the agencies. General questions over the nature of the change — which agency, if either, would remain and in which department — would affect the ramifications of a transfer or merger. Commonly cited benefits of a merger are possibly improved service to users and the public and greater efficiency in federal land management. However, such benefits are likely only if the legal authorities governing BLM and FS management and planning were consolidated, and this could be a daunting challenge. Furthermore, institutional differences, congressional committee jurisdictions, and compensation to state and local governments for the tax-exempt status of federal lands would complicate a merger. In some locations, the agencies are implementing a Service First program of joint facilities and cooperative management efforts as a step toward more efficient federal land management.

The possibility of merging the BLM and FS has arisen most recently because of concerns that high and growing expenditures on wildfire suppression are affecting other land and resource management activities. A distinct, combined federal fire suppression agency, separate from both the FS and the BLM, would reduce the impact of wildfire costs on BLM and FS budgets, but wildfire is integral to most wildland ecosystems, and a separate fire agency would likely emphasize suppression, rather than management to reduce wildfire damages.

This report is an update of out-of-print CRS Report 95-1117, *The Forest Service and Bureau of Land Management: History and Analysis of Merger Proposals*, by Ross W. Gorte and Betsy A. Cody (1995).

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Proposals to Merge the Forest Service and the Bureau of Land Management: Issues and Approaches

Four federal agencies administer about 95% of the approximately 653 million acres of federal land in the United States: the Forest Service (FS) in the Department of Agriculture (USDA), and the Bureau of Land Management (BLM), National Park Service, and Fish and Wildlife Service in the Department of the Interior (DOI).¹ These agencies manage the federal lands for a variety of purposes related to preserving, conserving, and developing natural resources. Each agency has specific statutory mandates and responsibilities for the lands it administers. (See **Appendix A** for historical background on the agencies.)

The FS and BLM are both directed to manage their lands for multiple uses and for sustained yields of resource outputs without impairing resource productivity. Both agencies sell timber, permit or lease lands for livestock grazing, allow mineral exploration and development in many areas, protect watersheds, manage wildlife habitats, administer recreation uses, and preserve wilderness areas, although they often have different rules and regulations governing these activities. The similarity of their missions, the proximity of many of their lands and offices, and the existence of only one major federal resource land manager outside of DOI (the FS) have led to frequent proposals to transfer FS lands to DOI and to merge the BLM and FS. (See **Appendix B** for a chronological description of these proposals.)

The possibility of transferring the FS to DOI and/or merging the FS and BLM has gained some congressional attention. At an oversight hearing on wildfire suppression costs on February 12, 2008, several Members of the House Committee on Appropriations, Subcommittee on Interior, Environment, and Related Agencies questioned whether reorganizing the wildfire and land management responsibilities might be more cost-effective. The subcommittee also has asked the Government Accountability Office (GAO) to assess the benefits and limitations of consolidating the FS in DOI. News stories and other public commentaries have since raised the possibility of a merger.² In addition, some assert that wildfire suppression has become such an overwhelming influence that the agencies are no longer effective at

¹ This report is an update of out-of-print CRS Report 95-1117, *The Forest Service and Bureau of Land Management: History and Analysis of Merger Proposals*, by Ross W. Gorte and Betsy A. Cody (1995).

² See, for example, Christopher Lee, "Forest Service May Move to Interior; Some See Agency As Out of Place Under the USDA," *Washington Post* (Mar. 25, 2008): p. A03; and "Merge Forest Service into Interior?" *The Antiplanner* (Mar. 27, 2008), at [<http://www.ti.org/antiplanner/?p=390>].

achieving other goals and outputs,³ and thus a new “U.S. Fire Service” is perhaps warranted. This report discusses potential benefits and limitations of merging the FS and the BLM and assesses the ramifications of a separate U.S. Fire Service. Appendixes provide historical background on the two agencies and on historical transfer and merger proposals.

The FS and BLM have similar management responsibilities, and many issues affect both agencies’ lands. However, each agency also has unique emphases and functions. For instance, most federal rangelands are administered by the BLM, and the BLM oversees mineral development on all federal lands. Most federal forests are managed by the FS, and only the FS has programs to assist nonfederal landowners. Also, development of the two agencies has differed, and historically they have focused on different issues. Nonetheless, there are also many management parallels, the lands are often intermingled, and the agencies sometimes have offices in the same towns. These factors have led to sporadic discussions of consolidating the agencies.

Transfer or Merger: Options and Consequences

The historical efforts to move one of the agencies and possibly to merge the FS and BLM suggest that numerous possibilities exist. The simplest option would be to expand efforts to increase the number of offices and employees shared by the two agencies. The agencies, as authorized in § 331 of the FY1998 Interior appropriations act (P.L. 105-83) and subsequently extended, have initiated a cooperative program known as Service First. It allows pilot tests of joint permitting and leasing programs, reciprocal delegations of duties and responsibilities (e.g., having a BLM employee conduct the cultural resource assessment for an FS timber sale), and co-locating facilities. One advantage of this idea is that it is currently feasible; no new law would be required to implement the option, although its authorization would need to be extended beyond FY2008 and legislative support or direction could expand the program. Another advantage is its simplicity for users — one office and one person (“one-stop shopping”) for dealing with grazing or recreation permits, regardless of the history of the lands. However, having individuals implementing two different sets of laws, depending on the history of the land, could also confuse users and would likely make the job more complex for employees. For example, a rancher with both BLM and FS grazing permits could meet with one range conservationist, but have different laws applied to the different permits. It could also increase contractual difficulties and litigation if, for example, BLM grazing regulations were unintentionally applied to a national forest grazing permit.

Agency transfers — FS to DOI or BLM to USDA — have been proposed in the past. Such a transfer would presumably place both agencies under the purview of a single Deputy or Under Secretary, of Agriculture or of Interior. The principal advantage of a transfer would likely be greater inter-agency coordination and

³ See Randal O’Toole, *Reforming the Fire Service: An Analysis of Federal Fire Budgets and Incentives* (Bandon, OR: The Thoreau Institute, July 2002), 53 pp.; and Robert H. Nelson, *A Burning Issue: A Case for Abolishing the U.S. Forest Service* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2000), 196 pp.

consistency in annual planning and budgeting, and in implementing common laws and regulations (e.g., the Healthy Forests Restoration Act and the Federal Lands Recreation Enhancement Act). However, such a transfer could only be effected by enacting a law making the transfer. Congressional committee jurisdictions could remain unaffected by a transfer; jurisdiction over FS lands and programs is already split between the Agriculture and Natural Resources Committees, and FS funding is under the jurisdiction of the Appropriations Subcommittees on Interior, Environment, and Related Agencies. However, the departments might be less sanguine about the possible loss of a major agency. The FS accounted for 6% of the FY2007 USDA budget authority (\$5.7 billion out of \$93.6 billion) and 36% of FY2007 USDA staff years (33,912 out of 94,818).⁴ The BLM accounted for 14% of the FY2007 DOI budget authority (\$2.3 billion out of \$15.8 billion) and 16% of FY2007 DOI staff years (10,577 out of 67,429).⁵ Presuming that a transfer would entail no change in the legal mandates for administering the lands, such a transfer would probably have relatively limited impact on land management or users, except through increased inter-agency coordination and consistency. However, whether or not the legal mandates are retained, consolidated, or merged and simplified is a critical issue, discussed below.

Merging the agencies has also been proposed several times. (See **Appendix B**.) The consequences of a merger depend partly on the nature of the merger: would the FS and BLM both be merged into a new agency, or would one agency be absorbed by the other? Would the merged agency be in DOI or in USDA, or would it be in a new Cabinet department, possibly with energy and/or environmental agencies? Because the ramifications of a merger would be more significant than a transfer or some joint operations, the rest of this section discusses the possible impacts of a merger on users, on the agencies, on the federal budget, and on political structures.

Service to the Public

A merger of the FS and the BLM possibly could improve the quality of the agencies' performance. The existence of two agencies, each managing federal lands for multiple uses, has been regarded by some as inefficient and duplicative — two agencies with two sets of laws, policies, and regulations are seen as leading to public confusion and poor service. Differences between the agencies are especially graphic when they promulgate different regulations under one law that applies to both, such as the Federal Lands Recreation Enhancement Act or the Healthy Forests Restoration Act. Merging the agencies would likely lead to a common set of laws, policies, and regulations that might enhance service and reduce duplication (or at least the appearance of duplication).

For certain resources — leasable and locatable minerals — a merger seems likely to at least improve consistency in management decisions. BLM currently

⁴ U.S. Dept. of Agriculture, *FY 2009 Budget Summary and Annual Performance Plan* (Washington, DC: 2008), pp. 89, 93.

⁵ This includes wildfire funding under BLM, rather than as a department-wide program as is proposed for FY2009. U.S. Dept. of the Interior, *Fiscal Year 2009 The Interior Budget in Brief* (Washington, DC: Feb. 2008), pp. A-1 to A-2, A-16, O-1.

administers the mineral activities on all federal lands, including the national forests. FS responsibility in minerals management is limited to administering access and surface land use. A merger would eliminate the current situation in which two different agencies manage different aspects of the same resource on the national forests.

Finally, merger proponents have asserted that consolidating federal multiple-use land management in one agency could lead to a greater focus and higher priority for land and resource management. Such an agency would have more comprehensive authority and responsibility, and its proponents have argued that this would lead to more effective control and more consistent direction. According to merger supporters, concentrating federal multiple-use land management in one agency would lead to formulation and implementation of a more comprehensive, effective national natural resources policy.

Improvements in public service and resource management have long been argued to be the principal benefits of such a merger. This has been a principal motivation behind the Service First Initiative, described above. On the other hand, some of the benefits of coordinated service and management efforts clearly do not require a agency merger, since these benefits are already occurring without a merger. It is unclear how many additional benefits could result from expanding the Service First Initiative, and how many further benefits could only result from a merger.

Opponents, however, might maintain that a merger could reduce agency responsiveness to public concerns. A merger would create a larger agency. This could, arguably, stifle creativity and policy debates, because larger organization typically establish uniform, standardized policies that inhibit individual worker responsibility and creativity.⁶ Critics argue that the agencies are already unresponsive to public interests, and that a merger would create a larger and even less responsive bureaucracy. Furthermore, it is argued that the agencies should focus their efforts on improving management and public service within their current structures, rather than waste time trying to design “the perfect bureaucracy.”

Institutional Effects

The nature of the potential merger has particularly important ramifications for the institutions and employees. The FS may well dominate a combined agency, since it has more than three times as many employees as the BLM (33,912 to 10,577 in FY2007) and more than double the budget (\$5.72 billion to \$2.27 billion in FY2007). The FS administers more land in California, Colorado, Idaho, Montana, and Washington, while the BLM manages more land in Alaska, Nevada, New Mexico, Utah, and Wyoming. In Arizona and Oregon, the acres managed by each agency are about the same. In the Great Plains and eastward, the FS is clearly dominant. Furthermore, the FS was traditionally seen as a more active land manager, because timber management was more active (the FS initiates timber sales) than was minerals management (the BLM typically responds to claim or lease activities). This may

⁶ See, for example, Jonathan Halls, “Organizational Environment: Does It Prevent or Promote Innovation?” at [<http://www.iccreativity.com/LeadingInno/OrgEnvironment.htm>].

have changed in the past decade, with the decline in timber sales and increased emphasis on energy production from federal lands.

The FS also historically had a vibrant *esprit de corps*.⁷ However, the FS image has been tarnished by internal conflicts, best illustrated by the creation of the independent Association of Forest Service Employees for Environmental Ethics in 1989. The successor organization — Forest Service Employees for Environmental Ethics (FSEEE) — representing only current and retired FS employees, is an active litigant on FS policies and programs, suggesting continuing internal dispute about appropriate national forest management. Furthermore, various observers have questioned whether the steep decline in FS timber sales has undercut agency support with the wood products industry and on Capitol Hill.⁸

The BLM's history contrasts with this pattern. Two observers have stated:⁹

The Bureau of Land Management (BLM) does not get much respect. Unfortunately, the BLM was not nicknamed the “Bureau of Large Mistakes,” “Bureau of Livestock and Mining,” and “Bureau of Lumbering and Mining” without justification.... [It] still shows its parentage as either partner or handmaiden to exploiter interests.

The BLM started from (1) the demise of the U.S. Grazing Service at the hands of the ranchers and their congressional allies,¹⁰ and (2) the non-managerial public domain overseer, the General Land Office. Building a coherent, effective agency from such beginnings would have been a difficult challenge, at best. Nonetheless, critics recognize that the BLM has built an effective organization for its role as a federal land manager.¹¹

A BLM-FS merger might disrupt programs, offsetting the possibly enhanced services (discussed above). In the short run, employees would need to learn the new laws, regulations, and policies as well as new operating procedures and practices. If the BLM were merged into the FS, BLM employees would have to learn FS laws, regulations, policies, procedures, and practices; the reverse would be true if the FS were merged into the BLM. And if a new agency were created, everybody would have to learn the new laws, regulations, policies, procedures, and practices. A merger could lead to internal conflicts between previously-FS and previously-BLM staff, because of differing views over federal policies and obligations with respect to users. However, the agencies have become less disparate over time, probably making a merger less disruptive today than it might have been decades ago.

⁷ See Herbert Kaufman, *The Forest Ranger: A Study in Administrative Behavior*, Resources for the Future (Baltimore, MD: Johns Hopkins Press, 1960), 259 pp.

⁸ See various chapters in *A Vision for the U.S. Forest Service: Goals for Its Next Century*, Roger A. Sedjo, ed. (Washington, DC: Resources for the Future, 2000), 273 pp.

⁹ Andy Kerr and Mark Salvo, “A New Name and Mission for the Bureau of Land Management,” at [<http://www.andykerr.net/ConservPolicy/NewBLM.html>].

¹⁰ Gates, *History of Public Land Law Development*, pp. 617-622.

¹¹ Kerr and Salvo, “A New Name and Mission for the BLM.”

A merger also could cause morale problems. The personnel of the agency that is absorbed, or of both if a new agency is created, may feel a loss of identity, since many workers' sense of worth is linked to their organizations.¹² Retirements, transfers, reassignments, job losses, and the like might result from a merger, as the post-merger employees may not match the post-merger agency requirements. Such actions could exacerbate the possible morale problems.¹³

Alternatively, creating a new agency may offer new opportunities for agency employees to help shape the future of natural resource management. Retirement of long-term employees that help maintain traditional agency cultures could allow newer, younger employees (often with different education and experience) greater prospects for creating a new future. A new agency, with revised legal authorities and guidance (as discussed below), might provide a chance to blend differences into a coherent, cohesive organization, with a common vision of the future.

Fiscal Impacts

Reducing costs by eliminating duplicative personnel and offices is one of the primary benefits cited in most merger proposals. The Carter Administration had estimated the benefits of its Department of Natural Resources proposal at \$100 million annually, but did not provide details about how these savings would be achieved.¹⁴ In 1984, the General Accounting Office (now Government Accountability Office) reported that 64 locations had both BLM and FS offices, and estimated that combining these offices could save \$33.5 million annually.¹⁵ Inflation over the intervening years would likely lead to higher estimates today, although some of those savings might already have been achieved under the Service First initiative.

Another benefit commonly cited by proponents is the creation of a more efficient and effective structure for managing federal lands and resources, by merging duplicative efforts. The two agencies have nearly identical missions: each inventories its lands and resources, plans and then acts to provide for use and protection of the lands and resources, and monitors the consequences of actions and uses. Especially in areas with intermingled, adjoining, or neighboring lands, these functions arguably could be more efficiently conducted by a larger single entity than by separate agencies.

A merger could lead to some higher costs, at least in the short-term. There would be implementation costs, associated with changing signs, logos, letterhead,

¹² Tom Fryers, "Work, Identity and Health," *Clinical Practice and Epidemiology in Mental Health*, v. 2 (2006), [<http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1501011>].

¹³ Fryers, "Work, Identity and Health."

¹⁴ Information cited from out-of-print CRS Report 79-79 ENR, *Proposed Department of Natural Resources: A Summary and Analysis*, by Susan R. Abbasi, available from Ross Gorte (7-7266).

¹⁵ U.S. General Accounting Office, *Program to Transfer Land Between the Bureau of Land Management and the Forest Service Has Stalled*, GAO/RCED-85-21 (Washington, DC: GPO, Dec. 27, 1984), 51 p.

uniforms, and the like. (Creating a new agency would have greater short-term implementation costs than moving one agency into the other.) There may be some personnel and planning costs from eliminating redundant positions and from the transfers necessary to have the right people in the right locations. Buildings and other facilities and equipment might be redundant, and need to be sold (which would generate revenues, but might require expenditures to be prepared for sale).

Others argue that reducing duplication does not necessarily lead to greater efficiency. Duplication may appear costly, but both economic theory and business practice suggest that the competition drives efficiency.¹⁶ This explains why firms develop several products for the same market — to compete internally as well as against other firms. If a BLM-FS merger reduced duplication, it also might eliminate the potential competition that could be used to improve efficiency. This presumes, of course, that the agencies feel that they are competing against each other and that analysts (external and internal) compare different agency practices and procedures to assess their relative efficiency and propose improvements.

Legal and Political Considerations

Numerous legal and political ramifications could complicate a BLM-FS merger. These considerations include consolidating the laws, congressional jurisdictions, agency structures, and compensation for the tax-exempt status of federal lands.

Consolidating the Laws. Merging the FS and the BLM would probably provide few benefits if the combined agency continued to administer two different sets of laws, applying to different, often adjacent landholdings. Thus, an agency merger necessarily raises the question of consolidating the legal authorities for the agencies.

Merging FS and BLM legal authorities could be a difficult task. The Public Land Law Review Commission took six years to complete its review, producing its recommendations in a 342-page volume (plus 39 separately-bound background documents), and it only addressed the public domain lands. The FS publishes a volume with the general laws governing FS management;¹⁷ the 1978 edition was 1 inch thick, while the 1993 edition is 2½ inches thick. The volume has not been updated in 15 years, and does not include the multitude of laws providing site-specific management direction.

Furthermore, congressional management direction for specific sites seems to have proliferated in recent years. Designated BLM sites (in addition to wilderness areas and wild and scenic rivers) include 15 national monuments, 13 national conservation areas, a national recreation area, a cooperative management and

¹⁶ See, for example, Lester C. Thurow, *The Zero-Sum Society: Distribution and the Possibilities for Economic Change* (New York, NY: Basic Books, 1980) 230 pp.; and Thomas J. Peters and Robert H. Waterman, Jr., *In Search of Excellence: Lessons from America's Best-Run Companies* (New York, NY: Harper & Row, 1982), 360 p.

¹⁷ U.S. Dept. of Agriculture, Forest Service, *The Principal Laws Relating to Forest Service Activities* (Washington, DC: GPO).

protection area, an “outstanding natural area,” and a forest reserve.¹⁸ Designated FS sites include 21 national game refuges and wildlife preserves, 20 national recreation areas, 6 national scenic areas, 4 national monuments, 3 special management areas, 2 national botanical areas, 2 national volcanic monuments, 2 national protection areas, a primitive area, a scenic research area, a national historic area, a recreation management area, and a scenic recreation area,¹⁹ plus a few more congressionally designated areas not listed in the agency’s lands report.²⁰

A consolidation of federal land law could result in two possible outcomes. One is that existing laws could be largely retained, extended to the additional lands, and where duplicative or contradictory revised to provide consistent direction. The result would likely be a tome on federal multiple-use laws larger than the current FS volume. Alternatively, federal multiple-use land law could be completely revised to simplify management guidance that has evolved piecemeal over a century or more for the two existing agencies. The latter might be a more difficult task, as simpler legislative direction often yields greater agency discretion, which could lead to more objections and disputes among interest groups.

Differences in federal water rights between the national forests and the BLM’s public lands would further complicate a merger. Federal reserved water rights are associated with reserves, such as the national forests, dating from the creation of the reservation.²¹ In contrast, BLM often does not have federal reserved water rights, because the lands were never “reserved.” Presuming that a merger would retain such historical reservations, issues regarding federal reserved water rights — on which lands they exist and with what priority dates — could complicate any BLM-FS merger proposal or subsequent merged agency management.

Congressional Jurisdictions. Congressional jurisdictional issues could complicate merging the FS and BLM legal authorities. The Natural Resources Committees have jurisdiction over the BLM and the public lands and over the forest reserves/national forests created from the public domain. However, the Agriculture Committees have jurisdiction over acquired forest lands and over forest management generally, as well as over forestry assistance and forest research. Which committee[s] gets jurisdiction over a particular bill depends in large measure on how the bill is drafted — is it public lands legislation or a forest management bill? Furthermore, the referrals are not always consistent; for example, the Secure Rural Schools and Community Self-Determination Act of 2000 (H.R. 2389; P.L. 106-393)

¹⁸ U.S. Dept. of the Interior, Bureau of Land Management, *Public Land Statistics, 2006*, (April 2007), at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Business_and_Fiscal_Resources/2006_pls.Par.36087.File.dat/Part_5.pdf]

¹⁹ U.S. Dept. of Agriculture, Forest Service, *Land Areas Report (LAR) — as of Sept 30, 2007*, at [<http://www.fs.fed.us/land/staff/lar/2007/lar07index.html>].

²⁰ Information cited from out-of-print CRS Report 88-571 ENR, *Special Management Areas in the National Forest System*, by Ross W. Gorte (1988); available from Ross W. Gorte (7-7266).

²¹ For background information, see CRS Report RL30809, *The Wild and Scenic Rivers Act and Federal Water Rights*, by Cynthia Brouger.

was reported by the House Agriculture Committee and discharged from the House Resources Committee before passage, but was not even referred to the Senate Agriculture Committee.

An agency transfer does not necessitate a change in congressional jurisdiction, and committee jurisdictions can change without any change in the structure of the executive branch. The then-Public Lands Committees retained jurisdiction over the forest reserves after they were transferred to USDA to create the FS. Jurisdiction over FS funding was transferred from the Appropriations Subcommittee on Agriculture to the Subcommittee on Interior and Related Agencies (now Interior, Environment, and Related Agencies) in 1955, with Members (including the Speaker of the House) noting that the change was for the convenience of Congress and was not intended to suggest an executive restructuring. However, an agency *merger* would be more significant than a transfer, and keeping committee jurisdictions distinct could be difficult. At a minimum, both the Agriculture and Natural Resources Committees would be involved in any modification of FS and/or BLM authorizations to effect a merger.

Agency Structure. Not surprisingly, since they were created at different times by different people, the FS and the BLM are organized differently. The FS is organized around the 156 national forests, as proclaimed by the various presidents and modified for administrative simplicity. Each forest has one to seven or more ranger districts (administered by a district ranger) for implementing activities on the ground. The national forests, administered by forest supervisors, are organized into nine regional offices.²² Two regions are composed substantially or entirely of the forests in one state (Region 5 — California and Hawaii; and Region 10 — Alaska); two more are substantially composed of the forests in two states (Region 3 — Arizona and New Mexico; and Region 6 — Washington and Oregon). In addition, two states are divided between regions (Idaho in Region 1 and Region 4; and Wyoming in Region 2 and Region 4).

In contrast, BLM is organized into 12 state offices. (BLM lands in the State of Washington are administered by the Oregon State Office.) BLM lands and federal minerals in the other 38 states are administered by a single Eastern States Office. BLM lands are organized into resource areas administered by field offices. Some field offices (in Arizona, Idaho, and Oregon) report to district offices, which report to the BLM state offices. Other field offices (in Colorado, Montana, Nevada, Utah, and Wyoming) report directly to the state office. In the other states (Alaska, California, and New Mexico), some field offices report directly to the state office and others report to a district office that reports to the state office.

The state-based BLM organizational structure has provided the agency with a simple and direct means of responding to and working with governors and state congressional delegations. This has probably made the BLM more sensitive to state-level issues than the FS, but this could be at the cost of relatively less sensitivity to local and national issues. A merger likely would lead to a consistent regional and

²² The regions are numbered 1 through 10, but Region 7 was terminated in 1966, with the forests being reorganized between Regions 8 and 9.

local organizational structure, but it is unclear what that structure would be, and the choice of structure (and the terminology for the units and administrators) could have a significant effect on the effectiveness of the post-merger agency.

Compensation for Tax-Exempt Federal Lands. Federal lands are exempt from taxation by state and local governments. If the lands were privately owned, the landowners would pay various types of taxes — sales, property, income, severance, yield, or other taxes — to state and local governments, depending on the state and local tax structures. The federal government, however, is exempt from such taxation.

A variety of programs have been enacted to compensate units of government — primarily counties — for tax-exempt federal lands. The oldest compensation program is the FS payment of 25% of gross receipts from timber sales and other revenue sources to the states for use on roads and schools in the counties where the national forests are located.²³ This program was temporarily (FY2001-FY2006) replaced by the Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393), at the discretion of each county.²⁴ The program expired at the end of FY2006, but one additional year's payments were enacted in the FY2007 emergency appropriations act (P.L. 110-28), and possible reauthorization continues to be debated. If the program expires, payments return the 1908 formula of 25% of gross receipts. Because the P.L. 106-393 program was based on historical payments, the decline from returning to 25% of receipts will likely vary widely.

Other compensation programs vary widely, depending on the history and location of the lands, the source of the receipts, and the specific legal authority involved.²⁵ For example, states and counties get 50% of mineral receipts from public domain lands — except in Alaska, which receives 90% — but only 4% of land and materials receipts (e.g., land or timber sales), and 12½% of grazing receipts within grazing districts (§3 lands under the Taylor Grazing Act) and 50% of grazing receipts outside grazing districts (§15 lands) — except in Alaska, which receives 100% of grazing receipts in excess of administrative costs. The counties are allocated 75% of receipts from the O&C lands,²⁶ except that up to a third is used by the BLM for roads and reforestation, so the counties actually get 50% of receipts — except that the O&C counties received payments under the Secure Rural Schools and Community Self-Determination Act of 2000 for FY2001-FY2007. The counties containing the Coos Bay Wagon Road lands similarly are allocated 75%, with a third

²³ Act of May 23, 1908; 16 U.S.C. § 500.

²⁴ See CRS Report RL33822, *The Secure Rural Schools and Community Self-Determination Act of 2000: Forest Service Payments to Counties*, by Ross W. Gorte.

²⁵ U.S. Dept. of the Interior, Bureau of Land Management, “Table 3-31. Legal Allocation of Bureau of Land Management Receipts, Fiscal Year 2006,” *Public Land Statistics, 2006* (April, 2007), at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Business_and_Fiscal_Resources/2006_pfs.Par.75530.File.dat/Part_3.pdf], pp. 98-112.

²⁶ The O&C lands are lands revested in federal ownership by federal law in 1916, because of the failure of the Oregon and California Railroad to fulfill the terms of its land grant. See **Appendix A** for more details.

for BLM roads and reforestation, but limited to the actual tax assessment. In Nevada, the states and counties get 15% of land sale receipts for sales under four specific land sale authorities. Counties with Bankhead-Jones lands get 12½%, 25%, or 50% of receipts, depending on several Executive Orders, a Comptroller General’s Decision, and a DOI Solicitor’s Opinion. States and counties containing Bureau of Reclamation lands and the Naval Petroleum and Oil Shale Reserve get no payments. Several other special land designations (e.g., state selected lands except Alaska, Coos Bay Wagon Road lands, town sites on Reclamation lands, “south half of Red River, Oklahoma,” and more) provide varying payments, generally ranging from 0%-50% of receipts.

In addition to these mandatory spending compensation programs for specific lands, Congress enacted the Payments In Lieu of Taxes (PILT) Act²⁷ to compensate counties for most tax-exempt federal lands. PILT payments to counties are based on a complicated formula, basically based on the acreage of “entitlement” lands in the county (most, but not all, federal lands) and annually inflation-adjusted per-acre payments, but limited by county population and reduced by payments under many other county compensation programs (such as FS 25% receipt-sharing, O&C 50% receipt-sharing, and Secure Rural Schools payments).²⁸ However, PILT requires annual appropriations for the program. Since PILT appropriations have been less than the calculated total payments in recent years, counties have been receiving proportionally less than the calculated payments.

In theory, few object to fair and consistent compensation to state and local governments for the tax-exempt status of federal lands. The political difficulty lies in determining what is “fair and consistent.” Consistent could have two different meanings in this context. To some, it would mean guaranteed payments — mandatory spending — regardless of federal budget difficulties or appropriations shortfalls. This has been sought in reauthorizing the Secure Rural Schools legislation, but is difficult because the Budget Act requires bills with mandatory spending to be offset with additional revenues or reductions in other mandatory spending; neither has been found in the ongoing reauthorization debate, and would likely not be any easier for a new “consistent” compensation program. Consistent also could mean predictable. Compensation programs based on receipts can cause annual payments to fluctuate widely; plus or minus 50% from year to year is not unheard of for FS payments. Some have proposed basing payments on a 5- or 10-year rolling average of receipts to moderate payment fluctuations. Such a change in approach would likely be easier to enact than mandatory spending.

“Fair” compensation is difficult to determine, because different states and local governments rely on different funding mechanisms — sales taxes (based on gross receipts), property taxes (based on land values), income taxes (based on net receipts), and more. Choosing any one compensation system would be inherently unfair to some jurisdictions, because it would likely under- or overcompensate compared to taxation of private landowners. Similarly, choosing any one rate — be it a fixed

²⁷ P.L. 94-565; 31 U.S.C. §§ 1601-1607.

²⁸ See CRS Report RL31392, *PILT (Payments in Lieu of Taxes): Somewhat Simplified*, by M. Lynne Corn.

amount per acre (like PILT) or a fixed rate per unit of value — would also be unfair to some jurisdictions, because tax rates differ; if, for example, the citizens of Michigan willingly tax their own properties at a higher rate than the citizens of Oregon, should they not also be compensated at a higher rate for the tax-exempt federal lands in their state?

An agency merger could be effected without modifying the current complex systems for compensating state and local governments for the tax-exempt status of federal lands. Given the political difficulties in determining “fair and consistent” compensation, trying to “rationalize” the compensation system effectively might prevent a merger from occurring. However, revising the laws guiding federal multiple-use resource management would be an opportunity to consider revising the laws compensating state and local governments.

A U.S. Fire Service?

The high and rising cost of wildland fire management by the FS and DOI and coordinated efforts to produce and maintain a National Fire Plan since 2000 have led some to consider whether a separate, independent wildland fire management agency might be more efficient and effective for wildfire tasks while leaving the FS and BLM to their traditional multiple-use resource management roles.

Total FS and DOI appropriations for wildland fire management have averaged \$3.10 billion annually since FY2003, with the highest appropriations ever — \$3.55 billion — for FY2008.²⁹ This is a substantial rise from the \$1.09 billion averaged annually for FY1994-FY1999. Also, the share of the total budget allocated to wildfire management has increased substantially. For FY1994-FY2000, wildfire suppression accounted for 31% of FS discretionary funding. Since FY2001, fire suppression costs have accounted for 44% of FS discretionary funding, rising to 48% in FY2007.

More importantly, rising wildfire suppression costs are affecting other FS programs. Both agencies have the discretion to borrow unobligated funds from other accounts for emergency wildfire suppression expenditures. This effectively provides them with open-ended appropriation reprogramming authority for limited purposes. Before FY2000, such borrowing authority had little impact on FS programs. The BLM can borrow from any DOI accounts; while fire was 42% of BLM discretionary appropriations in FY2007, it was only 5% of total DOI discretionary funding. Thus, borrowing has had, and still has, relatively minor impacts on DOI programs.

The FS situation is different. Historically, the FS borrowed funds primarily from its mandatory spending accounts, particularly the Knutson-Vandenberg (K-V) Fund. This account accumulated deposits from timber purchasers to reforest and otherwise improve timber in timber sale areas. Because of the lag between timber payments and reforestation, the K-V Fund often had a balance of about \$500 million — more than enough to borrow for emergency fire suppression without impinging on one season’s tree planting efforts. However, since FY2000, emergency wildfire

²⁹ See CRS Report RL33990, *Wildfire Funding*, by Ross W. Gorte.

suppression costs have risen, while the K-V Fund is much smaller (because of much lower timber sales since 1990). Thus, the FS has had to borrow funds from other FS accounts — land and easement purchases, recreation and wildlife management, and more. These rising borrowings, even when repaid in subsequent supplemental or Interior appropriations acts, affect program implementation, because they create uncertainty in the availability of funds. Hence, legislation to insulate agency appropriations from emergency fire suppression funding has been introduced in the 110th Congress (e.g., H.R. 5541, H.R. 5648, S. 1770).

Some suggest that the fire suppression funding issue is sufficiently severe to warrant a separate agency for wildfire management. They maintain that this would allow the FS and BLM to focus on resource management, and prevent wildfire emergencies from infringing on funding for other programs. In a sense, DOI has taken a step in this direction. In his FY2009 budget request, the President proposed moving wildland fire management funding from the BLM budget to DOI Department-wide Programs. This reflects the current situation, where about 40% of BLM wildfire funding is transferred to other DOI agencies (National Park Service, Fish and Wildlife Service, and Bureau of Indian Affairs), and would help BLM to preserve funding for other programs. Such a shift — separating the funding without separating the program — is less feasible for the FS.

A separate federal wildfire agency could have some significant drawbacks. Most important, separating fire management from land and resource management would make coordinating wildfire with the resources that depend on fire more difficult. Wildfire is an integral element in most temperate ecosystems; some resources (e.g., certain plant and animal species) rely on wildfire and burned areas for regeneration and habitat. In addition, a wildfire agency would likely focus on fire control, largely because acres burned are the most readily measurable performance standard and because actively burning wildfires draw congressional, public, and media attention. Wildfire management activities that seek to reduce damages, such as protecting individual structures and reducing biomass fuels, are less likely to be emphasized by a wildfire suppression agency.

The FS and BLM have been responding to wildfire ecological and cost concerns by developing *appropriate management response* and *wildland fire use* practices. Appropriate management response is an approach that treats each wildfire individually using a broad array of tactical responses, from monitoring fire behavior and progress to aggressive suppression efforts, considering the wildfire's threat to lives and property and the management goals for the area. Wildland fire use is managing naturally occurring wildfires within predetermined areas to provide resource benefits (and reduce suppression costs) while assuring minimal threats to people and property.

Summary and Observations

The Forest Service (FS) in the U.S. Department of Agriculture (USDA) and the Bureau of Land Management (BLM) in the Department of the Interior (DOI) are both directed to manage their lands for multiple uses and for sustained yields of resource

outputs without impairing resource productivity. Both agencies sell timber, permit or lease lands for livestock grazing, allow mineral exploration and development in many areas, protect watersheds, manage wildlife habitats, administer recreation uses, and preserve wilderness areas, although they have different rules and regulations governing these activities. The similarity of missions, the proximity of lands and offices, and their existence in separate Cabinet departments have led to frequent proposals to transfer one agency to the other department and/or to merge the BLM and the FS.

The FS was created in 1905, when Congress transferred the forest reserves (renamed national forests in 1907) from DOI to USDA and merged the Forestry Division of DOI's General Land Office with USDA's larger Bureau of Forestry. The BLM was created in 1946, by a merger of the DOI Grazing Service and the General Land Office. Despite the similarity of their missions, the agencies have developed independently because of their substantially different creations and evolution.

Proposals to transfer the FS to DOI or the BLM to USDA, or to merge the FS and BLM (or its predecessor), date back to 1911, and have been made under Presidents Taft, Harding, Hoover, Roosevelt, Truman, Eisenhower, Nixon, Carter, and Clinton. In an attempt to improve administration of the federal lands, President Reagan proposed an substantial exchange (consolidation) of lands and personnel between the agencies, but even this more limited reorganization was prevented by Congress.

Proponents and critics have cited various benefits and problems associated with transferring the agencies or merging the BLM and the FS. General questions involve the nature of the merger — would one agency absorb the other, or would a new agency be created; would the agency be in USDA, DOI, or a new department, or possibly be an independent agency? Answers to these questions affect the likely consequences of a merger.

Improved service to the public has been touted as a reason for merging the agencies. Proponents argue that a single federal multiple-use resource agency could provide uniform practices and procedures, reduce public confusion, and establish a comprehensive federal natural resources policy. Critics counter that a merger could stifle creativity and public policy debates by creating a larger, less responsive bureaucracy.

A merger would necessarily have substantial effects on the institutions. The FS might well dominate, since it has three times as many employees and three times as large a budget while administering nearly as much land outside Alaska. The FS was historically perceived to be a more active manager with greater *esprit de corps*, because it initiates timber activities, where the BLM often responds to minerals activities initiated by others. However, the BLM has been improving in these areas, while the FS image has become tarnished by internal conflict. Furthermore, the decline in timber sales and increased emphasis on energy production from federal lands in the past decade has brought the management styles of the two agencies closer together. Thus, a merger might be less disruptive than it might have been a few decades ago. However, the necessary transfers and adjustments might disrupt programs and hurt employee morale, while varying practices and procedures could

prove difficult to merge. On the other hand, a new agency could offer an opportunity for employees to help shape the future of federal natural resources management and policy.

Lower costs are commonly cited as reasons for a merger. Costs would allegedly be reduced by eliminating duplicative personnel and offices, leading to greater management efficiency. However, there would be short-term implementation costs, for altering signs and letterheads, for transferring people to where they are needed, and more. Furthermore, economic theory and business practice suggest that competition drives efficiency; eliminating duplication might also eliminate the potential efficiency-producing interagency competition, assuming the agencies and analysts compared agency practices to uncover efficiencies. In addition, the agencies may already be achieving some of these efficiencies through the Service First initiative.

A merger would probably provide limited benefits if the legal authorities governing FS and BLM management and planning were not also merged. However, a merger of legal authorities could be difficult. The plethora of laws and regulations governing agency processes and practices would have to be consolidated. The laws could be extended to additional areas, with modifications to eliminate redundancy and contradictions, or could be simplified to provide direct, coordinated legal guidance to replace the incremental legislative direction of the past century. The former would likely be easier; the latter would be shorter and clearer, but probably more difficult to achieve because of concerns among the various interest groups. Federal reserved water rights for some areas could complicate the legal consolidation. Jurisdictional issues within Congress — the Natural Resources Committees have had jurisdiction over the BLM and public lands, but the Agriculture Committees have been the principal actors in FS and national forest issues — could complicate the issue. Differing agency organizational structures, with the key FS organization by national forests and the BLM largely structured around state offices, could also constrain consolidation. Finally, the complex array of programs to compensate state and local governments for the tax-exempt status of federal lands might impede efforts to create one consistent federal multiple-use resource management agency.

Recent questions about a possible merger have been raised because of concerns that wildfire suppression costs are impeding federal multiple-use management. One newly suggested option would be creating a separate federal wildfire agency from the wildland fire management organizations within the FS and the BLM. This would allow the agencies to refocus management efforts on non-fire activities and would insulate program budgets from emergency borrowing to suppress wildfires. However, it would also separate wildfire management from other land and resource management, even though wildfire is integral to most temperate ecosystems. The agencies are responding to cost and ecological concerns by developing “appropriate management responses” to wildfires, with actions ranging from monitoring fires (“wildland fire use” to achieve management goals) through aggressive suppression, depending on resource benefits and the values at risk.

Appendix A: Historical Background on the Forest Service and the Bureau of Land Management

The USDA Forest Service and DOI Bureau of Land Management have similar management responsibilities and often intermingled or neighboring lands. However, each agency also has unique emphases and functions, often reflecting their different creations and evolutions. This appendix provides historical background to help explain differences between the agencies.

Forest Service

The FS is an agency in the U.S. Department of Agriculture. The first federal funding for forestry — an 1876 study of western forest conditions — was attached to an Agriculture appropriations bill, because a bill authorizing such a study had stalled in the House Public Lands Committee. Permanent federal forestry funding began in 1881, when Congress established the USDA Division of Forestry. The division initially focused on providing information to Congress and the public about the condition of U.S. forests. The mission evolved over the succeeding decades to providing forestry assistance to states and private forestland owners. The division grew slowly, and was upgraded to the Bureau of Forestry in 1901.

Forest Reserves. In 1891, Congress granted the President the authority to establish forest reserves from the existing public domain lands under DOI jurisdiction.³⁰ Initially, the forest reserves were administered by a Division of Forestry in the DOI General Land Office, because the office (one predecessor of the BLM) was responsible for the public domain from which the reserves were created. This office administered the forest reserves for 14 years, during which time the reserves were increased to 56 million acres and the first federal commercial timber sales were made.

In 1898, Gifford Pinchot became chief of the USDA Division of Forestry. He argued that USDA's forestry expertise warranted control over the forest reserves, but instead was directed to consult with the DOI Division of Forestry. However, Pinchot's influence on federal forestry increased when his close personal friend, Theodore Roosevelt, became the U.S. President in 1901. It took Pinchot and Roosevelt nearly four years to convince Congress of the wisdom of transferring the forest reserves to USDA. Interestingly, DOI Secretary Ethan Allen Hitchcock and Land Commissioner W. A. Richards supported the transfer of the lands to USDA.³¹ In 1905, Congress enacted the Transfer Act³² to shift the responsibility for administering the reserves to USDA and to merge DOI's Division of Forestry with

³⁰ Section 24 of An Act to Repeal Timber-Culture Laws, and For Other Purposes, Act of Mar. 3, 1891; 16 U.S.C. § 471 (repealed).

³¹ Paul W. Gates, *History of Public Land Law Development*, written for the Public Land Law Review Commission (Washington, DC: GPO, Nov. 1968), p. 579.

³² Act of Feb. 1, 1905; 16 U.S.C. § 472.

the larger USDA Bureau of Forestry. The new entity was named the Forest Service, with Pinchot as the first chief.

President Roosevelt more than doubled the forest reserve acreage in the two years following the merger, to a total of 151 million acres by 1907. Congress responded by limiting the President's authority to proclaim additional forest reserves, and renamed the reserves the *national forests*. In 1911, in the Weeks Law,³³ Congress authorized additions to the National Forest System through the purchase of private lands in need of rehabilitation. Under this authority and other specific acts, the National Forest System has grown slowly to its current holdings of 193 million acres in 44 states.³⁴ These lands are concentrated in the West, but the 25 million acres of national forests in the eastern half of the country account for more than half of all federal lands in the East.

Forest Service Funding. As noted above, forestry funding began in the Agriculture appropriations bill in 1876, and was a continuous account beginning in 1881. In 1955, House Appropriations Committee Chair Clarence Cannon decided to consolidate public works funding under one subcommittee, initially known as the Public Works Subcommittee and now called the Energy and Water Development Subcommittee. House Interior Appropriation Subcommittee Chair Michael Kirwin complained about the loss of his largest agency (the Bureau of Reclamation), and argued for a substitute of comparable size. The FS was chosen.

The transfer of FS funding to Interior appropriations raised many concerns, mostly related to the efforts by several administrations to transfer the FS to DOI. The concerns were sufficient for House Speaker Sam Rayburn to take the floor to state that the transfer was merely an administrative realignment for congressional purposes and should not be seen as a precursor to transferring the agency.³⁵ Senate Interior Appropriations Subcommittee Chair Carl Hayden opened the 1955 hearings on the FS budget by noting that the FS transfer from the Agriculture to the Interior Subcommittee in the Senate was simply following the jurisdiction realignment in the House, and was not intended to suggest an agency transfer.

National Forest Management. In 1897, in what has become known as the Organic Administration Act,³⁶ Congress stated the purposes for which forest reserves (national forests) could be established:

... to improve and protect the forest within the reservation, or for the purpose of securing favorable water flows, and to furnish a continuous supply of timber for the use and necessities of the citizens of the United States.

³³ Act of Mar. 1, 1911; 16 U.S.C. §§ 485, 515, et al.

³⁴ USDA Forest Service, *Land Areas Report (LAR)* — as of Sept 30, 2007, available at [<http://www.fs.fed.us/land/staff/lar/2007/lar07index.html>].

³⁵ *Congressional Record*, v. 101, part 3 (March 24, 1955): pp. 3670-3671.

³⁶ Section 1 of the Sundry Civil Expenses Appropriation Act for Fiscal Year 1898, Act of June 4, 1897; 16 U.S.C. §§ 473-475, et al.

FS efforts to administer the national forests focused initially on fire control and livestock grazing. The agency's authority to regulate livestock grazing and charge grazing fees was upheld by the U.S. Supreme Court in 1911.³⁷ Although sheep and goat grazing declined precipitously after the end of World War I, cattle grazing in the national forests has been relatively stable since the 1930s. In contrast, and despite FS efforts, timber sales remained relatively low until after World War II, then climbed quickly during the 1950s; the sale program was relatively stable from 1960 through 1988, but has declined substantially since 1989, due to a host of factors, including protection of water quality and of wildlife habitat for rare or endangered species, such as the northern spotted owl. Recreation uses also rose after World War II, and except for a brief decline in the mid-1980s, have continued to expand.³⁸

Management goals for the national forests were identified in the 1897 act, and were further articulated and expanded in the Multiple-Use Sustained-Yield Act of 1960.³⁹ This latter act states:

It is the policy of the Congress that the national forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes.... The establishment and maintenance of areas as wilderness are consistent with the purposes and provisions of this Act.

The Multiple-Use Sustained-Yield Act directs national forest management for the combination of uses that “will best meet the needs of the American people.” Resource management is to be coordinated for *multiple use* — considering the relative values of the various resources, but not necessarily maximizing dollar returns, nor requiring that areas be managed for all or even most uses. The act also calls for *sustained yield* — a high level of resource outputs in perpetuity without impairing the productivity of the land.

Management of the National Forest System is also guided by the Forest and Rangelands Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976 (NFMA).⁴⁰ These laws encourage foresight in using the nation's renewable resources, and establish a long-range strategic planning process for FS management. RPA focuses on national, long-range direction for forest conservation by requiring an Assessment to inventory and monitor the nation's resource situation, a Program and Presidential Statement of Policy to guide FS policies and budgets, and an Annual Report to evaluate Program implementation and other FS activities. NFMA substantially expanded the guidance for the FS to prepare comprehensive land and resource management plans for units of the National Forest System that are integrated with the RPA planning process.

³⁷ Samuel T. Dana and Sally K. Fairfax, *Forest and Range Policy: Its Development in the United States*, 2d ed. (New York, NY: McGraw-Hill Book Co., 1980), p. 89.

³⁸ For a discussion of historic use patterns, see U.S. Congress, Office of Technology Assessment, *Forest Service Planning: Accommodating Uses, Producing Outputs, and Sustaining Ecosystems*, OTA-F-505 (Washington, DC: GPO, Feb. 1992), pp. 35-39.

³⁹ P.L. 86-517; 16 U.S.C. §§ 528-531.

⁴⁰ Respectively: P.L. 93-378 and P.L. 94-588; 16 U.S.C. §§ 1600-1614.

Other FS Programs. FS responsibilities are not limited to managing the national forests. Another principal FS program is a continuation of the original role of the Bureau of Forestry: to provide forestry assistance to states and nonindustrial private forest owners. Congress enacted the Clarke-McNary Act to consolidate these forestry assistance programs.⁴¹ Forestry research is the third principal FS program. Congress first authorized forest studies in the 1870s, but was silent on forestry research until 1928, when it enacted the McSweeney-McNary Act “to insure adequate supplies of timber and other forest products.”⁴² The authorities for these two programs were revised and updated in separate acts in 1978.⁴³ The FS also provides forestry assistance under its International Forestry program.⁴⁴

The FS also manages some lands in the National Forest System that are not national forests — notably the 20 national grasslands and 69 land utilization projects and purchase units. These 89 units were established under the Bankhead-Jones Farm Tenant Act⁴⁵ to:

... correct maladjustments in land use, and thus assist in controlling soil erosion, reforestation, preserving natural resources, protecting fish and wildlife, developing and protecting recreational facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety, and welfare, but not to build industrial parks or establish private industrial or commercial enterprises.

While many of the lands acquired under the Bankhead-Jones Farm Tenant Act are administered by the FS, others (including some lands transferred from USDA) are administered by the BLM.

Bureau of Land Management

The BLM was formed in 1946 by a merger of two DOI agencies: the General Land Office and the U.S. Grazing Service. The General Land Office had been established in the Department of Treasury in 1812 (and transferred to DOI in 1849) to oversee the conveyance of *public domain* lands out of federal ownership. The public domain are the lands acquired by the federal government from the original colonies or by treaty or purchase from a foreign government.⁴⁶ The emphasis for

⁴¹ Act of June 7, 1924; 16 U.S.C. §§ 564-570.

⁴² Act of May 22, 1928; 16 U.S.C. §581.

⁴³ Respectively: the Cooperative Forestry Assistance Act of 1978, P.L. 95-313; 16 U.S.C. §§ 2101-2111; and the Forest and Rangeland Renewable Resources Research Act of 1978, P.L. 95-307; 16 U.S.C. §§ 1641-1647.

⁴⁴ Authorized in §2405(d) of the Global Climate Change Prevention Act of 1990, Title XXIV of the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 farm bill, P.L. 101-624), and reauthorized in subsequent farm bills; 7 U.S.C. § 6704(d).

⁴⁵ Act of July 22, 1937; 7 U.S.C. §§ 1010-1012.

⁴⁶ For background, see CRS Report RL34267, *Federal Land Ownership: Constitutional* (continued...)

many years was on conveying (disposing of) the public domain lands, not on managing them. Conveyances included grants to states (for education) and to railroads (for developing transcontinental transportation routes). In addition, millions of acres were sold or transferred to private individuals, in payment for service in the Revolutionary War and under the Homestead Act and numerous other laws. As noted above, the General Land Office's Division of Forestry was responsible for administering the forest reserves from 1891 until the lands and the Division were transferred to USDA in 1905.

Taylor Grazing Act and the U.S. Grazing Service. The Taylor Grazing Act⁴⁷ was enacted to remedy the deteriorating range condition of the public lands, due to overuse and the drought and depression of the late 1920s and 1930s. It was the first legislation directing federal management of the remaining public domain lands.⁴⁸ The act included a provision — “pending their final disposal” — that implied eventual transfer of the remaining public domain lands out of federal ownership, but management to improve conditions also suggested a continuing federal presence.

The administration of the public rangelands was subject to substantial debate. Some felt that the FS should oversee the lands, as it had a relatively extensive staff and had shown a capacity for administering rangelands. Others argued that the lands should remain in DOI, because the FS had alienated the ranching industry by trying to raise grazing fees in the 1920s. In the end, because of the political jurisdictions and because of efforts by DOI Secretary Harold Ickes to retain the lands in DOI, the rangelands subject to the Taylor Grazing Act were administered by a new Grazing Division within the General Land Office; the division became the U.S. Grazing Service, separate from the Land Office, in 1939.⁴⁹

The U.S. Grazing Service was terminated in 1946. Some attributed its demise to the political strength of the ranching industry and lack of support for the Service's conservation efforts.⁵⁰ Others maintained that agency efforts to allocate grazing permits and raise grazing fees led to congressional dissatisfaction that led to a major cut in appropriations for 1946, forcing the Grazing Service to dismiss about two-thirds of its staff.⁵¹ In an effort to retain a modicum of control, President Harry Truman proposed Executive Reorganization No. 3 (May 1946) to merge the Grazing Service with the General Land Office into a new Bureau of Land Management

⁴⁶ (...continued)

Authority and the History of Acquisition, Disposal, and Retention, by Kristina Alexander and Ross W. Gorte.

⁴⁷ Act of June 28, 1934; 43 U.S.C. § 315.

⁴⁸ Gates, *History of Public Land Law Development*, pp. 610-612.

⁴⁹ Dana and Fairfax, *Forest and Range Policy*, pp. 160-161.

⁵⁰ Dana and Fairfax, *Forest and Range Policy*, pp. 162-164.

⁵¹ Gates, *History of Public Land Law Development*, pp. 617-622.

(BLM).⁵² When Congress did not disapprove the plan, it became effective in July 1946.

The O&C Lands.⁵³ In 1866, Congress granted lands for building a railroad from Portland, OR, to the California state line. The grant included every other square-mile section (like a checkerboard) for 20 miles on each side of the right-of-way. Because of a dispute over competing claims to build the railroad, and financial difficulties for the two principal claimants, Congress amended the original grant to require that the lands be disposed to “actual settlers” for agricultural uses at fixed prices. A new company — the Oregon and California (O&C) Railroad — merged the initial companies proclaiming their right to build the railroad and acquire the lands using the grant lands to capitalize the new company.

The company built the rail line and sold some of the lands, but in 1903, because of rising timber prices, Southern Pacific (which had acquired the O&C Railroad) decided to sell no more land.⁵⁴ Also in 1903, President Roosevelt had investigators examine fraudulent O&C land grant transactions. In 1908, in response to a petition from the Oregon legislature, Congress passed a resolution requesting the U.S. Attorney General to enforce compliance with the disposal requirement. In 1913, a decision in the federal district court in Oregon held that the government could not force disposal of the land, but the unsold land could be forfeited. In 1915, the U.S. Supreme Court held that Congress could dispose of the grant lands as it deemed fitting and equitable.

In 1916, Congress enacted the Chamberlain-Ferris Act⁵⁵ to *revest* (return to federal ownership) the remaining lands that had been granted to the O&C Railroad Company, and directed administration of these lands by DOI.⁵⁶ It also directed the sale of timber to settle claims and to pay the counties an amount equivalent to tax payments that the railroad would have made for 1913-1915. This tax equivalency payment was extended through 1926 in the Stanfield Act.⁵⁷

⁵² Univ. of Oregon, Bureau of Governmental Research and Service, *The O&C Lands* (Salem, OR: 1981), p. 21.

⁵³ This history is largely taken from two sources: Elmo Richardson, *BLM's Billion-Dollar Checkerboard: Managing the O&C Lands* (Santa Cruz, CA: Forest History Society, 1980), 200 pp; and Univ. of Oregon, Bureau of Governmental Research and Service, *The O&C Lands* (Salem, OR: 1981), 178 pp.

⁵⁴ Gates, *History of Public Land Law Development*, p. 602.

⁵⁵ Act of June 9, 1916.

⁵⁶ The O&C lands commonly include Coos Bay Wagon Road (CBWR) lands. The 1869 grant to the Southern Oregon Company to build a military road from Roseburg, OR, to Coos Bay, OR, included alternating sections within 3 miles on each side of the right-of-way, and included a similar disposal-to-settlers provision. The lands were *reconveyed* (returned to federal ownership) for similar grant violations in the Act of Feb. 26, 1919. It is unclear why the 1919 CBWR law used *reconveyed* while the 1916 O&C law used *revested*.

⁵⁷ Act of July 13, 1926.

The Great Depression and concerns about industrial overproduction led to debates over O&C land management in the 1930s. The appropriate federal agency to administer the O&C lands was vigorously debated:⁵⁸

Predictably, the Forest Service believed that establishing a forest management agency in the Department of the Interior was unwise and inefficient. Similarly, [DOI Secretary] Ickes was determined to hold onto the O&C timberlands. He saw the revested lands as a toehold in the forestry area which would strengthen his case for reuniting Interior and the Forest Service.

In 1937, Congress enacted the O&C Act to provide for sustained yield of timber managed by DOI.⁵⁹ The act also directed payments to the counties of 50% of timber revenues (instead of tax equivalency), with up to 25% for delinquent (1934-1937) tax equivalency payments and deficient Stanfield Act payments.

The Public Land Law Review Commission and the Federal Land Policy and Management Act of 1976. The numerous federal laws governing the public lands and resources led to increasingly scattered management authorities. In 1964, Congress directed a review of the public lands and management authorities by the Public Land Law Review Commission. The commission's 1970 report recommended that the remaining public lands be retained in federal ownership and managed for multiple use and sustained yield.⁶⁰

In 1976, after six years of deliberations, Congress enacted a comprehensive public land law: the Federal Land Policy and Management Act of 1976 (FLPMA).⁶¹ FLPMA formally established the federal policy of retaining the remaining public lands in federal ownership; § 102(a) states that:

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedures provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest ...

Many BLM lands in Alaska have been transferred to other federal agencies or out of federal ownership after FLPMA was enacted. The 1958 Alaska Statehood Act and the Alaska Native Claims Settlement Act of 1971,⁶² though pre-dating FLPMA, authorized substantial transfers out of federal ownership; the Alaska National Interest Lands Conservation Act⁶³ transferred significant acreages to the National Park Service and Fish and Wildlife Service. Nonetheless, the BLM still manages more land than any other federal agency — 258.2 million acres, of which 83.5 million

⁵⁸ Dana and Fairfax, *Forest and Range Policy*, p. 166.

⁵⁹ Act of Aug. 28, 1937; 43 U.S.C. §§ 1181a-1181f.

⁶⁰ *One Third of the Nation's Land: A Report to the President and to the Congress by the Public Land Law Review Commission* (Washington, DC: GPO, June 1970), 342 pp.

⁶¹ P.L. 94-579; 43 U.S.C. §§ 1701-1781.

⁶² Respectively: P.L. 85-508, and P.L. 92-203; 43 U.S.C. §§ 1601-1629k.

⁶³ P.L. 96-487; 16 U.S.C. §§ 3101-3233.

(33%) are in Alaska, 174.7 million acres are in the 11 coterminous western states, and only 1.6 million acres are in the other 38 states.⁶⁴

BLM Land Management. Like the FS, the BLM is directed to manage its lands for multiple use and sustained yield. The BLM was given its initial multiple-use direction in the Multiple Use, Sustained Yield Classification Act of 1964.⁶⁵ This direction duplicated the definitions of the Multiple-Use Sustained-Yield Act, but was made temporary, “pending the implementation of recommendations to be made by the Public Land Law Review Commission.” Multiple use and sustained yield were made permanent management goals for the public lands, “unless otherwise specified by law,” in §102(a)(7) of FLPMA. The definitions of multiple use and sustained yield in FLPMA are virtually identical to those in Multiple-Use Sustained-Yield Act, although FLPMA gives voice to future needs and values not explicitly identified in the earlier act. FLPMA also established, in §102(a)(9), a general policy of obtaining the fair market value for public lands and resources, “unless otherwise provided for by statute.”

FLPMA is also called the BLM Organic Act because Title III consolidated and articulated many of the management responsibilities of the BLM. FLPMA also amended, repealed, and/or replaced many of the previous public land laws, including authorities for federal land acquisitions, disposals, exchanges, and rights-of-way; for range management; and for special area protection (including withdrawals) and advisory groups in decision-making. FLPMA requires resource management planning for the public lands, but the planning guidance for the public lands in FLPMA is substantially less detailed than is the planning guidance for national forests in the NFMA.

⁶⁴ U.S. Dept. of the Interior, Bureau of Land Management, *Public Land Statistics, 2005*, at [http://www.blm.gov/natacq/pls05/pls1-4_05.pdf].

⁶⁵ P.L. 88-607.

Appendix B: History of Transfer and Merger Proposals⁶⁶

Federal forestry began in the Department of Agriculture almost by accident — money for a forestry study was added to the Agriculture appropriations bill in August 1876, after a bill directing a forestry study by the Department of the Interior had stalled in the House Committee on Public Lands. The forest reserves were established in the Interior Department, because the General Land Office was already responsible for those lands.

Discussions about bringing USDA's foresters and Interior's forests together began early in the 20th century. In December 1901, three months after becoming President, Theodore Roosevelt sent a message to Congress stating that the forest reserves belonged in the Department of Agriculture, and the Secretary of the Interior supported transferring the reserves to Agriculture. Although there was substantial congressional opposition to the transfer, at least partly because of concerns over the anticipated control by Gifford Pinchot (Chief of the USDA Bureau of Forestry), the transfer was enacted in 1905.

Taft and Wilson Administrations. Proposals to transfer the FS to DOI, to combine it with a DOI agency, or to establish a new land and resources conservation department, began soon thereafter. The first effort to transfer the national forests back to Interior was begun in 1911 by DOI Secretary Walter Fisher in the Taft Administration, and bills to effect the transfer were introduced in the 64th, 65th, and 66th Congresses (1916-1920), during the Wilson Administration.⁶⁷ At about the same time, the FS disputed the need for a DOI agency to administer the national parks and national monuments (many of which were established within the national forests), claiming that the FS could administer these recreation lands; nonetheless, Congress established the National Park Service in 1916.

Harding Administration. The second attempt was in the Harding Administration in 1921 by DOI Secretary Albert Fall. The President delayed action, and Fall turned to Congress, asking that the national forests in Alaska be transferred to Interior. The dispute simmered until Harding visited Alaska in the summer of 1923, and then publicly questioned such a transfer.⁶⁸ It is unclear whether this resulted from firsthand observations or from revelations of the impending Teapot Dome scandal (wherein Secretary Fall was convicted of accepting bribes for fraudulent oil leases on federal lands in Wyoming), but Harding's death a week later effectively ended the effort.

⁶⁶ Most of this history, at least through the end of World War II, is drawn from Harold K. Steen, *The U.S. Forest Service: A History* (Seattle, WA: Univ. of Washington Press, 1976), 356 pp.

⁶⁷ Henry Clepper, *Professional Forestry in the United States* (Baltimore, MD: The Johns Hopkins Press, 1971), pp. 59-60.

⁶⁸ President Harding's Seattle speech on the subject was prepared without consulting the Secretaries of Agriculture and the Interior, nor with Secretary of Commerce Herbert Hoover, who would become involved in later efforts to alter the organizational arrangement.

Hoover Administration. President Hoover appeared interested in federal reorganization, but problems associated with the Great Depression overwhelmed his Administration. President Hoover did issue an Executive Order on December 9, 1932, transferring the General Land Office to the Department of Agriculture. This proposal was only offered after an attempt to transfer the public domain land to the states was widely rejected and President Hoover had been defeated in his reelection bid. However, this attempt to reorganize federal land management (and other reorganization recommendations) was disapproved by H.Res. 350 on January 19, 1933.

Roosevelt Administration. Transfer of the FS to DOI was debated for several years under President Franklin Roosevelt. DOI Secretary Harold Ickes was at the center of the controversy that began in 1933 with the transfer of 16 national monuments from the FS to the National Park Service; FS concerns were exacerbated in 1934, when the Natural Resources Board (chaired by Ickes) recommended creating additional National Park System units from existing national forest lands.⁶⁹ In 1936, the Brownlow Committee on Executive Reorganization recommended transferring the FS to Interior. However, the open dispute between Ickes and the FS delayed action, and events leading to World War II distracted the President from internal affairs. In addition, bills to establish a Department of Conservation and Works, using DOI and the FS as a foundation, were introduced in the Senate in 1935 and in the House in 1936. The Senate passed its bill on May 13, 1936, but not until it had been amended to only change the name of the Interior Department to the Department of Conservation. The House bill was reported by the Public Lands Committee on March 9, 1936, but objections were raised and it did not come to a floor vote.

Truman Administration. In 1947, during the Truman Administration, Congress established the Commission on Organization of the Executive Branch of Government, chaired by ex-President Herbert Hoover. In 1949, this first Hoover Commission (a second Hoover Commission to examine federal government organization was created in 1953) recommended that federal land management be concentrated in the Department of Agriculture, with all forest and range management in one agency; this view was presented by the Task Force on Agriculture in Appendix M of the report.⁷⁰ Separately, the Task Force on Natural Resources, in Appendix L of the report, proposed a Department of Natural Resources, including a Forest and Range Service created by combining the FS and BLM.⁷¹ These reports were presented to Congress and to President Truman, but no direct actions were taken on them.

⁶⁹ Dana and Fairfax, *Forest and Range Policy*, pp. 151-153.

⁷⁰ U.S. Congress, House, *Department of Agriculture: Letter from the Chairman, Commission on Organization of the Executive Branch of the Government, Transmitting Its Report on "Reorganization the Department of Agriculture,"* H.Doc. 80, 81st Cong., 1st sess. (Washington, DC: GPO, 1949), 37 pp.

⁷¹ U.S. Congress, House, *Department of the Interior: Letter from the Chairman, Commission on Organization of the Executive Branch of the Government, Transmitting Its Report on the Department of the Interior and, Separately, as Appendixes L, M, and Q, the Related Task Force Reports on Natural Resources, Agriculture, and Public Works,* H.Doc. 122, 81st Cong., 1st sess. (Washington, DC: GPO, 1949), 94 pp., plus appendixes.

Eisenhower Administration. President Eisenhower’s Advisory Committee on Government Organization concurred with the Hoover Commission recommendation for combining forest and range management in the Department of Agriculture.⁷² The committee asserted that this transfer could be done without separate legislation under then-existing reorganization authority, but that the proposal would be highly controversial. The Senate Committee on Interior and Insular Affairs and House Committee on Government Operations held joint hearings in November 1955 and February 1956; the former issued a report recommending consolidation of all federal forestry functions within the FS.⁷³ Following responses to the committee recommendations on federal timber sale policies, the Senate Interior Committee issued a report in 1958 reconfirming its recommendation for consolidating federal forestry within the FS:⁷⁴

We recommend the consolidation in the Forest Service of the forestry functions and the surface resource management responsibilities for commercial forest land under the jurisdiction of the Bureau of Land Management and the Bureau of Indian Affairs.

DOI and the Bureau of the Budget (predecessor to the Office of Management and Budget) opposed the recommendation in a letter to the committee chairman.⁷⁵ Despite this opposition, President Eisenhower proposed Reorganization Plan No. 1 of 1959 to transfer certain DOI functions (specifically, “responsibilities with respect to certain land or timber exchanges and land sales [and] the use and disposal of mineral materials ...”) to the Secretary of Agriculture. Upon further study, however, the President decided not to transmit the reorganization plan to Congress because of differing Agriculture and Interior timber sale practices, and the possibility for disrupting the timber sales programs. Senate Interior Committee Chairman James Murray concurred with the President’s decision, but suggested that the problem was from not following the committee’s recommendations:⁷⁶

Mr. President, the Administration has just discovered what the Congress told them 3 years ago. The Federal timber selling agencies are not coordinated in their activities and to launch on a consolidation without first harmonizing statutes, regulations, and procedures would create chaos for the dependent timber industry.

⁷² President’s Advisory Committee on Government Organization, *Memorandum for President Eisenhower — Subject: Department of Agriculture*, Memorandum No. 7 (Washington, DC: Feb. 14, 1953), 5 p.

⁷³ U.S. Congress, Senate Committee on Interior and Insular Affairs, *Federal Timber Sales Policies*, committee print, 84th Cong., 2nd sess. (Washington, DC: GPO, 1956).

⁷⁴ U.S. Congress, Senate Committee on Interior and Insular Affairs, *Responses By Federal Agencies to the Report on Federal Timber Sales Policies*, committee print, 85th Cong., 2nd sess. (Washington, DC: GPO, 1958), p. 7.

⁷⁵ James E. Murray, “Remarks in the Senate: Consolidation of Federal Forestry Activities,” *Congressional Record*, v. 105 (Aug. 27, 1959), pp. 15706-15707.

⁷⁶ Murray, “Consolidation of Federal Forestry Activities.”

Kennedy Administration. The Kennedy Administration gave little attention to resource management issues. However, to further this “era of good feeling,” the Agriculture and Interior Secretaries sent a letter to the President, known as the “Treaty of the Potomac,” proposing greater cooperation and an end to proposals to transfer lands among agencies.⁷⁷ Nonetheless, in 1964, Congress established the Public Land Law Review Commission to review management of the remaining public domain lands administered by the BLM. The commission submitted its report to President Nixon and to Congress in June 1970.⁷⁸ One recommendation was to transfer the FS to DOI, to be renamed the Department of Natural Resources. The similar land uses and management objectives for the BLM and FS were cited as supporting rationale, but a merger of these two agencies was not explicitly proposed. No legislative proposals were presented to effect this recommendation.

Nixon Administration. While the Public Land Law Review Commission was completing its report, President Nixon’s Advisory Council on Executive Organization, under Roy Ash, considered two options: establishing a Department of Environment and Natural Resources (DENR) or a Department of Natural Resources (DNR).⁷⁹ These would have created a Cabinet-level department combining the FS, the Soil Conservation Service, and certain other USDA functions; all DOI agencies; certain functions of the Army Corps of Engineers; the National Oceanic and Atmospheric Administration of the Department of Commerce; and other agencies. (The proposed DENR would also have included the 44 federal agencies involved in monitoring, research, standard-setting, and enforcement of pollution abatement programs; the DNR proposal, with a separate Environmental Protection Agency for the pollution functions, was considered a fallback position from the full DENR proposal.⁸⁰) President Nixon issued Reorganization Plan #3 in 1970, which established the Environmental Protection Agency, and in March 1971 presented his DNR proposal to Congress and the public.⁸¹

Several bills were introduced in the 92nd Congress to establish a Department of Natural Resources or Natural Resources and Environment. The House Committee on Government Operations and Senate Committee on Government Affairs held hearings on the proposals. Problems of disrupting agency operations, and pros and cons of disrupting current interest group-agency relationships, were discussed by the witnesses. It was variously argued that a DNR could facilitate the implementation of national policies, but might stifle national discussions of policies by keeping the debates within one department. Finally, the DNR proposal was seen as likely to

⁷⁷ Dana and Fairfax, *Forest and Range Policy*, p. 209.

⁷⁸ *One-Third of the Nation’s Land*.

⁷⁹ President’s Advisory Council on Executive Organization, *Memorandum for the President; Subject: The Establishment of a Department of Natural Resources* (Washington, DC: May 12, 1970), 37 p.

⁸⁰ Dana and Fairfax, *Forest and Range Policy*, p. 242-243.

⁸¹ Executive Office of the President, Office of Management and Budget, *Papers Relating to the President’s Departmental Reorganization Program: A Reference Compilation* (Washington, DC: GPO, March 1971), pp. 153-223.

fragment congressional oversight of resource activities because more committees would have jurisdiction over portions of the department's functions.

Despite the interest in reorganizing federal land and resource responsibilities, no bills were reported by committee during the 92nd Congress. In June 1973, during the 93rd Congress, President Nixon presented a revised reorganization proposal, with a Department of Energy and Natural Resources; however, the natural resources portion of the revised proposal was substantially the same as the previous proposal. Legislation was introduced, but no bills that would establish a new department with a natural resource focus were reported by committee in the 93rd Congress.

In 1976, Congress moved away from merging the BLM and FS by enacting FLPMA and NFMA — separate major management laws for the two agencies — signed into law on consecutive days. Congress explicitly retained and amended the separate management functions of the BLM in FLPMA. While much of the guidance for multiple-use, sustained-yield management in FLPMA was based on FS experience with the laws governing the national forests, substantial differences were enacted for BLM management of the public lands.

Carter Administration. President Carter established a comprehensive government reorganization project soon after he came to office, and one study centered on restructuring federal management of natural resources. On March 1, 1979, President Carter announced a reorganization plan to create a Department of Natural Resources from the existing DOI plus the USDA FS and the National Oceanic and Atmospheric Administration from the Department of Commerce. The FS, BLM, and the Conservation Division of the U.S. Geological Survey were to be combined into a National Forest and Land Administration.

This reorganization was proposed under the authority of the Reorganization Act of 1946 (which delegated certain restructuring authority to the President), and was thus deemed not to require legislation. However, Members of Congress objected, arguing that the proposal exceeded presidential authority. The substance of the reorganization also raised congressional concerns. Both the House and the Senate Agriculture Committees held hearings on President Carter's reorganization plan. Many points, supporting and opposing the reorganization, were raised, but a recurrent theme was the potential dilution and/or degradation of FS expertise and professionalism if the agency were to be merged with the BLM, whose smaller staff managed more acreage. The substantial congressional opposition and other legislative priorities led Carter to withdraw the DNR proposal before any substantive congressional action had occurred.⁸²

Reagan Administration. On January 30, 1985, the Reagan Administration announced a proposal to exchange certain federal lands between the FS and BLM. This proposal did not involve a merger of the two agencies, as did the previous reorganizations. Instead, it was considered a land consolidation, with more than 25

⁸² Executive Office of the President, Office of Management and Budget, *President's Reorganization Project: Report on Reorganization Study of Natural Resource Functions* (Washington, DC: June 1979), 2 parts, plus appendixes.

million acres of land transferred to management by the other agency (10 million to the BLM and 15 million to the Forest Service).⁸³ This proposed “interchange” would have required legislation to change the land jurisdictions, but sharing of personnel was to proceed administratively. Joint BLM/FS public hearings were held in the summer of 1985 in the areas affected by the interchange on the state-by-state implementation plans. The Administration proposed legislation to adjust the land jurisdictions in 1986 and completed a legislative environmental impact statement to support the proposal,⁸⁴ but could not get the proposal introduced.

Bush I Administration. In a widely-publicized proposal in 1991, House Budget Committee Chair Leon Panetta proposed eliminating eight Cabinet departments by consolidating existing agencies and departments, including combining DOI, USDA, and the Department of Energy into a Department of Natural Resources.⁸⁵ He introduced a bill in 1992 (102nd Congress) to establish a Commission on Executive Organization to consider such a consolidation, but no hearings were held on the bill.

Clinton Administration. On March 3, 1993, President Clinton established the National Performance Review (NPR), headed by Vice President Al Gore. In September 1993, NPR released its report *From Red Tape to Results: Creating a Government that Works Better and Costs Less*. The DOI supporting report contained 14 recommendations, including DOI06: Rationalize Federal Land Ownership.⁸⁶ This report recommended “trial pilot coordinated management areas, preferably watershed based.” These tests were to address various concepts, including FS and BLM “cooperative ecosystem-based management, ... shared public service, administrative, and program activities ... [and] to reengineer ... public service activities to develop single processes used by both agencies.”⁸⁷ The report also recommended an evaluation after 18-24 months to assess if broader application was warranted and if legislation was needed to expand the applications.

⁸³ It appears that such a land consolidation/reorganization had not been suggested before the Reagan Administration proposal. See out-of-print CRS Report IB85101, *Federal Land Management Transfers Proposed Between Bureau of Land Management and Forest Service (With Appendix)*, by Ross W. Gorte and Adela Backiel (available from the author).

⁸⁴ U.S. Dept. of Interior, Bureau of Land Management, and U.S. Dept. of Agriculture, Forest Service, *Legislative Environmental Impact Statement: Bureau of Land Management/Forest Service Interchange (Land Exchange Boundary)* (Washington, DC: Feb. 1986), 250 pp.

⁸⁵ Eric Pianin, “Panetta’s Deficit Solution: Cut Military by 40%, Pare 8 Cabinet Depts.” *Washington Post* (Oct. 8, 1991): p. A17; and “Opposition Swamps Panetta’s Plan to Consolidate Cabinet,” *Washington Post* (Nov. 5, 1991): p. A19.

⁸⁶ National Partnership for Reinventing Government, *Department of Interior: Accompanying Report of the National Performance Review* (Washington, DC: Sept. 1993), at [<http://govinfo.library.unt.edu/npr/library/reports/doi.html>].

⁸⁷ National Partnership for Reinventing Government, *Department of Interior: Recommendations and Actions — DOI06: Rationalize Federal Land Ownership*, at [<http://govinfo.library.unt.edu/npr/library/reports/DOI6.html>].

In 1997, the FS and the BLM began a cooperative program, known as *Service First*, that allows pilot tests of joint permitting and leasing programs, reciprocally delegating duties and responsibilities (e.g., allowing a BLM employee to conduct a cultural resource assessment for an FS timber sale), and co-locating facilities. The program was authorized for FY1998 — FY2002 in the FY1998 Interior appropriations act (P.L. 105-83). Specifically, § 331 states that:

... the Secretaries of the Interior and Agriculture may make reciprocal delegations of their respective authorities, duties and responsibilities in support of joint pilot programs to promote customer service and efficiency in the management of public lands and national forests: Provided, That nothing herein shall alter, expand or limit the existing applicability of any public law or regulation to lands administered by the Bureau of Land Management or the Forest Service.

The authority was extended and expanded in § 330 of the Interior appropriations act for FY2001 (P.L. 106-291) and amended to further extend and expand the program in § 428 of the Interior appropriations act for FY2006 (P.L. 109-54); it is currently due to expire at the end of FY2008. The agency budget justifications and websites provide no data on the nature and extent of Service First projects.

