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United States Office of Forestry and Economic Development

333 S.W. First Avenue, P.O. Box 3623, Portland, Oregon 97208-3623

July 14, 1994

Memorandum

To: Peter Yu, Will Stelle, Karl Stauber, Elizabeth Pugh, Scott Duff, Bob Rheiner

From: Tom Tuchmann
Office of Forestry and Economic Development

Subject: CERTs and FACA Talking Points

Based on our conference call on Monday, following are some draft talking points for answering questions about the Community Economic Revitalization Teams and how they relate to the Federal Advisory Committee Act. It is my understanding that we will move forward with this option.

The State CERTs will handle getting this information out to their memberships. We will do no proactive press or outreach to groups beyond the CERT process on this decision.

Also, attached are some sample questions and answers prepared by Laura McFarland, Regional CERT, that we will distribute to the State CERT chairs for dealing with their members. Some of the Q and A's would be solely for the State CERT Chairs information, and others would be suited to questions from the public.

TALKING POINTS

1. In light of recent concern about the Federal Advisory Committee Act (FACA) and how it relates to the implementation of the President's Forest Plan, we have looked at how the economic assistance effort relates to FACA.

2. The Regional CERT and the State CERTs comply with FACA because they serve as forums for federal, state, tribal and local partners to share information. They do not provide consensus or make recommendations in the distribution of dollars or recommend changes to existing federal procedures.

3. For example, CERTs don't prioritize projects or give information on which grants receive funding.

4. Given FACA, we need to clarify this "information only" nature of the CERTs, by making modifications to the Implementation Plan for the CERT process, as well as the Memorandums of Understandings that created the process (this talking point will be included if necessary).

5. We sincerely believe that these clarifications will allow this process to continue along its successful track, and these partners continue to work together, as that was the cornerstone of the President's Plan.

Question/Answers

1. Is this a final decision, or is the CERT still subject to being charter?

The CERT may be chartered under FACA at any time. The decision to incorporate certain modifications in operation for compliance with FACA is the current decision, but should not be construed as "final."

2. Why was the decision made to not charter the CERTs under FACA?

The state CERT Chairs, Regional CERT Co-Chairs, and the Chair of the MAC discussed the pros and cons of chartering the CERTs as FACA committees - as presented by several federal attorneys - and opted to modify the existing structure rather than seek a formal charter, in order to maintain the cohesive working environment.

3. What information can be exchanged between the federal and state representatives?

The CERTs are designed to operate as a forum for the exchange of facts and information. This may include such items as federal, state, and local economic development programs and their requirements, as well as program decisions. Additional information regarding the affected areas and communities may also be presented along with program funding levels.

4. What about general statements of need within a community?

Facts about the economic climate in an affected region may be presented to the CERTs, but recommendations or advocacy of specific projects is not allowed. (e.g. "This project will do more for the workers here than all other projects combined," or "The Smith Mill project is by far the best in this batch")

5. Will funding agencies report what applications are selected for processing and the status?

The funding agency may report to the state CERT the number of applications received for each program and those applications that have been approved. The agency may also notify the CERT of program eligibility requirements and if certain areas are not eligible for funding based on those requirements.

6. Would communities/counties be able to provide prioritization or ranking information to funding partners?

Prioritization and ranking activities normally performed by the communities/counties are not intended to be circumvented. However, prioritized lists of applications should not be submitted to the state CERT. That information should be handled in the established manner, outside the scope of the CERT.

7. Can a member of the CERT inquire about a specific application or proposal?

Inquiries into the status of a project may be made as long as they are not accompanied by comments in support of that project as discussed in question 6.

8. May a lead agency or single funding agency seek or encourage other investment in a proposal?

A funding agency may notify others of the need for additional resources, but may not direct statements such as "The state has agreed to provide $1 million for this plan and *urges* EDA to match that amount."

9. Will the CERTs be subject to FACA suits?

Whether the CERTs are chartered as an advisory committee or not, they are may still subject to lawsuits. The modifications made to the structure are designed to minimize the potential for claims of violation of FACA.

10. How are we to ensure that we remain in compliance with the provisions of FACA?

The CERT should focus on providing facts and information that the funding partners may take back and use in their decision making, though Federal officials will continue to make program decisions outside of the CERT context. Maintain other channels of communications, as the CERT is not intended to exclude federal officials from receiving information form other sources, and keep careful records of meeting minutes in order to clarify any issues concerning compliance with FACA.

United States Office of Forestry and Economic Development

333 S.W. First Avenue, P.O. Box 3623, Portland, Oregon 97208-3623

June 8, 1994

Memorandum

To: Peter Yu
Karl Stauber
Will Stelle
Todd Cambell
Peter Coppelman
Elizabeth Pugh

From: Tom Tuchmann, Director Tom

Subject: Background Information on CERTs

A number of decisions are being made regarding the CERTs. In reviewing the options, I am providing you with some of the CERT notes that have been developed to date. These are just representative samples, but, there are others like them. I question whether the information only format will allow the CERTS to continue to meet as subcommittees for the purposes for which they were laid out.

They really are doing great work, I just want to make sure that they will continue to be able to do so.

Documents Pertaining to CERTs

1. Selected pages from the Implementation Plan for Northwest Economic Adjustment Initiative, dated 12/10/93--5 pgs

2. Summary Sheet for Process Improvement/Impediment submitted by Ross Burgess, dated 1/27/94--3 pgs

3. First page of Oregon CERT newsletter, listing OR CERT members, dated Feb. 1994--1 pg

4. Memorandum report of the Regional CERT Contract Work Group, dated 3/11/94--2 pgs

5. Impediments Report for the RCERT, dated 4/1/94--4 pgs

6. RCERT meeting minutes, dated 4/7&8/94--7 pgs.

Northwest Economic Adjustment Initiative

Implementation Plan

Regional Community Economic Revitalization Team

(Regional CERT)

December 10, 1993

7) In-progress reviews will be conducted program by program when 45% of available funds are committed (15% to each state), or when:

a) A State has 15% of available funds committed;
b) All States reach 45% commitment of the sum of the States' allocated monies;
c) 80% of total funding is committed to all States;

8) Review can be accomplished through an electronic mail system, conference calls, or other means.

a) Quarterly summaries of progress and allocation will be supplied to the MAC based on committed and obligated funds;
b) The Regional CERT will monitor the quality of assistance provided through periodic feedback from the assisted communities.

9) When there are multi-year projects, a multi-year tracking is required to monitor State percentages.

II. IMPLEMENTATION RESPONSIBILITIES

Eligibility

This Implementation plan recognizes that there are areas of higher impact and lower impact within and between states. Those involved in the process are sensitive to the fact that communities and tribes with the greatest needs and impact may be the least able to access and utilize the assistance outlined in this plan.

Eligibility is an inclusive process that recognizes severity of impact as a significant project selection criteria. Accordingly, resources shall be invested from funding sources identified in this plan to benefit those demonstrating such need. In addition, specific consideration needs to be given to full utilization of Fiscal Year 94 funds in the impacted states of Oregon, Washington and Northern California.

State CERT Responsibilities[2]

A primary function of the State CERTs is to coordinate state issues, to keep abreast of local community and tribal needs and concerns, and to raise those concerns to the Regional CERT when appropriate. Additionally, the responsibilities of the State CERTs may include:

1) Both the federal and nonfederal members of the State CERTs may identify and highlight programmatic requirements or provisions that inhibit the effectiveness of existing federal, state and local programs, and suggest improvements in existing processes;

2) The nonfederal members of the State CERTs may clarify the availability of matching monies or complementary programs that may be useful in consideration and planning by federal members;

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[2] The nonfederal members of the State CERTs are not to advise federal members on applications or proposals for federal funds or assistance, recommend particular projects, or be construed or treated as an advisory committee. However, this does not preclude nonfederal officials, acting within their local capacity - not as State CERT members - from undertaking any solicitation or ranking activities designed to encourage the highest quality proposals from the communities.

IV. PROCESS IMPROVEMENTS

One aspect of the Economic Adjustment Initiative involves improving the delivery of assistance. Accordingly, the Initiative calls for the development of a system for identifying and implementing such improvements and removing any impediments that may hinder the process. Those improvements and impediments may involve refinements in compliance assistance or the elimination of administrative practices, policies, regulations, or statutory requirements that unnecessarily hinder the effective delivery of federal assistance.[4] The MAC, Regional CERT and State CERTs share responsibility for identifying and addressing these issues. To facilitate these activities, a clear statement of the problem and proposed solution should be prepared. That statement should include:

1) Administrative, regulatory or legislative background on the problem,
2) Examples of the problem and its effects, and
3) Possible steps to correct the problem and improve the delivery of federal assistance.[5]

Resolution of such problems and implementation of solutions should begin at the level at which the problem is identified. Whenever possible, State CERT members and Regional CERT members should effect the necessary improvements.[6] When the State and Regional CERTs are not able to make the necessary changes, the issues will be forwarded to the MAC for prompt and cooperative resolution. In addition, the State CERTs and Regional CERT should establish a mechanism for tracking these matters and providing to the MAC regular updates on improvements in the delivery of federal assistance.

V. PROGRAM DELIVERY AND PROGRESS BENCHMARKS

The goal of the Implementation Plan is to deliver services to all recipients in a complete, time sensitive and fair manner. To ensure that this is accomplished to the satisfaction of the final recipient, progress benchmarks will be established on a continuing basis.

Feedback from the customer on measurable achievement of defined goals is the ultimate measure of a successful or unsuccessful program. The customer includes the primary recipient of funds and those deriving a benefit from the funded project. Comments, including reports on progress and results, received from recipients of assistance under the Economic Adjustment Initiative will be shared with the State and Regional CERTs at regularly scheduled meetings.

Additional measures of the effectiveness of the process are: the time taken to respond, speed of approval or denial, and quantifiable feedback in the form of statistical data. This information will likely be best obtained at the State CERT level.[7] However, the actual monitoring of feedback will be the responsibility of the Regional CERT.

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4 Two problems already identified in the Economic Adjustment Initiative are: 1) the preponderance of loan funds (as opposed to grant funds) in several categories and 2) population requirements and limitations of federal programs in these categories. Distinct possibilities exist for smaller communities, based upon population criteria, to be eligible for loans but without the authority to assume debt or the ability to support debt loads.

5 See Appendix B. *Process Improvements and Impediments*.

6 While it is anticipated that this body will address a wide range of possible improvements to federal practices, policies and regulations, this system will not serve as a mechanism for appealing negative administrative decisions on applications.

7 Include local visits in conjunction with Regional CERT meetings. Also, coordinate Regional CERT and State CERT meetings to promote interaction.

VI. ROAD MAP TO PROGRAM IMPLEMENTATION

A. The Idea

The idea is the beginning of the process. The idea may originate from a community, tribe, business, an individual, or from a plan newly developed or in place for some time. Those who generate ideas should reflect local realities rather than trying to fit local needs and ideas into a preconceived mold of what might get funded. Good projects may be developed which do not meet the requirements of any program. When this occurs, it will represent the identification of a process impediment.

B. *Turning the Idea into a Project*

An idea becomes a project when the scope of the work involved is developed. The scope of work includes a description of the steps or elements that will bring the purpose of the idea to realization, a budget of both dollars and other resources required and a clear description of the outcomes expected from the completed project. Project documentation should show a clear relationship between the project and the community's economic adjustment needs. The project should further the goals of a community, tribal, county, regional, state, or multi-state plan.

Turning an idea into a project requires resources which may include just the investment of time and thought or may include professional engineering services, feasibility studies, design services or other costly investments. Most of the severely impacted areas have-and have had for some time-an economic development planning and implementation process in place. For the most part, these efforts have struggled with very limited resources and have achieved some significant successes in the face of structural economic changes.

The economic impact of the Forest Plan has put new and overwhelming demands on existing local economic development capacity. The enhancement of local capacity in all of the impacted areas is necessary to improve local planning and implementation ability, as well as to assure the most effective investment of resources provided under the Economic Adjustment Initiative. The most severely affected communities can expect to receive assistance in turning their idea(s) into project(s) from county or tribal government, regional economic development organizations, state government, and federal agencies.

C. *Project Priorities*

The Regional CERT recognizes that states, communities and tribes may have established priority setting processes to evaluate economic development proposals. Nothing in this Implementation Plan shall prohibit such processes. Nonfederal members acting in their capacity as state, local and tribal officials or, as private citizens, may analyze and prioritize proposals and, consistent with federal law, make recommendations to federal agencies. Moreover, as consistent with federal law, federal members of the State CERTs will consider such community preferences in evaluating application proposals.

D. *Local Assessment of Readiness and Identification of Potential Sources of Funding*

A project can be a high priority project without being "ready" (A project is ready when it has a well defined scope, reliable budget, strong community support and no problems which would prevent implementing it soon after funds are committed). If costly resources are required to bring a project to a state of readiness, then a community can request those resources from the State CERT (such as funding for a preliminary engineering study). Alternatively, the community, with appropriate technical assistance, can develop the project for a funding request in a subsequent fiscal year. The state and federal agencies are responsible, as far as practical, for identifying and coordinating potential funding sources outside the Economic Adjustment Initiative.

E. *Assignment of a Project to a Lead Agency*

The agency which is expected to put the most money into a project will usually become the lead agency. The "lead agency" determination may change during the process. Assignment to a lead agency is to provide the applicant a single point of contact for funding, rather than requiring the applicant itself to coordinate the Federal programs. The State CERT will make an initial effort to determine the most appropriate source of funding for a project and assign each project to a "lead agency" based on that determination.

The Regional CERT recognizes that for physical infrastructure projects this may mean assigning a project to a loan program rather than to a grant program. If the project is assigned to a loan program, it is the lead agency's responsibility to make a quick determination of the project's or community's ability to repay a loan. This determination should be based on a conservative estimate of potential revenues and a generous allowance for contingencies and other demands on the applicant.

If the lead agency determines that the project is not feasible without additional funds from other Economic Adjustment Initiative programs, it should bring the project back to the State CERT so that a multi-agency package can be put together. Scarce grant funding should be reserved for those high priority projects that need grant funding to be feasible.

F. *Application Development and Project Review*

The lead agency will assist the applicant in preparation of a complete application. The lead agency and the applicant may request, and can expect, to receive assistance in application preparation as required from counties, tribes, regional organizations, state agencies, and other State CERT members.

Agency decisions within 30 days after receipt of a complete application is a goal of the Regional CERT. The Regional CERT recognizes that agency staffing limitations and current processes make this goal unrealistic, but expects agencies to provide State CERTs and the Regional CERT with descriptions of actions to correct the conditions which prevent decisions within 30 days. As a result, the Regional CERT anticipates significant progress in achieving the thirty day goal.

Summary Sheet
Process Improvements and Impediments

Process Improvement No. ______

Issue: 404 Permits

Type:
---- Policy
-X- Administrative Time Element
---- Regulatory
---- Legislative

Agency Involved: Army Corp of Engineers

Date Initiated: 1-27-94
By Whom:
---- State CERT
---- Reg. CERT
---- Agency
-X- Other

Contact Name and Phone:
Ross Burgess
5th Dist. Superv.
707/923-9653

ACTION:

Date sent to Agency:
Date Responded:

Response:

Contact Name and Phone:
____
____

Date sent to Reg. CERT: 1-27-94

Reg. CERT Response:

Contact Name and Phone:
Laura McFarland
503/326-2731

Date sent to MAC:

MAC Response:

Contact Name and Phone:
____
____

Any Follow up Action:

Response forwarded to Agency, Regional CERT, State CERTs and initiating person.

Date: ____________ by Whom: ________________________

Method:
--- Mail
--- Meeting handout
--- FAX
--- Bulletin Board

APPENDIX A-1

IDENTIFICATION OF PROCESS IMPROVEMENTS

Issue: Long time period required by USACOE to process a 404 Permit.

What is the process improvement?

Reduction of the 6 to 12 month permit processing period or elimination of the duplication of regulatory authority which requires this permit.

Why is it needed?

Restoration projects require several steps to flow either sequentially or concurrently to be successful in a tight time frame. This sequence is approximately: gather field data, prepare project designs, NEPA/CEQA documents and proposals, secure funding, permit application and issuance, prepare/award contracts, construct project. Many projects have a 2 month construction window and funding limited to a fiscal year time frame. Timely permit processing is is essantial to success.

Who is affected by the process improvement?

Agencies, local communities, natural resources.

When does the process improvement come into play?

During 404 permit processing.

Procedural Reference:
(Statutory or Rule)

The Clean Water Act requires restoration project sponsors to obtain a Section 404 permit before construction. In California, additional permits such as the Streambed Alteration (1603) from the CA Fish & Game and Water Quality Certification or Storm Water Permits from the CA Water Quality Control Board are required.

Authorities Involved:

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Possible Solution: 1. Streamline the processing. If the applicant has consulted with and acquired the necessary permits from CA Fish & Game and CA Water Quality Control Board and prepared adequate NEPA/CEQA documentation, why does an additional review take 6 to 12 months? This would save money and time for both the applicant and the regulator.

(SEE REVERSE SIDE FOR ADDITIONAL COMMENTS)

** A process improvement is an improvement that encourages or creates a new system of service delivery to the customer. Proposed solutions should specify the advantages, both in labor and expense, to the program and the customer/end user.

Possible Solution: (Continued)

2. Eliminate this level of permit requirements for watershed restoration projects or a class of restoration projects. This would save both regulator and regulatee time and money and eliminate the duplication of regulation.

3. Request that the Corp issue a "Nationwide" category permit for watershed restoration projects or categories of projects. This is probably the cleanest solution and would conserve time and money.

Northwest Economic Adjustment Initiative

OREGON DIGEST

Volume 1, No. 2 *February, 1994* **State Community Economic Revitalization Team**

The Honorable Michael Sykes
Columbia County Board of Commissioners

The Honorable Steve Cornacchia
Lane County Board of Commissioners

The Honorable Joyce Morgan
Douglas County Board of Commissioners

The Honorable Dave Schmidt
Linn County Board of Commissioners

Pamela Mattson
Oregon Employment Department

Olivia Clark
Department of Environmental Quality

The Honorable R. Charles Vars, Jr.
Mayor, City of Corvallis

Wes Hare
Oakridge City Administrator

Margaret Hallock
University of Oregon—Labor Education Center

ouise Bilheimer
acific Rivers Council

Howard Sohn
Sun Studs

Lawrence J. Wolf
Oregon Institute of Technology

William C. Scott
Oregon Economic Development Department

Duncan Sanderson
Bank of America Oregon

Van Manning
Bureau of Land Management

Anne Berblinger
US Dept. of Commerce EDA

Bill Cecil
Dept. of Labor, Employment & Training

Phil Gentry
Small Business Administration

John Bonham
HUD Community Planning & Development

William J. Sobolewski
EPA Oregon Operations Office

Ernie Smith
OSU Extension Administration

Darrel Kenops
'JSDA Forest Service

.ud Fischer
USDA Rural Development Administration

Calvin Mukumoto
Rep. for Inter-Tribal Timber Council

First Economic Aid Package awarded under Northwest Economic Adjustment Initiative

The towns of Springfield and Oakridge are the first recipients of economic assistance through the Northwest Economic Adjustment Initiative, designed to help Pacific Northwest communities dependent on a forest-based economy develop new economic opportunities for year-round, family wage, high-skill jobs.

- In Springfield, about $500,000 from the U.S. Forest Service will help train dislocated workers for possible employment at the new optical disc manufacturing center to be built by the Sony Corporation of America. At least 300 people will be employed at the plant, which is scheduled to open in mid-1995.
- Approximately $2.34 million has been dedicated to the City of Oakridge in a combination of federal, state and county funds for purchase and development of the nearby Bald Knob mill site as an industrial park. The park is anticipated to create at least 60 family wage jobs in the next two to five years.

The initiative is the result of a new partnership effort among local, state, regional, and federal agencies and is part of President Clinton's Forest Plan.

Oregon Assistance to date through the
Northwest Economic Adjustment Initiative

City	County	Potential Job Impact	Funds Targeted for
Springfield	Lane Co.	est. 300 jobs	Worker Training
Oakridge	Lane Co.	est. 60 jobs	Infrastructure Dev.

Oregon Team receives numerous proposals

Oregon's State Community Economic Revitalization team has received hundreds of proposals from many parts of the state, as it continues in its work on the Northwest Economic Adjustment Initiative. Other tasks underway, with the help of Oregon Economic Development Department Rural Development staff, include setting up a data base to track projects into categories and delivering initial briefings to impacted counties.

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MEMORANDUM

TO: Regional CERT

DATE: March 11, 1994

FROM: Contract Work Group

RE: Recommendations for Jobs-in-the-Woods

The contract working group formed by the Regional CERT is ready to conclude the first phase of its charter - FY 94 contracting dollars for Jobs-in-the-Woods.

The Contract working group membership is as follows:

Laura McFarland, Regional CERT Staff
Joyce Muraoka, Forest Service, Reg. 5
Leo Corona, Forest Service, Reg. 6
Terry Nichols, Bureau of Land Management
Steven Shapiro, Bureau of Land Management
Carl Culham, Small Business Administration
George Gover, Bureau of Indian Affairs
Armando Quiroz, Dept. of Labor
Gary DeRosa, Dept. of Labor
Anna Sparks, County Supervisor, California
Jim Jungwirth, California
Melissa Carlson-Price, County Commissioner, Washington
Phyllis Shrauger, Mayor, Washington
Judith St. Claire, Rural Development, Oregon

The Contract Work Group has identified the following *impediments/process improvements*:

ISSUE

1. Over $25,000 contracts must be advertised in the Commerce Business Daily This opens competition beyond the local, impacted community

PROPOSAL

A. Request legislative increase in "Open and Fair Competition" requirements to $100,000
   a. Would require adjustment to the Davis-Bacon Act and the Service Contract act of 1965 as these also have dollar limitations.

B. Request a **FY94 waiver of the "Open and Fair Competition"** advertisement in the Commerce Business Daily under the special exception "Unusual and Compelling Urgency."
[This request has been made through the Barriers process and forwarded to the MAC and Tom Tuchmann.]

C. Request that FEMA declare the timber impacted communities as Demand Area.
[This request has been made through the Barriers process and forwarded to the MAC and Tom Tuchmann.]
   a. A FEMA declaration is an exception to the general procurement requirements.
      - Adds flexibility to procurement process

ISSUE

2. Current policy in procurement requires contracting officers to place as many related jobs under one large contract.
   a. This places many contracts above $25,000
   b. Requires larger crews to complete the work
   c. Hinders the distribution of monies to several contractors

PROPOSAL

A change in policy - **encourage individual tasks to be contracted separately** - would lower the contract price and increase opportunity for local contractors.
* This would not extend to contract splitting, a legal constraint.

ALTERNATIVE PROPOSALS:

Invoke the Federal Grant and Cooperative Agreement Act of 1977.
- The act establishes standards for the use of contracts, grants or cooperative agreements in funding through the use of an intermediary.
- Would permit the Forest Service to contract with non-profit organizations within a state. The state would then serve as the contracting officer for individual jobs.

General Information:

Grant Agreements
* use when principal purpose is to transfer a thing of value (money, services, etc) to carry out a public purpose of support or stimulation.
* use instead of acquiring-by purchase, lease, or barter-services for the direct benefit of the US Gov't. and substantial involvement is not expected btwn the agency and recipient.

Cooperative Agreements
* use when principal purpose is to transfer a thing of value (money, services, etc) to carry out a public purpose of support or stimulation to direct benefit of US Gov't and substantial involvement btwn agency and recipient.
* Conditioned on individual Agency program authority and legislation.

Additional Suggestions:

- Small Business Administration to use District Office Resources to provide assistance to local contractors. This may include:
  + Information and technical assistance to groups on how to successfully prepare and bid for Government contracts
  + direct assistance to individual local contractors on bidding and performing Government contracts.
  + Provide information, through local meetings, to groups and individuals on available SBA programs that could assist in accessing Jobs-in-the-Woods projects.
- Dept. of Labor is willing to provide specific training to dislocated timber workers
  + supplies a local work force
  + Training to begin once Watershed work group identifies types of job tasks to be contracted.
- Handout providing specific information as well as general information on contracting issues to be distributed to field level personnel and procurement officers
  + Regional CERT Co-Chairs to seek concurrence of Forest Service, Bureau of Land Management and Chair of RIEC so that distribution may occur within existing agency guidelines.

The Contract Working group will continue to operate. The members are willing to monitor contracts issued under the Jobs-in-the-Woods and to notify the Regional CERT of the successes and concerns observed during contract disbursements.

IMPEDIMENTS IDENTIFIED

as of April 1, 1994

Numbers are used only to distinguish impediments. Additions and movement through the steps by Impediments may occur between the reports, therefore, a comparison should be made between previous reports and current reports.

(** indicates new position in process)

STEP ONE

Identify impediment/improvement

STEP TWO

Forward to relevant agency

1. Expansion of RDA Intermediary Relending program to include a participation agreement.

** Referred to Jerry Sheridan, FmHA/RDA

2. Forest Service Designation of MSA Sponser

** Referred to Joyce Muroaka, FS reg. 5

3. Coastal Barriers Act may exclude coast of Western Wash. from Initiative

** Referred to Nancy Gloman, Fish and Wildlife

4. EPA Administration goals to close out construction grants

** Referred to Ken Brooks, EPA

5. Forest Service Restoration funds restricted to Federal Lands

** Referred to Joyce Muroaka, FS, Reg. 5

6. Joint Training Partnership Act-Matching Funds should be relaxed to permit use with EDA technical Assistance for Initiative.

Referred to Armando Quiroz, Dept. of Labor

7. FS lack of clarity on eligibility criteria

Referred to Joyce Muraoka, Forest Service

8. State Intergovernmental Review of projects submitted to FmHA/RDA.

Referred to Gov. Reps, Terry Gorton*, Bill Scott, Tom Bristow*

* California and Washington have resolved this issue.

STEP THREE

Forward to Regional CERT for recommendations, specifically Agency counterpart of step two

1. USFWS Impact statement outside project location species impacted in Twp/Range rather than vicinity of project site.

Referred to Ken Brooks, Reg. CERT,

Response: Need to find FWS Agency counterpart to forward this issue as they must be the ones to resolve it.

2. Army Corp of Engineers 404 permit processing timeframe
Referred to Regional CERT
Response: Trying to get Corp on Reg. CERT; may not be a problem if other barriers taken care of; MAC willing to look into issue.

STEP FOUR
Forward to MAC

1. Request for FY 94 Waiver of full and open competition requirement under FAR (contracting regs.)
Referred to the MAC and Tuchmann on 1/27/94

2. Request for determination of Initiative region as demand area under FEMA.
Referred to the MAC and Tuchmann on 2/2/94

3. USDA's Interim Advance Acquisition Plan that requires reporting of proposed procurements - adding 90 days to the process.
Referred to the MAC on 3/7/94

4. Temporary increase in contract threshold to $100,000
Referred to MAC on 1/27/94

5. EDA and RDA need MOU to allow one agency to be designated as the Lead with a transfer of funds after approval.
Referred to MAC on 2/8/94

STEP FIVE
Return to Regional CERT for consideration based on MAC response.

1. RDA Authority to approve professional services agreements
**
Referred to Wilbur Peer, RDA Acting Administrator
Agency Response of: Requires change in procedure, recommend sending to MAC

STEP SIX
Removal or Adjustment (file it)

1. Decentralization of Decision Making by DOL - delegate grant officer authority for timber projects.
**
Referred to the MAC. Response of: Decision is not to decentralize at this point.

2. RDA Approval Authority of Comm. Facility Loans to $400,000
**
Referred to Wilbur Peer, RDA Acting Administrator
Agency Response of: Delegate authority to State Director of $1,000,000

3. RDA Approval Authority for RBE grants $100,000
** Referred to Wilbur Peer, RDA Acting Administrator
Agency Response: Delegate unlimited dollar authority to State Director.

4. RDA Authority to approve change orders for projects under construction
** Referred to Wilbur Peer, RDA Acting Administrator
Agency Response: Will modify state instruction to increase amount from $500 to $3000.

5. RDA authority to approve water/waste loans, $1,000,000
** Referred to Wilber Peer, RDA Acting Administrator
Agency Response: Delegate limitation to $3,000,000 for State Director

6. RDA Authority to Determine eligibility of those filing preapplications/applications.
** Referred to Wilbur Peer, RDA Acting Administrator
Agency Reponse: This authority rest with the State Director

7. RDA approval authority for water/waste grants, $1,000,000
** Referred to Wilbur Peer, RDA Acting Administrator
Agency Response: Delegate unlimited dollar authority

8. EDA Approval authority for regional Director
Referred to MAC. Response of: Need more information, Anne Berblinger to supply. Verbal okay later given.

9. Completing Environmental Assessments prior to loan closing, but after obligating funds
Referred to Scott Duff, FmHA, Agency Response of: NEPA requires environ info. be available before major decisions made. This cannot be waived.

10. FmHA/RDA Mid-Year (4/1) pooling of RDA funds waived for the Initiative States.
Agency Response of: will occur, but funds will be reallocated to the respective states.

11. FmHA/RDA Retain National Office Reserves of Initiative until year-end pooling.
Agency Response of: Yes, Reserve funds will remain available till 8/5.

12. FmHA/RDA Intermed. Relend. Prog. applications be filed at respective State Offices, not Nat'l.
Agency Response of: Regulations Require N/O receive applic., but State Directors should give priority points to initiative projects for ranking.

13. Give Regional CERT Co-Chair, Scott Duff, Access to three state's funds report.
Agency Response of: Yes, for tracking purposes only.

14. DOL waive 25% support services requirement.
Forwarded to Armando Quiroz. Agency Response of: Yes, on a case-by-case request from Initiative region.

15. DOL waive 3/1 deadline on funds.
Agency Response of: If show substantial use of funds by that time, will consider request for waiver.

16. DOL waive prohibition for federal employees on timber lands to enroll in job training programs.

Agency Response of: Yes, for Initiative region.

17. DOL allow job training for children and families of timber workers.
Agency Response of: Will permit pilot programs of this nature with in Initiative region.

18. DOL to address need to bridge gap in assistance for workers participating in training programs.

Agency Response of: Will waive, on a demand basis, the delay in benefits between unemploy. compensation and employment, ie. training period for Initiative region.

19. Environmental Assessment completed by one agency can be shared with others.
Referred to MAC, Response of: Okay to share information, but individual EA must be completed by each agency.
Forwarded to Ken Brooks, Reg. CERT for further action. Response: Willing to share information as long as notified from the start that the process has begun.

20. EDA requested waiver of Fin. Asst. Review Board of projects or concurrent with other reviews.

Referred to MAC, Response of: No, review doesn't create a substantial delay.

21. EDA authority to invite applications at State CERT.
Referred to MAC, Response of: No, must be made at regional level

Regional CERT

Meeting Minutes

April 7 & 8, 1994
Portland, Oregon

V/

Attended:

Co-Chairs:	Scott Duff FmHA	Bob Rheiner BLM

Members:

Phyllis Shrauger
Wash. Rep.

Nancy Gloman
USFWS

Jack Peters
HUD

Ken Brooks
EPA

Joyce Muraoka
FS, Reg. 5

Ross Burgess
5th District, CA

Cal Mukumoto
Intertribal Council

Anne Berblinger
EDA

Bill Scott
OR Rep

Karin Berkholtz
Governor's Timber Team

Tom Bristow
WA Rep

John Gilman
SBA

Melissa Carlson-Price
WA Rep

Patrick Corcoran
Extension Service, Alternate

Kent Connaughton
O.P.R.D.. Alternate

Gary DeRosa
DOL, Alternate

Ed Allen
USFS, Alternate

Anna Sparks
CA Rep., Alternate

Mark Stanley
CA Res. Agency, Alternate

Greg Satchell
OR Rep., Alternate

George Gover
BIA/Portland Area Office

Bob Rivers
BLM

Steve Cornacchia
Lane County Commissioner

Steve Marshall
MAC

Eric Herst
FmHA

Tom Brumm
O.E.D.D.

Jean Hall
USFS, Region 5

Chuck Clendenin
FmHA, California

Tricia Abel
Jolene Unsoeld Office

Wendy McGinnis
USFS

Chris Christensen
USFS, RNW Research Station

Bob Marrson
Governor Roberts Forest Policy Team

GUESTS:

Karl Denison
USFS

Judith St. Claire
OR Rural Develop. Council

Laura McFarland
FmHA/R-CERT

Christine Charles
BIA

Arlene Miller
OR State CERT Coord.

Barbara Hollenbeck
USFS-Gifford Pinchot NF

Terry Raettig
USFS, PNW Research Station

Thomas E. Davis
USDI/BIA

Kathy Jordan
Senator Fenstein's Office

April 7, 1994

ANNOUNCEMENTS/NEW BUSINESS:

- Introductions:
  - Kent Connaughton, O.F.E.D.
  - Eric Herst, FmHA, Public Affairs
- Reports to MAC due every six months, on 4/8/94 Agenda
- FS reports distribution of money that Province Teams submitted. Copies to be distributed.
- CA/BLM/Region 5 reports that out of $5.8M proposals, $3.7 were funded. At Province Team meeting, it was recommended to accept all projects.
- Jobs-in-Woods
  - BLM/FS in Oregon had more projects than money. The $4.8M includes:
    Salem, $947,000;
    Eugene, $900,000;
    Roseburg, $927,000;
    Medford, $730,000; and
    Coos Bay, $1,297,000
  - Objective that Jobs-in-Woods be of "enduring quality" and be consistent with President's statement. Objective to be included in the MAC report
  - Training, the main emphasis, should be consistent with all three states and a formal relationship be formed between R-CERT, S-CERT, and Province Teams
- Contracting impediment:
  - Length of vast majority of jobs were 2-3 weeks. Need to group contracts. Task to be given to State Contracting Working Group. Laura McFarland to followup on cluster of contracts. FAW
  - Some confusion on contracting with non-profit entities

5 **REVIEW OF PREVIOUS MEETING MINUTES:**

- No additions or corrections were made to the previous meeting minutes

UPDATE:

MAC
Steve Marshall

- Recognition to Jennifer Pratt for her help in the transition period
- Formalizing process with higher priority for membership involvement
- Tasking out identified barriers with 30-day turnover
- Barrier Backlogs need to be addressed. MAC needs feedback regarding barrier packages.
  - Update on Barriers, 20 barriers received with 5 pending
- Discussion on waiver of $25,000 contract list. Specific waivers can be obtained.
  - FS processed
  - BLM to follow

Co-Chairs
Media Tours:

- Washington: Karin Berkholtz accompanied Co-Chairs on the Washington Media tour to provide background information on the President's plan. A satellite broadcast is scheduled in June to provide more information.
- Oregon: Tom Tuchmann and Greg Satohell accompanied the Co-Chairs on the Oregon Media tour.
- California: Media Tour is planned for the end of April.

Biological Side Update

- Bob Rheiner updated REIC on CERT process at their 3/10/94 meeting, interested in feedback, cooperation and scheduling of back-to-back meetings for better contacts.

- Lauri Hennessey's Update on Regional Ecosystem Office (REO)
  - ○ Preparing a list of Who's Who for Jobs-in-Woods communications
  - ○ Cooperation between CERTs and REO
  - ○ Province Teams to communicate Jobs-in-Woods (locate contact persons)

  Discussion on formalization of Province Teams (no implementation plan), **Bob Rheiner will look into structure of Province Teams. Lauri Hennensy will do followup on Province Team structure, chair/who responsible**
  - ○ Would like to increase membership at RIEC meetings to include Washington, Oregon, and California

Tribes

Cal Mukumoto

- Reported on the passing away of ITC Tribal Chairman and R-Cert member, Don Peasley.
  - ○ Louis Adams, Vice-President will assume the role until the Annual ITC Meeting decision.
- Tribal Forum Bulletin Board in place
- Mark Mercier is Oregon S-CERT Tribal Representative
- Lummi and Quinault have received funding under the initiative.
- Need to focus on Tribal Membership on the California S-CERT FACA
- Planning to go to each state for follow-up

UPDATE FROM STATE CERTs:

California:

Mark Stanley

- Reported 730 proposals submitted with 600 sent to lead agencies FACA
- Workshops held for supervisors on how to process proposals
- "One-stop" workshop where all services are in one place (EPA/DOL/FS etc)
- Monthly Meetings held on second Thursday/Friday with the exception of April, 1994
- Reported that majority of communities were not necessarily interested in loan monies but in grant monies
- Continuing concern over federal partners taking responsibility of lead agency
  - ○ **Duff to initiate conference call on the topic**

Oregon:

Bill Scott

- People laid off in Eastside (LaGrande/Cascade) due to mill closures
  - ○ Closure affects 25% of jobs in town
  - ○ Requested resources be deployed to Eastside
  - ○ Infrastructure grants are most needed
  - ○ Importance of "hand carrying" proposals through Agencies
- Bottlenecks of processing application are still a concern
- Business & Industry monies the greatest concern since it is largely loan monies versus grant monies

Recommendations: FAC

- High level of priority on Jobs-in-Woods Pilot Program
  - ○ Ecosystem Investment, Olympic Model

    Targeting dislocated timber workers with training/jobs

    Blocking projects together

    Agency provide supervisor for crews

    Representatives organized group for framework of pilot for implementing FY94

    Direct hire methodology (put together sequential time/training opportunity)

    Feedback and analyzing program for use during FY95
- FTE an **Impediment**, need waiver FACA
- **Workgroup formed to work on contracting terms and projects.** Members include Ed Allen, Gary Derosa, Bob, Nancy Gloman, Joyce Muraoka, Carl Culham, Judith St. Claire, and Cal Mukumoto. FACA
  - ○ Sub-group to develop concept and implement and report within 4 weeks.

Discussion on Projects:
- High priority projects have had phone contact, site visits
- Viable projects will have personal contacts
- "No Go" projects should have contact by lead agency with letter stating that it was processed through the CERT process.

__Washington:__
Karin Berkholtz
- Tom Bristow announced his resignation from the Governor's Timber Coordinator position. His last day is May 31. He'll be using the time to insure that Karin Berkholtz will be hired full-time as a member of the Timber Team.
- Army Corp of Engineers and BIA are new members of Washington S-CERT
- 257 proposals submitted to-date; 7 "no go" (all assigned to lead agencies) FACA
- Provincial Teams formed with primary/alternates, (selection criteria, and meeting minutes developed at S-CERT)
- Satellite Conference planned for 1st week in June with presentations and question/answer session. Target audience is local public officials
- Updated project matrix submitted to R-CERT Chairs
- Discussion of a University of Washington presentation to WA-CERT regarding technology on thinning, which requires extensive training and would be of regional benefit.
- Concept discussed: If multiple federal and state agencies are participating in the same project they should have MOUs between them regarding the project funding contracts. One of the agencies would act as "lead" with the jurisdiction so that the jurisdiction would have to administer just one contract, instead of many. The MOU would detail the funding logistics between the participating agencies. FACA
  - This is the Olympia sample using cooperative agreements

Regional Projects

- Concern/discussion on how to treat cross state/county projects
  - Example of imported kiln dried lumber from Russia going to mills in Oregon, Washington, and California showing multiply agencies. Suggested that proposals may be submitted as one single proposal marked "Regional Project" with state asking the most monies takes lead.
- Forestry issues are global in nature, reminder not to sacrifice resources from other country to create jobs in __our__ country.

Other Business

- Region 5 Forest Civil Rights Program Review issue, reminder when considering loans/grants to follow federal rules regarding diversifying the permittee and broadening the cross section of clients.
- *"AMERICORP"*

Ed Allen
- Community Assistance monies to assist college bound (children of dislocated workers), Seniors and Vista
  - May pull funds from Initiative
  - Ask to use CERT for distribution

(Announcement: In memo from Ollie Jones' handout, typo FY94 not FY44)

April 8, 1994

REPORT FROM WORKING GROUPS These all have [illegible] on them FACA

Impediments
Laura McFarland
- Discussion on the April 1 1994, Impediments Identified (See Handout)

Benchmark
Anne Berblinger

- Short term measure of success, customer satisfaction
- Summer interns
  - University of Oregon contacted about providing summer interns, Pat Corcoran to oversee efforts
  - Funding is from the USDA Economic Research Service through the Western Rural Development Council
- U of Oregon Professor Downes is doing research on 12 Oregon communities (8 in impacted areas)
- Need to establish baseline data for followup on Initiative
- Question on "library" of information, need to establish central collection point
- Will develop staged progress check points

Small Business
John Gilman

- Small Business conferences scheduled in April
- California "one-stop" model could be used in Washington and Oregon
- Need to explore expanding JPTA monies to training displaced workers to go into business

Other Funding Sources
Ken Brooks

- R-CERT to look into private sources
  - Foundation monies a potential i.e. grant writing proposals
  - Discussion on how to communicate to foundation

Bulletin Board
Pat Corcoran

- Reports hotline usage, capacity, users are increasing
- Contract funds almost exhausted
  - Possible aspect of $10/month charge
- Agenda item for next meeting/utilization
- Manual editing done by Mark Stanley

Funds Trackings
Scott Duff

- Spreadsheet handout distributed
- DOL reports:
  - Washington: $1.2M, OPA; $600,000 in process now; Spokane project is not being funded with dollars dedicated to the Economic Adjustment Initiative (EAI)
  - Oregon: $5.0M; $1.8M; Asking for amendment/approval $8.8M; $8.5M this cycle; $12M next cycle July 1, 1994
  - California: $4.6M requested/proposals
  - Money available to begin work $6.2M announced with $1.8M awarded prior
- Jobs-in-Woods/FS some obligated in Olympic Peninsula primarily construction equipment
  - California reports $2.5M applications with $1.8M should be awarded

Joyce Muraoka to update by 12th of April

- Ed Allen reported "Brookings Harbor" the first community assistance grant announced April 8, 1994
- EPA Ken Brooks Ecosystem Research $3M meeting with representatives from Washington and Oregon to look at proposals. No selection on watershed projects but should be occurring soon.
- Send updates to Diana Kent, FmHA Portland Office.
  - Problem with deciphering information on updates
  - **Laura McFarland/Diana Kent to design and draft format.**
- Add Klamath and Des Chutes Counties to spreadsheet for Oregon
- **Updates to tracking funds to Scott Duff by April 12th**
- **Mail updated copies to members during week of April 14th**
- **Impediment Identified:**
  - HUD, state policy a problem for two projects-at-a-time ruling. Opportunity for waiver.

Steve will talk to Oregon, Washington, & California for opportunity for waivers.

Watershed Restoration
Bob Rheiner

- Local communities to provide input
- Partnership/interfacing with Agencies
- Local prospective is "service oriented"

Contracting
Laura McFarland

- Encourage local hire
- Look at socio-economical rather than geographically
- Completed handout and have adjourned working group until summer of FY94
- Question/Answer (Guest, Bill Herst, Attorney)
    - Mechanism to bid on contracts
    - Training/Counseling to solicit bids for contracts
    - Discussion on manpower "Workforce Clause"
    - Encourage local hire, look at it socio-economically rather than geographically
    - Cooperative agreement with FS - work with private industry
    - Limitations to Oregon model
    - Existing projects - innovative ways to hire dislocated workers
    - Built in problem - Ecosystem Restoration is focus but Jobs-in-Woods' determination to make it work (delivery on President's promise).
    - "Manpower clause" suggested as a way to target dollars
        - Concern expressed as this clause may not be best appropriate
    - Look at man hours divided by jobs (regionally 500 jobs), reality is numbers are small forcing employment into ecosystem restoration.

Report to MAC
States:
Anna Sparks

- Local perspective
    - service oriented
- Coordination of funding sources
- Loan and grant percentages needs to be changed with more grants
- Jobs-in-Woods, short-term in nature & lower delivery of jobs
- Downsizing federal programs in rural areas seriously impact communities. Suggested that downsizing federal programs in economic hub areas and into impacted or rural areas be considered.
- Restoration andromous fish not included?
- FEMAT "standard" on what is "jobs" - level of income and consistency of jobs hasn't been addressed

Co-Chairs - Specific requirements on reports to MAC are structure, review roles, tracking, feedback, benchmarks
- Interagency cooperation (not appointed)
- Regularly scheduled meetings
- Acknowledges public input
- Focus on more formal recognition of economic side/direction on ecosystem
- MAC to be more aggressive on barriers
- Opportunity for multi-level concern for staffing CERTs, critical success is ability to assist them, by removing barriers

- Perception Problem - States understands difference between ecosystem and economical side, workers see one package (where is money?).
    - Reality check, DOL will provide members with information
    - Need to get out one announcement this month
- Decision with delegation of authority
    - Recommend MAC at R-CERT meetings and tours
    - Recommend to send R-CERT member(s) to MAC meetings

      Barriers presentation recommended by Joyce Muraoka and Ken Brooks seconded the recommendation that barriers be presented personally at the MAC meetings
- Tracking system - Process Improvements
    - Discussion on the "Dear John" letters on "no go" proposals

L should cite CERT processes

- Involve Tribes in process, tribes feel excluded, have closer link with biological side plus involvement in cutting timber puts tremendous burden on tribes.
- Feds not taking risks - Business as usual, detached from process

Communication Strategy

- Plan on working closely with states
  - Press releases
  - Coordination in outreach programs
  - Lead agency group meetings to help with pre-apps
  - Roundtable discussions
  - Bottom-up communication
  - Linking MAC to meetings
  - Using vehicles such as newsletters more efficiently in relaying information

Next scheduled meeting date is May 24-25, 1994 to be held in Sacramento, California
The June 22-23, 1994 to be scheduled in the State of Washington.

ADJOURN

Handouts

- Memo to MAC, RCERT, DOL, RDA
- Agenda
  - Regional CERT Economic Adjustment Initiative Meeting Minutes, February 7 & 8, 1994 - Tacoma, WA.
  - MEMORANDUM dated March 16, 1994 from Ollie Jones, Rural Community Assistance Coordinator, Subject: Forest Service Oregon CERT Projects - 13 pages.
- Memorandum dated March 11, 1994 to Regional CERT members from the Contract Work Group, Subject: Recommendations for Jobs-in-Woods - 2 pages.
- Memorandum dated April 6, 1994 to Regional CERT members from Anne Berblinger, Benchmarks Committee, Subject: Benchmarks Committee Progress Report - 1 page
- Memorandum dated April 6, 1994 to Regional CERT members, Judith St. Claire & ORDC Executive Committee, and Sharon Hobart-Hardin from Anne Berblinger, Benchmarks Committee, Subject: Higher Ed Involvement in work on Benchmarks for the Forest Initiative - 2 pages.
- Impediments Identified as of April 1, 1994 - 4 pages.
- BLM - Oregon - JOBS in the WOODS - 7 pages.
- "General Contractual Concepts and Innovative Ideas" by members of the Joint Regional CERT/BLM & FS Contract Working Group - 9 pages.
  - General Questions and Answers
  - Alternatives being Explored
  - Example of Timber Counties Retraining Program from Washington State
  - U.S. Small Business Administration Available Resources
  - Project Submissions Form
  - Estimated Budget Form
- Federal Assistance for Pacific Northwest Timber Communities, FY94, for Washington, Oregon and Northern California dated 4/1/94 (Funds Tracking) - 12 pages
- Projects Announced in FY 1994 as of April 2, 1994 - 2 pages.

(1) revised draft charter committee

(2) review guidelines COB WED TO

(3) review governing documents COB WED

(4) FINAL COB FRIDAY

United States Office of Forestry and Economic Development

333 S.W. First Avenue, P.O. Box 3623, Portland, Oregon 97208-3623

June 21, 1994

Memorandum

To: Peter Yu
Karl Stauber
Will Stelle
Todd Campbell
Peter Coppelman
Elizabeth Pugh

From: Tom Tuchmann, Director Tom

Subject: Proposed Alternative 4

The options currently under consideration for CERT compliance with FACA lay out the "charter" or "information exchange" directions we could follow. Clearly, these are the most straight forward actions we could take. However, these options could severely limit both regional and state CERTs' ability to function as originally intended. Option 2 would effectively eliminate the CERTs' problem solving function which is working so well. Option 3 is unacceptable to some states.

I would like to suggest a fourth option for Regional and State CERT operations for your consideration. Namely, **the Regional CERT be chartered as a FACA committee and the Federal-State MOU be repealed, therefore, allowing the states to re-establish and manage their state CERTs as they best see fit.** In repealing the MOU the states would be free to manage the CERT independent of FACA considerations.

There would be minimal practical affect. The RCERT could be chartered with existing members plus some additions to meet FACAs "balance" threshold. The States would be free to move ahead as they pleased which is basically how they have been operating to date.

Admittedly, this option is based on policy considerations and I don't know if it passes legal muster. However, I have bounced it off the state chairs and they think it may suit their purposes.

In closing the state chairs would like to discuss options with us before any decisions are made. This is a good idea and could be arranged through either a conference call or meeting.

U.S. OFFICE OF FORESTRY AND ECONOMIC DEVELOPMENT
333 S.W. First Avenue
P.O. Box 3623
Portland, Oregon 97208-3623
Telephone 503-326-6248 FAX 503-326-6254

FAX COVER SHEET

DATE: 1/6/56

TO: Will Stelle

FAX NUMBER:

TELEPHONE NUMBER:

514-3076

FROM: Lisa Freedman

FAX NUMBER:

TELEPHONE NUMBER:

NUMBER OF PAGES (including this page) 1

MESSAGE: State & Tribal Contacts — RIEC

Jim Weber, Columbia River Intertribal Fisheries Commission
(503) 731-1288

Gary Morishima, Intertribal Timber Council (206) 236-1406

Terry Williams, NW Indian Fisheries Commission
(206) 653-0223

Gov. Mike Lowry (206) 753-6780

Gov. Barbara Roberts (503) 378-3111

Commissioner of Public lands, Jennifer Belcher (WA) (206) 902-1004

Gov. Pete Wilson (916) 445-2841

On SCERT side!

(CA) Terry Gorton 916-653-5698

(OR) Bill C[illegible] 503-373-1205

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

MEMORANDUM

TO: Will Stelle, Associate Director for Natural Resources

FROM: Karl N. Stauber, Deputy Under Secretary
Small Community and Rural Development

SUBJECT: Schedules

DATE: July 1, 1994

The following are tentative schedules when available for me and the co-chairs of the RCERT and SCERT:

Karl Stauber	July 5	am	Tom Tuchmann	July 5	out
	July 6	out		July 6	out
	July 7	pm		July 7	out
	July 8	free		July 8	pm
	July 11	free		July 11	pm
	July 12	am		July 12	out
	July 13	free		July 13	free
Scott Duff	July 5	am	Terri Gorton	July 5	am
	July 6	free		July 6	pm
	July 7	out		July 7	am
	July 8	free		July 8	am
	July 11	out		July 11	free
	July 12	out		July 12	free
	July 13	out		July 13	free
Bill Scott	July 5	out	Karin Berkholtz	July 5	out
	July 6	out		July 6	free
	July 7	out		July 7	out
	July 8	out		July 8	free
	July 11	out		July 11	free
	July 12	out		July 12	free
	July 13	out		July 13	free
Peter Yu	July 5	pm			
	July 6	pm			

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

14-Jun-1994 11:43am

TO: Peter M. Yu

FROM: William W. Stelle
Office on Environmental Policy

CC: Kathleen A. McGinty
CC: Campbell, Todd J.

SUBJECT: FACA and CERTS

Agree w/ the approach

Peter, my recommendation to Katie, which I believe she regards as appropriate, is that we proceed as follows:

1. Ask Steve, Todd and DOJ to review the draft guidelines (thanks for them) to discern if they provide a legally defensible basis for option 2.

2. If the answer is no, then option 2 is not feasible.

3. If the answer is yes, then ask the regional leadership on the community assistance efforts to come in and review the two options to discuss with them their views on which may be more preferable. This would include the chairs of the state certs, the two chairs of the regional CERT, and Tuchmann.

The purpose of the meeting would be to review carefully with them the potentially significant limitations on the roles and responsibilities of the CERTS under option 2, and to discuss with them the pros and cons of the more limited roles of option 2 without the FACA chartering burdens -- or the large roles with those requirements. After reviewing the meeting minutes, I think it is particularly important to go through the details with them because many of the earlier discussions and activities would be barred under the Option 2 approach.

After such a meeting, Bo and Katie would be in a better position to make a decision, and that decision would more likely meet with the support of the regional people since they would have been closely consulted in the process.

4. I do not believe this need take much time, since we could arrange such a meeting early next week, and then get on with it.

I will call Elizabeth Pugh and ensure that she is able to attend the meeting. Karl as well.

See you friday.

And good luck on the farm bill. Sure to be an easy one.

ws.

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E
N T E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E
N T

08-Jun-1994 06:42pm

TO: William W. Stelle

FROM: Peter M. Yu
National Economic Council

SUBJECT: Close hold memo

June 7, 1994

MEMORANDUM FOR BO CUTTER

FROM: Peter Yu

SUBJECT: Background for CERT-FACA Meeting: Thursday, June
9, Thursday, June
9,

10:15

This memorandum summarizes the issue set forth in the attached D
OJ memorandum, and outlines my (minority) view on the subject. DOJ and
WH Counsel consider this a policy rather than a legal question and belie
ve you and Katie are the appropriate decisionmakers.

Background. The Federal Advisory Committee Act (FACA) requires that
a committee that includes non-federal employees and is formed for t
he purpose of providing advice or recommendations to federal officials me
et certain membership and procedural requirements. Most notably, t
he committee's membership must be balanced, it must announce its meetin
gs

Under the Economic Initiative, we established Community Economic Revitalization Teams (CERTs) in California, Oregon, and Washington. The CERTs consist of federal, state, and local representatives and serve two purposes: (i) to provide factual information to federal officials implementing the Initiative and (ii) to enhance coordination among the levels of government. In order to comply with FACA, we (working with WH Counsel) designed the teams to provide information, and not advice. The CERTs have functioned extraordinarily well and are a model for reinventing government. They have accelerated federal decisions on economic development proposals, served as a one-stop shop for applicants, and helped control the political and communications situation in the region.

Issue and Analysis. DOJ, WH Counsel, and OVP Counsel believe that, as a legal matter and with appropriate guidance, the CERTs can function without being chartered as FACA committees; the question is whether we should nonetheless charter the CERTs as FACA advisory committees.

WH Counsel and OVP believe that the risk of litigation over this subject is so great that we should err on the side of caution and charter advisory committees. They believe that if we do not do so and are sued that the judge would be critical of the Administration's alleged "evasion" of FACA.

I disagree, on four grounds.

? First, I believe the risk of litigation over the CERTs is smaller than OVP suggests. Groups that have sued the Administration over the Forest Plan have challenged the land-management portion, not the economic portion. Moreover, we have taken the position in FACA litigation over the Health Care Task Force that a group that provides information and not advice does not need to be chartered.

? Second, chartering a FACA committee will harm the CERT process and thus the implementation of the Economic Initiative. Currently, because the non-federal members of the CERTs are limited to providing information (such as recent plant closings, indicators of economic distress, and available resources), they do not advocate one grant application over another. As a result, the dynamic in the CERTs has been collegial and highly effective. However, once these members (most of whom are elected officials) are authorized to provide advice to federal officials, this dynamic will deteriorate. The officials will be caught in a cycle of promoting their own provincial interests.

? Third, if we charter the CERTs, we may be required (under the "balance" requirement) to add additional members--labor unions, environmentalists, business interests, and others--to the teams. This will likely slow the functioning of the groups.

in the Federal Register, and it must hold open meetings.

The President's Forest Plan has two components: a land-management component and an economic component (the Northwest Economic Adjustment Initiative). A district court has ruled that the land-management program was drafted in violation of FACA, but has not enjoined the Plan. Interest groups have now filed suit seeking to bar implementation of the Plan, charging that its reliance on certain new committees does not comply with FACA. In response, the relevant agencies have decided to charter FACA advisory committees to implement the land-management aspects of the President's Plan.

? Finally, many of the funds provided in the President's Initiative are time-limited--that is, they must be obligated by June 30. Establishing a chartered committee will delay such obligations and thus slow the recovery of the affected region.

In short, I believe the policy and political costs of creating FACA advisory committees outweigh the benefits (in terms of reduced litigation risk). As noted, however, this is a minority view.

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

CM — copy Will & Tuchman get their comments to
LOPPA: 4/12
COMMUNICATIONS

November 18, 1993

Katie A. McGinty, Director
Office on Environmental Policy
360 Old Executive Office Building
Washington, DC 20500

Dear Ms. McGinty:

Enclosed for your review is a copy of the Multi-Agency Command's (MAC) strategic plan, as required by the Forest Plan's Federal-State Memorandum of Understanding to which you are a signatory.

This strategy for economic adjustment in the Pacific Northwest and Northern California has been in final draft form for several weeks now. During this time, the plan was reviewed and found to be satisfactory by White House officials, state and local government representatives, and by other private and non-profit partners.

We now need to adopt this strategy as a working document. Please contact Wayne Fawbush in the MAC's office at 202/720-9369 by close of business Wednesday, November 23, 1993, if you have any comments. If we do not hear from you by then, we will assume that you are in agreement with the plan.

Sincerely,

Bob Nash

BOB NASH, Chair
Multi-Agency Command

PETER YU, Director
National Economic Council

Enclosure

Post-It™ brand fax transmittal memo 7671 — # of pages ▸ 11

To Tom Tuchman	From CHRISTIAN
Co.	Co. 456-6533
Dept.	Phone #
Fax #	Fax #

AN EQUAL OPPORTUNITY EMPLOYER

Multi Agency Command
Strategy for the Forest Plan Economic Adjustment Initiative

November 19, 1993

"We must never forget the human and economic dimensions of these problems. Where sound management policies can preserve the health of forest lands, sales should go forward. Where this requirement cannot be met, we need to do our best to offer new economic opportunities for year-round, high-wage, high-skill jobs." -- President Clinton, April 2, 1993

Introduction

This strategy outlines a framework to enable workers, businesses, communities, and tribal members to work in partnership with their governments as the region adjusts to changing economic conditions. As a framework for cooperative action, this plan intentionally leaves room for partnerships to mature and new insights to be incorporated. Thus, the plan is the beginning of an evolutionary process. The first year will be the learning ground for the second, and the second for the third.

I. Mission

The mission of the Economic Adjustment Initiative for the Pacific Northwest and Northern California is:

to develop, stabilize, and augment the capacity of individuals, businesses, communities, and tribes to adjust to, and thrive in the face of, declining timber harvests,

by increasing the scope and effectiveness of federal investments in economic and community assistance,

through improved coordination and integration of federal, state, and local resources and efforts.

II. Principles

The following principles will guide the federal government's actions in this effort. The federal government will:

- Encourage plans and actions at all levels to focus on results and to integrate economic, social, and environmental concerns;
- Move decision making and priority setting closer to the local level, based on the development of a mutual understanding that with this opportunity comes responsibility for performance and public accountability;
- Empower its own employees to act as responsive partners with state, tribal, and local governments and the private sector--profit, nonprofit, and community-based organizations;
- Enable workers, families, businesses, communities, and tribes to identify their own strategic opportunities and courses of action;
- Encourage sustainable market-oriented solutions, rather than long-term subsidies;
- Promote regional approaches to developing solutions to common problems; and
- Encourage collaboration among all participants.

III. Goals and Objectives

The goals and objectives of the Economic Adjustment Initiative are to:

***Goal*: Respond to locally-defined needs with a system that is flexible and innovative.**

Objectives:

- Listen to, learn from, and act in conjunction with workers, businesses, communities, tribes, and public servants at all levels of government in order to improve the federal delivery system.
- Provide assistance for local planning and strategic decision-making based on sound analysis.

- Ensure that programs are accessible and easy to use.

Goal: **Enable affected workers and families, businesses, communities, and tribes to regain or improve their economic and social well-being.**

Objectives:

- Provide assistance to workers and families to ease the short-term economic transition.
- Coordinate economic adjustment efforts with ecosystem investments to maximize economic benefits in affected communities.
- Prepare dislocated workers to compete effectively for available and anticipated employment opportunities, through a network of coordinated training and economic development efforts.
- Facilitate private sector investment in existing and new businesses that have the potential to generate sustainable, quality re-employment opportunities for dislocated workers.
- Make long term investments in job training, technical assistance, and public facilities to position individuals, firms and communities strategically.
- Cultivate the leadership capacity, development resources, and infrastructure necessary for resilient communities, building on the base of existing local and regional strategic planning work.

IV. Streamlining the Process for Delivery of Services

Multi Agency Command

Roles

- Empower people to get results. Decentralize authority and empower those who work on the front lines to make more of their own decisions and solve more of their own problems. Legitimize initiative, risk-taking, and flexibility among federal employees, as well as new lines of communication across and within federal agencies.

- Work as a team to get results by overcoming obstacles and leading by example in facilitating interagency cooperation.

Actions

- Develop a strategic plan for the Economic Adjustment Initiative in the Pacific Northwest and Northern California.

- Establish strong lines of communication with the Regional Community Economic Revitalization Team (RCERT), the Interagency Steering Committee, and the Regional Interagency Executive Committee. (The latter two are part of the ecosystems management response team.)

- In collaboration with the Governors' offices, respond within 15 days to the RCERT's implementation plan.

- Identify ways to improve the effective and coordinated delivery of federal programs and services and respond quickly to suggested changes in policies; practices; agency regulations; and legislation, as well as suggested changes to the strategic plan itself.

Regional Community Economic Revitalization Team

Roles

- Serve as a forum for discussion of state and federal issues, regional strategies, and funding issues.

- Develop short and long-term implementation plans to do the following:

Actions

- Make the best use of FY 94 funding opportunities.

- Collect and disseminate program information, and support and enhance existing information distribution systems.

- Ensure the equitable distribution of federal funds, consistent with federal statutes.

- Facilitate the development of cooperative arrangements between states.

- Ensure active coordination with other entities.[1]

- Establish a process to measure performance of the Initiative.

- Plan for regular communication with the MAC, SCERTs, and others regarding the strategy process, projects, activities, outcomes, innovative practices, barriers, etc.

- Identify ways to improve efficiency and coordination in the delivery of federal and state programs and services, resolving those matters which can be addressed at the regional level and forwarding the rest to the MAC for assistance and resolution as necessary.

State Community Economic Revitalization Team (SCERT)

Roles

- Coordinate delivery of state and federal assistance to workers, businesses, communities, and tribes.

- Work with tribal governments, local governments not on the SCERT, and private for- and non-profit organizations.

Actions

- Develop an information outreach effort to ensure customer awareness and input into the process.

- Provide state and local perspective on project proposals and applications to federal officials.

- Develop a system of both substantive and SCERT process performance measurements to assess progress and results.

- Identify ways to improve efficiency and coordination in the delivery of federal and state programs and services, resolving those matters which can be addressed at the state level and forwarding the rest to the RCERT for assistance and resolution as necessary.

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[1] Includes tribal governments, other local governments not serving on the SCERT, and private for- and non-profit organizations.

V. Evaluation and Modification

The Strategic Plan will be reviewed and evaluated and a report submitted to the parties to the Interagency MOU by no later than April 30, 1994. The evaluation will be conducted by the RCERT in conjunction with the MAC and SCERT and will be based upon performance measures established in the RCERT's implementation plan.

Appendix I
Communications Plan

The following two-part communications plan will be implemented by the MAC in conjunction with the RCERT and SCERTs to provide for:

- Decentralization of authority to and empowerment of federal officials at the RCERT and SCERT levels;
- Accurate and timely flow of information among the MAC, RCERT, and SCERTs;
- Coordination of Economic Adjustment Initiative activities with those of the Ecosystem Initiative; and
- Public awareness of the Initiative, its activities, and successes.

Internal Communications

To ensure that federal officials at the RCERT and SCERT levels are authorized and able to carry out the duties given them in this Initiative:

1) The MAC will contact its respective representatives at the RCERT and SCERT levels in order to:

    - delegate decision-making authority to RCERT and SCERT members;
    - emphasize the need for a long-term commitment to the Initiative and its processes;
    - link the efforts of the RCERT and SCERTs to those of the Ecosystem Initiative;
    - indicate the urgency of moving forward on current requests for assistance;
    - direct RCERT and SCERT members to identify opportunities for coordination of interagency activities and to resolve interagency differences;

- request that RCERT and SCERT members identify ways to improve efficiency and coordination in the delivery of federal and state programs and services, and ask for recommendations as to how the MAC could become involved if authority is lacking at the state or regional levels;

- convey its commitment to respond to suggested improvements forwarded from the RCERT; and

2) The MAC will communicate with other interested/affected parties to gain their help and make the jobs of the RCERT and SCERTs easier. Actions include:

   - brief and establish ongoing communications links with the region's Governors, Congressional delegations, and Tribal governments;

   - develop links with the Vice-President's Empowerment Board;

   - develop support strategies with MAC for their staffs in the region;

   - brief the Monday Management Group and the State Rural Development Councils of the National Initiative on Rural America; and

   - brief Cabinet-member speech writers.

To ensure accurate and timely flow of information among the MAC; RCERT; and SCERTs; the MAC, in conjunction with the RCERT and SCERTs, will:

1) Provide staff at the MAC and RCERT levels to facilitate ongoing communication among the three levels;

2) Establish a regular meeting schedule of the MAC;

3) Commit member-agency resources to respond to requests for information and removal of barriers forwarded from the RCERT; and

4) Establish an electronic bulletin board containing:

   - up-to-date information on activities of the MAC, RCERT, and SCERTs;

   - status of program funds, project applications, and funded project activities; and

- electronic mail and conferencing capabilities.

To ensure coordination of Economic Adjustment Initiative activities with those of the Ecosystem Initiative, the MAC, in conjunction with the RCERT and SCERTs, will:

1) Schedule periodic meetings between the two Initiatives at the national and regional levels;

2) Establish a combined electronic bulletin board containing up-to-date information on each of the Initiatives; and

3) Designate MAC members to attend meetings of the Ecosystem Initiative Interagency Steering Committee and request that designated members of the Ecosystem Initiative attend MAC meetings.

External Communications

To promote public awareness of the Initiative, its activities, and successes, the MAC, in conjunction with the RCERT and SCERTs, will:

1) Work with regional personnel of MAC agencies to coordinate and provide detailed information to the public in the region. That information should include, but not be limited to:

   - description of the Initiative, its resources, process, and structure;
   - "how-to" guides on applying for and using those resources (including contacts);
   - updates on the distribution of funds and examples of proposals funded (e.g., innovative projects); and

2) Brief and establish ongoing communications links with the region's Governors, Congressional delegations, Tribal governments, and public interest groups.

Appendix II
Improving the Assistance Process

One aspect of the Economic Adjustment Initiative involves improving the delivery of federal assistance. Recognizing that many current program requirements and administrative procedures could be improved, a system will be instituted for identifying and implementing such improvements.

Improvements may involve refinements in compliance assistance or in changes to administrative practices, policies, regulations, and statutory requirements. In some instances, constraints may be the result of poor communication or inadequate legal guidance. In others, what may be perceived as a constraint may in fact be a justifiable regulation, although the rationale for its existence may be unclear or disputed.

Implementing this system is the responsibility of all participants in this Initiative -- program customers, as well as federal and state officials at all levels. Details should be outlined in the implementation plan and should reflect the following:

- A commitment on the part of the MAC to ensure that recommendations for improvements in federal requirement and procedures, advanced to it through the system, are referred promptly to the responsible agency or authority and are tracked through the investigation process.
- A commitment on the part of RCERTs, SCERTs, and states to handle in a similar fashion recommendations made to them.
- That the focus should be on outcomes for workers, businesses, communities, and tribes.
- That remediation of a constraint should be attempted first at the level at which it is identified.
- That the most workable solutions include local knowledge and expertise, and, therefore, decisionmaking authority and resolution should be moved as far downstream as possible.
- That this system is <u>not</u> intended for:
    - appeals of unfunded project applications, nor for
    - waivers of justifiable administrative, regulatory, or statutory requirements.

208 3144

United States Department of the Interior

OFFICE OF THE SOLICITOR

FACA

APR 1 4 1994

Memorandum

To: Assistant Secretary, Natural Resources and Environment Department of Agriculture

Assistant Secretary, Land and Minerals Management Department of the Interior

From: General Counsel, Department of Agriculture

Solicitor, Department of the Interior

Subject: Implementation of the President's Forest Plan and the Federal Advisory Committee Act

In this memorandum, we consider the implications of the Federal Advisory Committee Act (FACA) on implementing the President's Forest Plan. We have concluded that whether FACA compliance will be required will depend on how the various groups are configured and function. For the most part the information describing the groups was obtained from the "Final Supplemental Environmental Impact Statement on Management of Habitat for Late-Successional and Old-Growth Forest Related Species within the Range of the Northern Spotted Owl" (the "FSEIS").

This memorandum advises that some of the groups contemplated by the President's Forest Plan must be chartered under FACA if they are to function as set out in the FSEIS and related documents. We are not recommending that the groups discussed in this memorandum function in any particular way. We are indicating, however, that if they are to function as set forth in the FSEIS, they must be chartered under FACA. We are providing minimal operational advice and recommend, if the decision is made to charter any of the groups, that the federal employees responsible for managing the groups contact either Robert H. Moll in the Division of General Law, Office of the Solicitor, Department of the Interior ((202) 208-5216) or James P. Perry, Natural Resources Division, Office of the General Counsel, Department of Agriculture ((202) 720-7121) for more detailed operational advice.

In considering whether to carry out the President's Forest Plan in a way that will require chartering under FACA, it is important to consider the underlying reasons why FACA was passed. As noted by the Supreme Court, "FACA was enacted to cure specific ills, above all the wasteful expenditure of public funds for worthless committee meetings and biased proposals." Public Citizen v. U.S. Department of Justice, 491 U.S. 440, 453 (1989). In enacting FACA Congress defined the term "advisory committee" very broadly, to include "any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof . . . which is . . . established by statute or reorganization plan, or established or utilized by the President, or established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government . . ." (emphasis supplied). 5 U.S.C. § 3(2).

When a group is chartered under the FACA, a charter and justification statement must be prepared, approved by the Office of Management and Budget (pursuant to Executive Order 12838) and the General Services Administration (GSA), and filed with the Library of Congress. FACA requires that the advisory committee's membership be balanced in terms of the points of view represented and the functions to be performed by the committee. After a committee properly is chartered and its membership appointed, its operations must include the following: providing notice of its meetings in the Federal Register; holding open meetings (except in fairly limited circumstances); establishing an agenda for each meeting; taking minutes for each meeting; providing for public access, subject to the Freedom of Information Act, to all information considered by the committee; and, upon request, making transcripts of meetings available. The level of participation in the meetings by non-members can be shaped by the committee. A committee can provide that no public participation in the meetings by non-members occur although it is advisable to provide for at least some opportunity for public participation in a meeting such as by providing an opportunity for public comment in the final part of the meeting.

Under GSA guidelines and case law, advisory committees may have working groups or task forces convened for the purpose of gathering information or conducting research for the advisory committee. These groups, which are composed of one or more members of the advisory committee and may have as participants non-advisory committee members, need not be chartered separately, and need not meet in public so long as the product of their efforts is deliberated in a public meeting of the advisory committee. These groups may not advise federal officials directly; their work must be channeled through, and deliberated by, the advisory committee.

EXECUTIVE SUMMARY

This memorandum discusses ten groups anticipated by the President's Forest Plan.

We understand that the FSEIS and the Interagency Steering Committee (ISC) anticipate that the following groups will have non-federal members: Regional Interagency Executive Committee (RIEC); Provincial Interagency Executive Committees (PIEC); and Regional Community Economic Revitalization Team (R-CERT). Accordingly, these groups must be chartered pursuant to FACA.

We understand that the following groups will have non-federal members, but could be structured as task forces or working groups

of one of the chartered groups, and thus would not need independent charters: Adaptive Management Area Teams (AMAT); Watershed Analysis Groups; Late Successional Reserve Assessment Teams; and State Community Economic Revitalization Team (State CERT).

We understand that the ISC intends that the following groups will be staffed by federal employees only and thus will not need to be chartered: Regional Ecosystem Office (REO); the Research and Monitoring Committee (RMC); and the Multi-Agency Command (MAC).

We are aware that the Department of Agriculture has a limitation in its FY 1994 appropriations limiting the amount of appropriated funds that it can spend on its advisory committees. The Forest Service, however, would not be subject to this limitation because its funding is provided by the Interior and Related Agencies Appropriation Act. Other USDA activities by the Office of General Counsel and the Office of the Assistant Secretary for Natural Resources and the Environment would be subject to the restrictions. Consequently, the Department of Agriculture may be unable to contribute its full proportionate share of the costs of supporting the advisory committees and task forces during this fiscal year unless additional appropriation authority is provided by Congress.

DISCUSSION

Regional Interagency Executive Committee (RIEC)

This group "consists" of the Pacific Northwest federal agency heads of the Forest Service, the Bureau of Land Management, the U. S. Fish and Wildlife Service, the National Marine Fisheries Service, the Bureau of Indian Affairs, and the Environmental Protection Agency (EPA). "Participants" in the committee include the National Park Service, the States of Oregon, Washington, and California, and three tribal organizations. This committee must assure the successful implementation of the selected alternative from the FSEIS, and its "policy and planning decisions and recommendations will be made collaboratively". The RIEC will provide direction to the Regional Ecosystem Office, province teams [PIECs], and the Research and Monitoring Committee, and work with the Regional Community Economic Revitalization Team (R-CERT) to develop criteria and priorities for ecosystem investment opportunities. FSEIS p. 2-13.

RECOMMENDATION

As we understand how the FSEIS and the Interagency Steering Committee (ISC) intend the RIEC to operate, federal officials will meet with representatives of states and tribes to develop consensus recommendations for federal agency decision makers on managing the federal lands. Accordingly, this committee must comply with the provisions of FACA. In addition, while both federal and non-federal members of the FACA-chartered committee may participate in the collaborative process of making recommendations, all federal management decisions must be made by the particular federal official with the delegated authority to make the decision.

Until the RIEC is organized under FACA all of its members must be federal employees. Meanwhile, as one means of informing themselves, the federal members of the RIEC may accept information from those non-federal individuals or entities intended eventually to become members of the chartered advisory committee through several means including written comments and in meetings with more than one individual for the purpose of exchanging facts or information or for obtaining the advice of individual attendees and not for the purpose of using the group to obtain consensus advice or recommendations. The federal officials also may meet with members of the public who are not intended by the FSEIS to be members of the RIEC in much the same manner as described for those that are intended to become members, as well as in public hearings. Finally, the federal officials also may meet with a group, at the group's request for the purpose of expressing the group's view, provided that the group is not used by the federal officials recurrently as a preferred source of advice or recommendations.

If the ISC decides to organize the RIEC under FACA, once it is chartered and its members appointed, the RIEC may operate as contemplated by the FSEIS.

Regional Ecosystem Office (REO)

This office provides staff support to facilitate RIEC decision making and prompt issue resolution in support of implementing the alternative selected from the FSEIS. FSEIS p. 2-14. We understand that the ISC intends that this office will be staffed only by federal employees.

RECOMMENDATION

So long as this office is staffed only by federal employees, there is no FACA compliance issue, unless it convenes a meeting or meetings with non-federal persons to obtain consensus advice.

Research and Monitoring Committee (RMC)

This committee, consisting of research scientists and managers from a variety of disciplines, will provide recommendations to the RIEC on the implementation of the selected alternative. FSEIS p. 2-14. We understand that the ISC intends that this office will be staffed only by federal employees.

RECOMMENDATION

So long as this office is staffed only by federal employees, there is no FACA compliance issue, unless it convenes a meeting or meetings with non-federal persons to obtain consensus advice.

Provincial Interagency Executive Committees (PIEC)

These teams will consist of representatives of federal agencies, states, American Indian tribes, and "others", and will: "provide or coordinate analyses at the province level that can provide the basis for amendments to Forest and District Plans"; "provide monitoring reports for provinces"; and "encourage and facilitate information exchange and complimentary ecosystem management among federal and non-federal land managers". FSEIS p. 2-14.

RECOMMENDATION

As we understand how the FSEIS and the ISC intend the PIECs to operate, a group of federal, state, and local government officials, and members of the public will develop consensus advice and recommendations for federal agency decision makers on managing the federal lands. Accordingly, these committees must comply with FACA. In addition, while both federal and non-federal members of the FACA-chartered committee may participate in the collaborative process of making recommendations, all federal management decisions must be made by the particular federal official with the delegated authority to make the decision.

Our recommendations and advice for the RIEC apply to the PIECs as well.

Adaptive Management Area Teams (AMAT)

The FSEIS designates ten adaptive management areas, and the REO has proposed that each area have a team to implement the FSEIS alternative chosen. These experimental areas will provide opportunities for land managing and regulatory agencies, other government entities, non-governmental organizations, local groups, landowners, communities and individuals to work together to develop innovative management approaches. Participation needs and opportunities will vary from one issue to the next. FSEIS. p. 2-62.

RECOMMENDATION

We understand that the FSEIS and the ISC intend that the membership of these teams will include federal employees and non-federal individuals representing local governments, land owners, environmental organizations, and other members of the public. It also is intended that these groups will develop consensus advice and recommendations on federal land management issues, and provide that advice and recommendations to the federal land managers. Accordingly, these groups must comply with FACA. In addition, while both federal and non-federal members of the FACA-chartered committee may participate in the collaborative process of making recommendations, all federal management decisions must be made by the particular federal official with the delegated authority to make the decision.

All members of these groups must be federal employees until the groups are organized pursuant to FACA. As an alternative to chartering these groups, if either the RIEC or PIECs are chartered pursuant to FACA, the AMATs could be organized as working groups or task forces that provide information and recommendations to the chartered group(s) and not directly to the federal decision makers. Under such a scenario, the chartered group must independently analyze and consider the information and recommendations from the task force, and not merely "rubber stamp" or pass them forward to the decision makers without review. Under this arrangement the operations of the AMATs will have to be monitored very closely to assure that the product of the AMATs is fully considered and debated by the PIECs or RIECs and that it is these latter groups that actually advise federal decision makers. Meanwhile, until there is compliance with FACA at some level, any advice, recommendations, etc., should be accepted from non-federal individuals or entities only in the manner described in the foregoing discussion of the RIEC.

Watershed Analysis Groups/Late Successional Reserve Assessment Teams

A watershed analysis will focus on collecting and compiling the information within a watershed that is essential for making sound management decisions. Any actions proposed as a result of the process will require NEPA documentation. The information from the watershed analyses will contribute to decision making at all levels. FSEIS p. 2-16. We understand that the Late Successional Reserve Assessments will use a process similar to the Watershed Analysis Groups. We also understand that non-federal individuals and entities will be involved in both processes.

RECOMMENDATION

As we understand the FSEIS and the intent of the ISC, these teams will be organized similar to the AMATS. Our recommendations and advice for the AMATS apply to these groups as well.

Multi-Agency Command (MAC)

Members of this committee include individuals designated by the Secretaries and Administrators who executed the Interagency Memorandum of Understanding for Economic Adjustment and Community Service (the parties). The committee is composed of one or more federal employees from the Office of Management and Budget, Small Business Administration, EPA, the Departments of Agriculture, Interior, Commerce, Labor, Housing and Urban Development, and the White House. The MAC, under the guidance of the parties, has oversight and policy making authority and responsibilities, consistent with the authority delegated by each party.

RECOMMENDATION

So long as this office is staffed only by federal employees, there is no FACA compliance issue unless it convenes a meeting or meetings with non-federal persons to obtain consensus advice.

Regional Community Economic Revitalization Team (R-CERT)

The parties each designated one or more representatives to participate in the R-CERT. Other members include two representatives each from Oregon, Washington, and California. The Secretary of Agriculture and the Secretary of the Interior designate two of the federal representatives to serve as co-chairs. The R-CERT, under the guidance of the MAC and the parties, has decision making authority, consistent with federal law and the Strategic Plan. Matters unsettled or disputed within R-CERT are forwarded to the MAC for resolution.

RECOMMENDATION

We understand that this group is intended to function similar to the RIEC. Our advice and recommendations for the RIEC, therefore, are applicable to this group.

State Community Economic Revitalization Team (State CERT)

The parties and the governors of Oregon, Washington, and California have established State CERTS. Each State CERT includes representatives of each federal agency with program responsibility, representatives of the state government appointed by the governor, and representatives of local governments appointed by the governor with the approval of local government organizations. The chair of each State CERT was selected by its non-federal members. The State CERTs have authority to implement daily the Strategic and Implementation Plans, consistent with federal and state law. Matters unsettled or disputed within a State CERT are forwarded to the R-CERT for resolution.

RECOMMENDATION

If the federal government is obtaining advice from the State CERTS, all members of these groups must be federal employees until the groups are organized pursuant to FACA; except that if the R-CERT is chartered pursuant to FACA, the State CERTS could be organized as working groups or tasks forces that provide information and recommendations to the chartered group. In such an instance, our advice in the discussion of the AMATS regarding this scenario would apply to these groups.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20250-1400

Facsimile Transmission Cover

From:	Michael J. Gippert Deputy Assistant General Counsel Natural Resources Division	Phone: Fax:	(202) 720-2063 (202) 690-2730

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INTERAGENCY MEMORANDUM OF UNDERSTANDING
FOR ECONOMIC ADJUSTMENT AND COMMUNITY ASSISTANCE

I. PARTIES

This is an agreement among eleven parties:

- the Secretary of the Interior;
- the Secretary of Agriculture;
- the Secretary of Commerce;
- the Secretary of Labor;
- the Secretary of Housing and Urban Development;
- the Administrator of the Environmental Protection Agency;
- the Deputy Director of the Office of Management and Budget;
- the Administrator of the Small Business Administration;
- the Assistant to the President for Economic Policy;
- the Assistant to the President for Domestic Policy; and
- the Director of the Office on Environmental Policy;

II. PURPOSE

The purpose of this Memorandum is to improve interagency cooperation in order to enhance the delivery, tracking, and evaluation of economic adjustment assistance to workers, families, businesses, and communities affected by the President's Forest Plan for the Pacific Northwest and northern California. This memorandum establishes the principles that will guide the parties' cooperation in this undertaking, sets forth the objectives of this collaborative effort, and outlines the responsibilities of the parties. It also defines the structure of federal coordination, which is designed to work closely with state and local governments, Tribal Nations, and others, in order to make the best use of federal resources. This memorandum complements the Memorandum of Understanding for Forest Ecosystem Management.

III. STRUCTURE

A. *Equal Status:* The parties are equal members of this cooperative relationship.

B. *Multi-Agency Command:* Each of the parties shall, within 7 days of the signing of this Memorandum, designate one individual (the Secretary of Agriculture and the Secretary of the Interior may each designate one or two individuals) to serve as the liaison with the other parties and to report directly to the appropriate party. These individuals shall comprise the Multi-Agency Command (MAC). The Secretary of Agriculture shall designate one of the representatives to serve as Chair of the MAC.

The MAC, under the guidance of the parties, shall have oversight and policymaking authority and responsibilities as consistent with the authority delegated by each party.

C. *Regional Community Economic Revitalization Team:* The Secretaries and the Administrators shall, within 14 days of signing this Memorandum, each designate one or more representatives to participate in the Regional Community Economic Revitalization Team (Regional CERT), which will be based in the affected region. The Regional CERT shall also include two representatives each from Oregon, Washington, and California. One of those two representatives shall be designated by the Governor, and the second representative shall be designated by the nonfederal members of the State CERT. The Secretary of Agriculture and the Secretary of the Interior shall designate two of the federal representatives to serve as Co-chairs of the Regional CERT.

The Regional Community Economic Revitalization Team, under the guidance of the Multi-Agency Command and the parties, shall have decision authority as consistent with federal law and the Strategic Plan described in Part IV, and subject to the limitations set forth in Part V. However, nothing in this Memorandum shall be construed to expand or diminish the authority of federal, state, or local officials participating in the Regional CERT. Matters unsettled or disputed within the Regional CERT shall be forwarded to the MAC for resolution.

D. *State Community Economic Revitalization Team:* The parties and the Governors of Oregon, Washington, and California shall establish State Community Economic Revitalization Teams (State CERTs). Each State CERTs should include representatives of each federal agency with program responsibility, representatives of state government appointed by the Governor, and representatives of local government appointed by the Governor with the approval of local governmental organizations. The Chair of each State CERT shall be selected by its nonfederal members.

The State CERTs shall have daily authority to implement the Strategic and Implementation Plans as consistent with federal and state law. However, nothing in this Memorandum shall be construed to expand or diminish the authority of federal, state, or local officials participating in the State CERTs. Matters unsettled or disputed within a State CERT shall be forwarded to the Regional CERT for resolution.

E. *Memorandum of Understanding with the States:* The Multi-Agency Command shall, within 14 days of the signing of this Memorandum, enter into a Memorandum of Understanding with the Governors of Oregon, Washington, and California, and representatives of affected communities in the region. That Federal-State Memorandum shall complement this Interagency Memorandum and set forth in greater detail the responsibilities of the Regional CERT, the State CERTs, relevant state and local governments, and other parties, as well as the relationships between state and local representatives.

IV. Responsibilities of the Parties

In the development and execution of economic adjustment activities, state and local governments, Tribal Nations, and others shall play a critical role in determining how best to meet the needs of the affected communities. Federal officials should resolve interagency differences, coordinate interagency activity, and remove any unnecessary regulatory impediments to economic adjustment and assistance.

A. *Development of Strategic Plan*

Working with state and local officials, representatives of the Tribal Nations, and other persons the parties deem appropriate, the Multi-Agency Command shall prepare a Strategic Plan for Economic Adjustment and submit that plan to the parties and the Governors of Oregon, Washington, and California within 45 days of the signing of this Memorandum. The Plan, which shall be consistent with the limitations set forth in Part V, shall address a three-year period and include:

- a detailed statement of the goals of the Plan;
- a streamlined process for the delivery of economic assistance and services;
- a detailed description of authority delegated to federal officials in the region;
- quantifiable benchmarks of progress, such as new family-wage jobs created, numbers of dislocated workers retrained, numbers of community facilities funded, and capital investment levels, and related timetables; and
- a detailed description of the relationship among the federal, state, and local parties.

The parties and the Governors of Oregon, Washington, and California shall approve the Plan within 15 days of its submission.

B. *Development of Implementation Plan*

Working with representatives of the State CERTs, the Tribal Nations and other persons the parties deem appropriate, the Regional CERT shall prepare an Implementation Plan and submit that plan to the MAC and the Governors of Oregon, Washington, and California within 45 days of the approval of the Strategic Plan. The Implementation Plan shall address a three-year period and include:

- a detailed plan for integrating and implementing the relevant programs and services of the Departments of Labor, Commerce, Interior, Agriculture, Housing and Urban Development, the Small Business Administration, and the Environmental Protection Agency;

- a detailed plan for a clearinghouse of services for state and local officials, individuals, and firms;

- a detailed and comprehensive list of temporary and permanent legislative and regulatory provisions necessary for the prompt and efficient delivery of assistance to affected communities and individuals;

- a plan for a uniform system for reporting to the MAC;

- dates for the final submission of projects, with deadlines for approval;

- limits on administrative expenses and overhead for services provided to workers, businesses, and communities; and

- a detailed plan and timetable for the actual receipt of assistance by affected communities and individuals.

The MAC and the Governors of Oregon, Washington, and California shall approve the Implementation Plan within 15 days of its submission.

C. *Execution*

The parties shall make available the resources (including adequate personnel and support services) necessary to execute the Implementation Plan, including the financial resources set forth in Part V, and subject to the conditions set forth in Part V.

Working with state and local officials and other persons the parties deem appropriate, the State and Regional CERTs shall implement the three-year Implementation Plan as consistent with federal and state law.

As set forth in the Memorandum of Understanding for Forest Ecosystem Management, the Regional Executive Committee (REC) established for purposes of federal land management shall have the ultimate authority for the implementation of the watershed restoration projects and attendant "jobs in the woods" efforts, except where Federal law vests such decisions in the States or elsewhere (e.g., the Clean Water Act). The Regional CERT and the REC shall work together to prepare a plan for implementing those projects that will promote (i) creation of family-wage jobs, a preference for displaced timber workers, integration with job training and placement programs, and minimal administrative overhead; and (ii) integration of these employment criteria with environmental criteria.

The Multi-Agency Command, working with appropriate local and state officials, shall review and evaluate both the Strategic Plan and the structure set forth in this Memorandum, determine whether the Plan and structure are appropriate for the continued delivery of economic adjustment assistance to the region, and develop and propose any revisions to the structure the MAC deems necessary. The MAC shall submit a report on these issues within six months of the approval of the Strategic Plan.

V. Financial Commitments

The parties agree to make available the following financial resources under the following specified conditions:

The Department of Labor (DOL): Subject to sufficient appropriations by Congress, DOL agrees to make available, out of Job Training Partnership Act (JTPA) funds reserved by the Secretary pursuant to Title III, twelve million dollars ($12 million) per year, for the three-year period beginning July 1, 1993, to support the purposes set forth in Part II of this Memorandum. Such funds shall be available subject to the following conditions:

1. That each State involved, namely Oregon, Washington, and California, certifies that formula funds made available to the State pursuant to Title III of JTPA for each year of the three-year period are not and will not be available for the purposes described in Part II of this Memorandum, and that the State is utilizing and will continue to utilize, to the maximum extent possible, JTPA Title III formula funds for such purposes;

2. That the final decision regarding the award of any of the Secretary of Labor's reserve funds made available under Title III of JTPA shall be made by the Secretary pursuant to the applicable law; and

3. That, if a sufficient number of meritorious proposals are not submitted by the named States by at least three months prior to the end of each program year (June 30) for each of the three years for which the $12 million commitment is made, there will be no obligation to commit the balance of the $12 million to any or all of the named States for the purposes described in Part II of this Memorandum.

The Department of Agriculture: The Department of Agriculture agrees to provide assistance through both the US Forest Service (USFS) and the Rural Development Administration (RDA).

The Rural Development Administration: RDA agrees to request appropriations and/or reprogramming in the following amounts in the following programs. All eligibility criteria under current regulations governing these programs must be met in order to obtain financial assistance.

The continued funding at the program levels indicated below and for FY1995 and FY1996 is subject to sufficient Congressional appropriations for those Fiscal Years. For all listed programs, with the exception of the Rural Business Enterprise Grant (RBEG) Program, one-half of unobligated funds available to the region will revert to the Agency's National Office Reserve in April with the balance of unobligated funds reverting to the Agency's National Office Reserve in August. Unobligated RBEG Program funds will revert to the Agency's National Office

Reserve in July.

1. The Business and Industry Program (B&I) provides guarantees for loans to improve, develop, or finance business or industrial activity, and to improve the economic and environmental climate in rural communities. This type of assistance is available to businesses located in areas outside the boundary of a city of 50,000 or more and its immediate adjacent urbanized area. For FY1994–FY1996, a total of $35.3 million each year will be made available.

2. The Community Facilities (CF) Program provides financial assistance to construct, extend, or otherwise improve community facilities providing essential services in rural areas and towns with a population of less than 20,000. For FY1994–FY1996, a total of $41.6 million each year will be made available.

3. The Intermediary Relending Program (IRP) provides direct loans to nonprofit organizations to establish revolving loan funds. The funds then provide loans for businesses and community development projects not within the outer boundary of any city having a population of 25,000 or more. For FY1994–FY1996, a total of $16.0 million each year will be made available.

4. The Rural Business Enterprise Grant (RBEG) program supports public and nonprofit organizations that provide technical assistance to new and growing businesses, that fund revolving loan funds for such businesses, or that develop industrial park sites. The program assists business enterprises located in areas outside the boundary of a city of 50,000 or more and its immediately adjacent urbanized area. For FY1994–FY1996, a total of $4.1 million each year will be made available.

5. The Water and Waste Disposal (WWD) Loan and Grant Program provides financial assistance for the development of water and waste disposal including solid waste disposal and storm drainage systems in rural areas and towns with a population of less than 10,000. For FY1994–FY1996, a total of $87.0 million each year will be made available.

The Forest Service: USFS agrees to request appropriations and/or reprogramming in the following amounts in the following programs:

1. Under Subtitle G of the 1990 Farm Bill (Rural Revitalization Through Forestry), the Rural Community Assistance program supports rural development, economic recovery, and studies designed to help diversify economic conditions in these communities. USFS will make available through reprogramming and redirection an additional thirteen million dollars ($13 million) in FY1994, and an additional ten million ($10 million) each year in FY1995 and FY1996, for these programs.

2. The Old Growth Diversification program funds projects designed to improve

markets for value-added wood products. USFS will make available through reprogramming and redirection an additional three million dollars ($3 million) each year for FY1994-FY1996 for this program.

3. The Forest Stewardship Program and Stewardship Incentive Program provide technical and financial assistance to private non-industrial landowners. USFS will make available through reprogramming and redirection an additional four million dollars ($4 million) each year for FY1994-FY1996 for this program.

4. USFS agrees to make available through reprogramming and redirection an additional sixteen million dollars ($16 million) per year for FY1994-FY1998. These funds would support watershed restoration and "jobs in the woods" in the Pacific Northwest and northern California.

The Department of the Interior: The Department of the Interior agrees to request appropriations and/or reprogramming of thirty million dollars ($30 million) each year for FY1994-FY1998. These funds would support watershed restoration and "jobs in the woods" in the Pacific Northwest and northern California.

The Department of Commerce: Subject to sufficient appropriations by Congress, the Department of Commerce agrees to make available an additional $15 million in FY1994. These funds would support increased activity by the Economic Development Administration (such as planning, technical assistance, lending, and grantmaking) in the affected region. If the event that such appropriations are not available, and in FY1995 and FY1996, the Department of Commerce will make available an additional $3 million (over normal annual expenditures) to be used for capacity-building (planning and technical assistance).

The Environmental Protection Agency: The Environmental Protection Agency agrees to request appropriations and/or reprogramming of five million dollars ($5 million) each year for FY1994-FY1998. These funds would support watershed restoration as authorized under Section 318 of the Clean Water Act and ecological risk assessment research in the Pacific Northwest and northern California.

VI. REPORTS

Every six months, the Multi-Agency Command shall promptly prepare and file with the parties and the Governors of the three States an evaluation report which

- assesses the progress made in the preceding period toward the goals and objectives identified in the Strategic Plan; and
- suggests any adjustments or amendments in the cooperative relationship that the MAC considers desirable.

VII. LIABILITY

This is not a legally binding or enforceable agreement. The matters covered in this memorandum are intended only to improve the internal management of the Executive Branch and are not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

VIII. TERMS

The term of this agreement is forty months from the date of execution. At that time, the parties may, by unanimous action, extend this agreement for any additional period. This agreement may be amended by unanimous consent of the parties. Any party may terminate its participation in this agreement without cause.

AGREED:

Secretary of the Interior	Secretary of Agriculture
Secretary of Commerce	Secretary of Labor
Secretary of Housing & Urban Development	Administrator, Environmental Protection Agency
Deputy Director Office of Management & Budget	Administrator, Small Business Administration
Assistant to the President for Economic Policy	Assistant to the President for Domestic Policy

Director, Office on Environmental Policy

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Dept./Agency: WH | Phone #

Fax # 456-2710 | Fax #

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

Copy to KM + file FACA

April 29, 1994

Lets not get this held up in implementation. We need flexibility! Creativity on this!

Memorandum

To: Chief, Forest Service
Acting Director, Bureau of Land Management
Director, Fish and Wildlife Service
Acting Deputy Commissioner, Bureau of Indian Affairs

From: Assistant Secretary of Agriculture, Natural Resources and Environment
Assistant Secretary of the Interior, Land and Minerals Management
Assistant Secretary of the Interior, Indian Affairs

Subject: Federal Advisory Committee Act (FACA) Compliance Concerning Implementation Activities for the President's Northwest Forest Plan

In view of the recent court decision, NRFC v. Espy, which determined that the process for preparation of the Forest Ecosystem Management Assessment Team (FEMAT) report for the President's Forest Plan violated the requirements of FACA, special precautions must be exercised to ensure that all current actions and future activities related to implementation of the Forest Plan fully comply with FACA requirements. Consistent with Judge Jackson's decision in the above case, the Record of Decision (ROD) for the Forest Plan issued on April 13, 1994, requires that "all non-federal participation in the forest management process will accord with the strictures of the Act." Failure to comply with FACA during implementation of the Forest Plan potentially places the entire plan at legal risk.

One key implementation objective for ecosystem-based management set forth in the forest plan is to have all involved federal agencies working together as one government. Another is to have full participation of all non-federal governmental interests (the states, tribes, and local governments) in long-term forest management in the region. To achieve these objectives, an interagency approach has been established utilizing committees, working groups, and teams both at the regional and field levels. While input and participation of all involved shareholders, both federal and non-federal, are important to successful implementation of ecosystem-based management, the activities and processes carried out by all components of this new interagency, inter-governmental approach must comply with requirements of FACA.

Will

Full compliance must begin immediately. We realize that this may create special challenges concerning the participation of states and tribes. Attorneys at the Interior Department Solicitor's Office and the Agriculture Department's Office of the General Counsel are available to expedite compliance with this directive. Over the next several weeks, we will be examining options that might enable us to achieve our objectives of partnership and collaboration envisioned in the Forest Plan, while still complying with FACA. However, in the short term, until the FACA issues have been resolved it will be necessary to avoid a consensus-type decision-making or advisory process that involves non-federal officials. It will still be possible to obtain the views of states, tribes, and local governments through individual meetings, open hearings, and written submissions.

To expedite implementation of this directive, copies of this memorandum have been provided directly to the Regional Foresters of the Forest Service (Regions 5 and 6); the State Directors, Bureau of Land Management (Oregon/Washington and California); the Portland Area Director, Bureau of Indian Affairs; the Director of the U.S. Office of Forestry and Economic Development, Portland, Oregon; and the acting Director of the Regional Ecosystem Office.

Assistant Secretary of Agriculture
Natural Resources and Environment

Nancy K. Hayes
acting Assistant Secretary of the Interior
Land and Minerals Management

Ada E. Deer
Assistant Secretary of the Interior
Indian Affairs

cc: Administrator, Environmental Protection Agency
Assistant Secretary of the Interior, Fish and Wildlife and Parks
Under Secretary of Commerce for Oceans and Atmosphere
Director, White House Office on Environmental Policy
Regional Director, National Marine Fisheries Service, Seattle, WA
Regional Administrator, Environmental Protection Agency, Seattle, WA
Regional Director, U.S. Fish and Wildlife Service, Portland, OR
USDA, Office of General Counsel, Washington, DC and Portland, OR
USDOI, Office of the Solicitor, Washington, DC
USDOI Regional Solicitor, Portland, OR

Northwest Economic Adjustment Initiative

Implementation Plan

Regional Community Economic Revitalization Team

(Regional CERT)

December 10, 1993

PREAMBLE

This Implementation Plan sets forth immediate actions which carry out an integrated, comprehensive approach to maximize the capacity of timber area workers, families, businesses, tribes and communities in the Pacific Northwest to regain and improve their economic and social well being. The Implementation Plan is intended to address the impact in the Pacific Northwest-specifically Oregon, Washington and Northern California-from issues raised by the Forest Plan. The MAC, Regional CERT and State CERTs recognize the unique nature, condition and character of the affected areas and acknowledge that the greatest impact is in Oregon, followed by Washington, and then Northern California. The efforts of the MAC and CERTs shall be responsive to local needs and encourage flexibility and innovation, process improvements, the removal of program impediments, and coordination Federal, State, and local resources.

The Community Economic Revitalization Teams (CERTs) are designed to serve as forums for discussion and to coordinate program delivery and assistance. This is to be achieved through the processes contained in this implementation plan.

I. ALLOCATION AND DISTRIBUTION OF FUNDS[1]

The Regional CERT will encourage fair and equitable distribution of funds through the delivery of information on available monetary resources and by the following steps:

1) Federal representatives to the CERTs will constantly monitor individual agency funds to guarantee that their allocation remains consistent with equity considerations;

2) The State CERT will report funds committed on a periodic basis to the Regional CERT;

3) The Regional CERT will operate in the role of an "Honest Broker" through the monitoring of funding progress;

4) Funding Agencies at the Regional CERT level will give routine briefings;

5) Funding Agencies will ensure Agency resources to support adequate monitoring;

6) As a complement to in-progress reviews, there will be short-term and long-term monitoring programs.

Short-Term:
a) FY 94 funds require special monitoring consideration given the time constraints for pooling of these funds.
b) First year, once per month

Long-Term: Quarterly.

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1 See Appendix A, Chart of *Federal Assistance for Pacific Northwest Timber Communities*.

7) In-progress reviews will be conducted program by program when 45% of available funds are committed (15% to each state), or when:

a) A State has 15% of available funds committed;
b) All States reach 45% commitment of the sum of the States' allocated monies;
c) 80% of total funding is committed to all States;

8) Review can be accomplished through an electronic mail system, conference calls, or other means.

a) Quarterly summaries of progress and allocation will be supplied to the MAC based on committed and obligated funds;
b) The Regional CERT will monitor the quality of assistance provided through periodic feedback from the assisted communities.

9) When there are multi-year projects, a multi-year tracking is required to monitor State percentages.

II. IMPLEMENTATION RESPONSIBILITIES

Eligibility

This Implementation plan recognizes that there are areas of higher impact and lower impact within and between states. Those involved in the process are sensitive to the fact that communities and tribes with the greatest needs and impact may be the least able to access and utilize the assistance outlined in this plan.

Eligibility is an inclusive process that recognizes severity of impact as a significant project selection criteria. Accordingly, resources shall be invested from funding sources identified in this plan to benefit those demonstrating such need. In addition, specific consideration needs to be given to full utilization of Fiscal Year 94 funds in the impacted states of Oregon, Washington and Northern California.

State CERT Responsibilities[2]

A primary function of the State CERTs is to coordinate state issues, to keep abreast of local community and tribal needs and concerns, and to raise those concerns to the Regional CERT when appropriate. Additionally, the responsibilities of the State CERTs may include:

1) Both the federal and nonfederal members of the State CERTs may identify and highlight programmatic requirements or provisions that inhibit the effectiveness of existing federal, state and local programs, and suggest improvements in existing processes;

2) The nonfederal members of the State CERTs may clarify the availability of matching monies or complementary programs that may be useful in consideration and planning by federal members;

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2 The nonfederal members of the State CERTs are not to advise federal members on applications or proposals for federal funds or assistance, recommend particular projects, or be construed or treated as an advisory committee. However, this does not preclude nonfederal officials, acting within their local capacity - not as State CERT members - from undertaking any solicitation or ranking activities designed to encourage the highest quality proposals from the communities.

3) The nonfederal members of the State CERTs may provide information to facilitate the evaluation and consideration of applications and proposals by Federal members. Given the nonfederal members' close ties to communities, this information is critically important to the efforts of federal officials;

4) The federal members on the State CERTs may consider the input of any nonfederal individual. This nonfederal input may be utilized by the federal officials subject to the existing statutory constraints.

III. INFORMATION AND COMMUNICATION SERVICES

The distribution of information is crucial to the effective implementation of the Forest Economic Adjustment Initiative. This is best achieved through cooperation and coordination at the local, tribal, state, regional and national level. In responding to inquiries regarding CERT activities received at any level of an organization, coordination with interested or other affected parties is essential.[3]

Examples of this include:

a) Referring inquiries to the actual, relevant party(s);

b) Press releases should be developed on a mutual release basis, through coordination, as appropriate, with the members of the Regional CERT, the White House, and Congressional delegations.

Directory

Information and communication services occur at three levels:
1) among and between CERT members and the MAC,
2) with workers, families, communities, tribes and businesses, and,
3) to the general public and media.

To address all levels, a directory of services will be required. A general directory of funding sources, eligibility requirements, and primary contacts is to be prepared by the Regional and State CERTs. The directory is to include information on program descriptions, contact names and numbers, matching funds requirements, who may be contacted for funds, and available resources. These resources include the amount and type (grant or loan) of funds and the level of technical assistance available. The State CERTs will be responsible for assuring that potential customers are aware of opportunities available under the Initiative. Building local staff capacity in the impacted communities will be a key part of this communication function.

Tracking

A tracking and reporting system will be developed to monitor the commitment and obligation of funds, process improvements, removal of impediments, project and program outcomes, as well as the sharing of innovative ideas and approaches among the states to increase awareness on investment decisions in an effort to avoid duplication.

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3 Due to the various response times existing in each agency for comment prior to release, the MAC will approach the different agencies to address the time requirements for announcements. The MAC will seek to obtain a uniform response time that is a reduction of the existing time frames.

IV. PROCESS IMPROVEMENTS

One aspect of the Economic Adjustment Initiative involves improving the delivery of assistance. Accordingly, the Initiative calls for the development of a system for identifying and implementing such improvements and removing any impediments that may hinder the process. Those improvements and impediments may involve refinements in compliance assistance or the elimination of administrative practices, policies, regulations, or statutory requirements that unnecessarily hinder the effective delivery of federal assistance.[4] The MAC, Regional CERT and State CERTs share responsibility for identifying and addressing these issues. To facilitate these activities, a clear statement of the problem and proposed solution should be prepared. That statement should include:

1) Administrative, regulatory or legislative background on the problem,
2) Examples of the problem and its effects, and
3) Possible steps to correct the problem and improve the delivery of federal assistance.[5]

Resolution of such problems and implementation of solutions should begin at the level at which the problem is identified. Whenever possible, State CERT members and Regional CERT members should effect the necessary improvements.[6] When the State and Regional CERTs are not able to make the necessary changes, the issues will be forwarded to the MAC for prompt and cooperative resolution. In addition, the State CERTs and Regional CERT should establish a mechanism for tracking these matters and providing to the MAC regular updates on improvements in the delivery of federal assistance.

V. PROGRAM DELIVERY AND PROGRESS BENCHMARKS

The goal of the Implementation Plan is to deliver services to all recipients in a complete, time sensitive and fair manner. To ensure that this is accomplished to the satisfaction of the final recipient, progress benchmarks will be established on a continuing basis.

Feedback from the customer on measurable achievement of defined goals is the ultimate measure of a successful or unsuccessful program. The customer includes the primary recipient of funds and those deriving a benefit from the funded project. Comments, including reports on progress and results, received from recipients of assistance under the Economic Adjustment Initiative will be shared with the State and Regional CERTs at regularly scheduled meetings.

Additional measures of the effectiveness of the process are: the time taken to respond, speed of approval or denial, and quantifiable feedback in the form of statistical data. This information will likely be best obtained at the State CERT level.[7] However, the actual monitoring of feedback will be the responsibility of the Regional CERT.

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4 Two problems already identified in the Economic Adjustment Initiative are: 1) the preponderance of loan funds (as opposed to grant funds) in several categories and 2) population requirements and limitations of federal programs in these categories. Distinct possibilities exist for smaller communities, based upon population criteria, to be eligible for loans but without the authority to assume debt or the ability to support debt loads.

5 See Appendix B, *Process Improvements and Impediments*.

6 While it is anticipated that this body will address a wide range of possible improvements to federal practices, policies and regulations, this system will not serve as a mechanism for appealing negative administrative decisions on applications.

7 Include local visits in conjunction with Regional CERT meetings. Also, coordinate Regional CERT and State CERT meetings to promote interaction.

VI. ROAD MAP TO PROGRAM IMPLEMENTATION

A. *The Idea*

The idea is the beginning of the process. The idea may originate from a community, tribe, business, an individual, or from a plan newly developed or in place for some time. Those who generate ideas should reflect local realities rather than trying to fit local needs and ideas into a preconceived mold of what might get funded. Good projects may be developed which do not meet the requirements of any program. When this occurs, it will represent the identification of a process impediment.

B. *Turning the Idea into a Project*

An idea becomes a project when the scope of the work involved is developed. The scope of work includes a description of the steps or elements that will bring the purpose of the idea to realization, a budget of both dollars and other resources required and a clear description of the outcomes expected from the completed project. Project documentation should show a clear relationship between the project and the community's economic adjustment needs. The project should further the goals of a community, tribal, county, regional, state, or multi-state plan.

Turning an idea into a project requires resources which may include just the investment of time and thought or may include professional engineering services, feasibility studies, design services or other costly investments. Most of the severely impacted areas have-and have had for some time-an economic development planning and implementation process in place. For the most part, these efforts have struggled with very limited resources and have achieved some significant successes in the face of structural economic changes.

The economic impact of the Forest Plan has put new and overwhelming demands on existing local economic development capacity. The enhancement of local capacity in all of the impacted areas is necessary to improve local planning and implementation ability, as well as to assure the most effective investment of resources provided under the Economic Adjustment Initiative. The most severely affected communities can expect to receive assistance in turning their idea(s) into project(s) from county or tribal government, regional economic development organizations, state government, and federal agencies.

C. *Project Priorities*

The Regional CERT recognizes that states, communities and tribes may have established priority setting processes to evaluate economic development proposals. Nothing in this Implementation Plan shall prohibit such processes. Nonfederal members acting in their capacity as state, local and tribal officials or, as private citizens, may analyze and prioritize proposals and, consistent with federal law, make recommendations to federal agencies. Moreover, as consistent with federal law, federal members of the State CERTs will consider such community preferences in evaluating application proposals.

D. *Local Assessment of Readiness and Identification of Potential Sources of Funding*

A project can be a high priority project without being "ready" (A project is ready when it has a well defined scope, reliable budget, strong community support and no problems which would prevent implementing it soon after funds are committed). If costly resources are required to bring a project to a state of readiness, then a community can request those resources from the State CERT (such as funding for a preliminary engineering study). Alternatively, the community, with appropriate technical assistance, can develop the project for a funding request in a subsequent fiscal year. The state and federal agencies are responsible, as far as practical, for identifying and coordinating potential funding sources outside the Economic Adjustment Initiative.

E. *Assignment of a Project to a Lead Agency*

The agency which is expected to put the most money into a project will usually become the lead agency. The "lead agency" determination may change during the process. Assignment to a lead agency is to provide the applicant a single point of contact for funding, rather than requiring the applicant itself to coordinate the Federal programs. The State CERT will make an initial effort to determine the most appropriate source of funding for a project and assign each project to a "lead agency" based on that determination.

The Regional CERT recognizes that for physical infrastructure projects this may mean assigning a project to a loan program rather than to a grant program. If the project is assigned to a loan program, it is the lead agency's responsibility to make a quick determination of the project's or community's ability to repay a loan. This determination should be based on a conservative estimate of potential revenues and a generous allowance for contingencies and other demands on the applicant.

If the lead agency determines that the project is not feasible without additional funds from other Economic Adjustment Initiative programs, it should bring the project back to the State CERT so that a multi-agency package can be put together. Scarce grant funding should be reserved for those high priority projects that need grant funding to be feasible.

F. *Application Development and Project Review*

The lead agency will assist the applicant in preparation of a complete application. The lead agency and the applicant may request, and can expect, to receive assistance in application preparation as required from counties, tribes, regional organizations, state agencies, and other State CERT members.

Agency decisions within 30 days after receipt of a complete application is a goal of the Regional CERT. The Regional CERT recognizes that agency staffing limitations and current processes make this goal unrealistic, but expects agencies to provide State CERTs and the Regional CERT with descriptions of actions to correct the conditions which prevent decisions within 30 days. As a result, the Regional CERT anticipates significant progress in achieving the thirty day goal.

G. *Agency Decision and Commitment of Funds*

Agencies will more rapidly process requests and have more integrated decision making with other federal and nonfederal entities.[8] If an agency must deny project funding, it will provide the applicant and the State CERT with clear reasons for doing so. If the reasons for denial cannot be corrected or resolved in time for funding within the fiscal year, the State CERT, if practical, will give the community, tribal, or county an opportunity to substitute another project for the denied project.

H. *Project Implementation, Management, and Monitoring*

The lead agency will continue to serve as the grantee/borrower's single point of contact during the post-approval phase. The lead agency will report progress and outcomes to other funding partners. The grantee/borrower will be responsible for assessing and reporting on the success of the project in achieving its anticipated outcomes.

Bob Rheiner, Co-Chair
Regional CERT

Scott Duff, Co-Chair
Regional CERT

Wayne Fawbush, Acting Chair
Multi-Agency Command

Pete Wilson
Governor, California

Barbara Roberts
Governor, Oregon

Mike Lowry
Governor, Washington

8 Announcements of project approvals will be in accordance with the public information section of this plan.

APPENDIX A

FEDERAL ASSISTANCE FOR PACIFIC NORTHWEST TIMBER COMMUNITIES

Catagory/Program	Funds Secured	General Requirements
Workers & Families		
DOL: JTPA Title III		
Sec'y Reserve	5.8 million (6.2 million)	One time money, discretionary, regional funds, timber affected communities, plus 6.2 million already available and dedicated to timber
Formula Monies	16 million	All statewide money, state allocated by formula (50% area dedicated, 50% Governor discretion), 14 million current (11-WA, 3-CA/OR)
Business & Industry		
SBA: Guarantees	n/a	Micro loans are direct (25000 limit), work in conjunction w/others, no new money, sufficient existing funds to meet needs, workshops
RDA:		
Bus.Entprs Grant	5.1 million	State allocation by formula, 2.45 million base with 2.55 million in reserve.
B & I	35.3 million	23.5 million remains in reserve at N.O., base of 11.7 mil. has to be spent before access timber reserve-not assigned to any one state
Intermed. Relend	16.0 million	All N.O. reserve
FS:		
Old Growth	6.4 million	All for impacted communities, Cost share money (50/50) by matching in-kind, value added wood products manufacturing, states administer
Frst Research	2.0 million	
Comm. Asst.	10.0 million	Can be used to organize/plan, cost share (80/20)
EDA: Tech. Asst.	7.5 million	Grant Funds, allocate by region, Title IX monies
Communities & Infrastructure		
EDA: Planning Asst.	7.5 million	For Capacity bldg, Title IX monies
RDA:		
Comm. Facil.	36.6 million (11.6 million)	11.6 million is base with state allocation, have to use base before access 36.6 million timber funds
Water/Waste	32 million (55 million)	Grant and Loan funds, 55 million in increased base to be used first, before access 32 million. 70.5 million is state allocated and 16.5 million is regional.
HUD: CDBG	36.6 million (1.9 million)	State allocation by formula, 36.6 mil. is base, flexible funds, loan guarantees, not targeted to timber, 1.9 million in reserve
Ecosystem Investment		
Jobs in Woods:	7 million	Biol. side has control
Priv. Land Mgmt.	0.0	
Other Restoration	9.0 million	

APPENDIX B-1

IDENTIFICATION OF PROCESS IMPROVEMENTS AND IMPEDIMENTS

Issue:
Agency:

What is the process improvement or impediment?

Why is it being identified?

Who is affected by the process improvement or impediment?

When does the process improvement or impediment come into play?

Procedural Reference:
(Statutory or Rule)

Authorities Involved:

Possible Solution:

*** A process improvement is an improvement that encourages or creates a new system of service delivery to the customer. An Impediment is an existing requirement that appears to hinder or delay the delivery of services. Proposed solutions should specify the advantages, both in labor and expense, to the program and the customer/end user.*

(SAMPLE) **APPENDIX B-2**

IDENTIFICATION OF PROCESS IMPROVEMENTS AND IMPEDIMENTS

Issue: INTERMEDIARY RELENDING PROGRAM
Agency: RDA

What is the Process Improvement or Impediment?

1) A FmHA review of each loan made by the community lending corporation is required prior to loan approval.

2) Intergovernmental consultation is required on each loan, no matter what the dollar amount or potential impact.

3) Loan application, approval, and analysis authority rest in the National Office.

Why is it being identified?

1) The review creates a loan processing delay that is often unnecessary when the lender is familiar with FmHA requirements.

2) The consultation has a 45 day comment period which delays the loan process. Also, the consultation asks for input from areas that may have no interest in the loan due to the dollars involved or prospective use.

3) The applicant experiences a delay in processing of the application due to only National Office having the authority to accept application. Additionally, the applicant does not receive the personal contact and maximum customer service under the existing process.

Who is affected by the process improvement or impediment?

1) The Intermediary Lender - They are faced with time delays and unnecessary reviews;
The Customer/end user - The loan funds are not released for immediate use and an estimate of when they will be available is undeterminable as the review by FmHA is dependent on competing work demands and limited staff;
The FmHA Staff - increases the workload when staff resources are limited already.

2) All parties due to the time delay.

3) The Applicant - delay in processing, lack of personal contact;
The FmHA State Office - inability to provide complete customer assistance or conduct adequate outreach and guidance to interested parties;
The FmHA National Office - increased work demands.

When does the process improvement or impediment come into play?

1) The FmHA review is required after the loan is made to the community lender and before loan approval to the individual beneficiary/funds recipient.

2) Prior to FmHA's review of the ultimate user's loan request.

3) At the time of application preparation.

Procedural Reference: Generally, 1948-C

1) Requests to make loans to ultimate recipients, 1948.128

2) Intergovernmental consultation, 1948.117(c)

3) Intermediaries' contact, 1948.123(a) and (b)

Authorities Involved:

1) Per 1948-C, 1948.148, the Administrator may in individual cases grant an exception to any requirement or provision that is not inconsistent with applicable law or opinion, provided the requirement would adversely affect the Government's interest.

2) Per 1948-C, 1948.117(a), The State, through the State Point of Contact, may elect not to conduct an intergovernmental consultation for ultimate recipients.

3) Per 1948-C, 1948.124 to 1948.126, the Administrator or his designate may evaluate an application, sign the obligation of funds, review the final loan and handle security instruments, but only the National Office may receive applications or provide assistance in the completion of applications (see 1948.123).

Possible Solutions:

1) Allow FmHA to conduct initial pre-approval reviews until satisfied that the intermediary lender is in compliance with the use and feasibility requirements. At that point, accept the certification supplied by the intermediary lender (per FmHA procedure 1948-C, 1948.128(a)) on loans to ultimate recipients with an occasional post review.

2) Request that the State Point of Contact not conduct intergovernmental consultation on ultimate recipients, or otherwise specify which types of projects they must consult on.

3) Permit the Administrator to designate the State Director as the recipient of applications and to have the corresponding approval authorities.

Regional CERT
Economic Adjustment Initiative

M E M O R A N D U M

TO: Regional CERT Members

DATE: December 10, 1993

FROM: Bob Rheiner and Scott Duff, Co-Chairs

SUBJECT: Working Teams

In order adequately address the primary concerns of the Regional CERT, we are proposing working teams that have specific tasks. The majority of the people listed have been consulted and agree to participate. However, there are one or two that have not been directly contacted. These individuals are denoted by an asterisk (*).

Teams:

Joint Regional CERT and RIEC Watershed Working Group
FS/BLM/FmHA/DOL/CA/ITT/WA/OR
Bob Rheiner, Scott Duff, Gary DeRosa, Mark Stanley, Ross Burgess, Calvin Mukumoto, Tom Bristow, Kevin Smith

Charter: Maximize the natural resource and human benefits of natural resource restoration efforts and ensure timely project development and approval to utilize restoration project funds in the future.

Joint Regional CERT and USFS-BLM Contracting
DOL/FS/CA/RDA*/BIA/FmHA/BLM
Armondo Quiroz, Joyce Muroaka*, Anna Sparks, George Gover, Laura McFarland, Bob Hansen*

Charter: Target contracts to affected timber workers and communities by controlling size of projects and scope of bids. Should give small business in rural communities opportunity to successfully bid on projects in the area. Team to design contract to meet this objective.

Process Improvements and Impediments
RDC/FmHA
Judith St. Claire*, Laura McFarland, Jerry Sheridan

Charter: Develop a system to collect, research and track process improvements and impediments identified by the CERTs.

Bulletin Board

COOP EXTEN/CA/REA*/EDA

Ernie Smith*, Mark Stanley, ~~Anne Berblinger*~~

Charter: Continuously provide data input, systems management, training, quality assurance and information cataloging to support the activities of communities and CERTs.

Environmental Assessment

EPA/FmHA/RDA/EDA/FS

Ken Brooks*, Jerry Sheridan, Anne Berblinger*, Nancy Graybel*

Deliver Services that protect

Charter: ~~To~~ the environment in a time and cost effective manner through coordinating completions of environmental assessments across agencies providing services to timber affected communities. Determine common and special requirements among agencies and suggest a unified approach toward addressing these requirements.

Funds Tracking

SBA/BLM/FmHA

John Gilman, Bob Rheiner, Scott Duff

Charter: Tracking allocations, commitments, obligations and the progress of Economic Adjustment Initiative funds. Develop simple, broad format for a system that will report at designated triggers, as outlined in the Implementation Plan.

Benchmarks

EDA/HUD

Anne Berblinger*, Jack Peters

Charter: Establish Regional CERT benchmarks and monitor State CERT benchmarks. Encourage development of community benchmarks based on the local strategic plans.

Additional Funding Sources

EPA/EDA/REA*/States

Ken Brooks, Anne Berblinger*, Terry Gorton, Kevin Smith, Tom Bristow*

Charter: Additional funding sources that can aid the successful completion of this project should be identified. These sources may be from the private, public, or non-profit sector.

Small Businesses
SBA/HUD
John Gilman, Jack Peters

Charter: Ensure the Economic Adjustment Initiative meets the needs of ~~timber-impacted~~ small businesses. in timber impacted communities