



## Fully Utilizing Existing Authorities Ideas Submitted to the WRSC from METI

There are various laws and policies that can appear to be barriers to implementing projects on the ground. Often, however, it is the *implementation* of those laws, authorities, and policies that have delayed or stopped projects. Pursuing constructive reinterpretation of authorities may help streamline agency and collaborative processes.

### **Use the Healthy Forest Restoration Act (HFRA) to expedite collaborative planning processes.**

Use of this law varies across the nation. Full use of the authority presents opportunities to significantly speed up planning processes through collaboration and effective public engagement; to build accountability, transparency, and trust; and to address a complex variety of landscape treatment and restoration situations. HFRA includes requirements for collaboration, presentation of one action alternative, and the use of an objection process instead of the appeals process to resolve conflicts. This strongly encourages early and sustained engagement.

#### **A few tips on using HFRA:**

- Get a current copy of the Handbook for the agency you are working with to understand agency policy and the decision space of managers; work with agency personnel on the intent of the law.
- Work with local field units and regional offices on procedures and where leadership stands on implementation of HFRA; find and share success stories on effective use.
- Implement a pilot project; get outside perspective and be willing to learn from successes and failures.
- Good collaboration takes time; work ahead of project timelines to avoid unnecessary delays.
- Keep the definition of the wildland-urban interface (WUI) effective and manageable.
- Keep your purpose and need clear, concise and reasonably narrow. NEPA requires this, but it is especially important when using HFRA.
- Explain to your public with great detail what HFRA is and is not.

### **Use “Alternative Arrangements” when dealing with catastrophic events.**

Use of this authority to streamline planning processes and still meet legal requirements for action under all three Cohesive Strategy national goals could, under the right circumstances, significantly increase results on the ground. The parameters of its use are clearly stated by the Council on Environmental Quality (CEQ), but federal agencies have taken a conservative approach to its application. Interested publics should inquire with their federal partners regarding a review of current internal restrictions.



**A few tips on using alternative arrangements:**

- Discuss the current use of alternative arrangements with agency planning staff at the unit and regional level. Explore and document requirements/mandates and involve the Office of General Council in your discussions.
- Encourage agency staff to discuss criteria and conditions with their Washington Office to better understand where the criteria list came from and in what circumstances it has been used effectively (e.g., Minnesota, Texas, Mississippi).
- Discuss how the economic criteria can be more fully utilized as they are by some other agencies (e.g., Department of Defense).
- If confronted with a situation that merits use of an alternative arrangement, cultivate internal (agency) and external champions to move it forward.

**Use Categorical Exclusions more effectively, consistently, and with clear direction.**

The current use of Categorical Exclusions (CEs) within NEPA planning processes is inconsistent across the nation. There are some units that use the authority extensively and have been recent federal court rulings supporting the use of CEs. The Cohesive Strategy presents an opportunity to bring the needed attention to the issue and encourage or even direct their use across all units in the Forest Service and DOI. The obvious benefits are reduced costs and more timely analysis of the effects of routine projects that have a proven track record of implementation.

**A few tips on using CEs more effectively:**

- Through inquiries at your local field unit, find out the present use of CEs.
- Review the latest rulings with agency planning and legal staff, and investigate why or if CEs are being used.
- Highlight and share successes from other units that are using CEs successfully.
- Seek out the parameters of CE use and install a quality control mechanism to ensure its success.
- Keep projects using CEs small in scope and pursue an appropriate level of analysis.
- Use all information available and question the need for new data if what you have is recent.
- Look for an “Intent Statement” and keep it focused.
- Ensure that the agency manages project timelines realistically. Remember that the intent is not to do an extensive analysis; CEs are for routine projects with limited effects.
- Establish “cooperating agency” status if it fits the criteria. If not, establish a working group for the unit manager to engage during project monitoring.

**Establish and implement an aggressive schedule for reviews of Endangered Species Act conflicts.**

Level 1 and 2 review procedures are in place on some units, but they are not used in an efficient or expedited manner. On other units, the process is not in place at all. When working as designed, these reviews expedite the resolution of conflicts with implementation of ESA that land management agencies



can encounter when working with regulatory agencies such as the Fish & Wildlife Service (FWS). When a conflict arises over threatened and endangered species management, reviews elevate the conflict from a local unit to a previously designated interagency team for resolution. If that team fails, it is further elevated to local agency administrators. The point is to resolve conflicts in a timely and consistent manner.

**A few tips on implementing ESA:**

- Find out where Level 1 and 2 reviews are being used effectively to resolve ESA conflicts. How are reviews working in these places? What principles, direction, and personnel are involved?
- Discuss the status for using Level 1 and 2 reviews with local agency staff and leadership. Volunteer to explore setting up a process if one is not already in place.
- Set up a monitoring program to test the use of Level 1 and 2 reviews.
- Assist land management agency personnel in discussing interagency roles and relationships ahead of time (prior to conflict) with regulatory agencies.
- Insist that the agency implementing ESA (FWS) and the agency that is adhering to its intent (BLM or the Forest Service) establish a review process that does not unnecessarily slow down or negatively impact critical projects.

**Use the Stewardship End Result Contracting Authority to its fullest extent.**

Some units pursue only limited use of this tool because they do not have the experience or skill to implement it, leadership direction is not clear, or they perceive the process to be cumbersome and difficult. Other agencies and locations around the West do not appear to have these administrative issues and the authority is more widely used, especially on projects where potential biomass product values are marginal.

**A few tips on using Stewardship Contracting:**

- Ask agency leadership what is being done to resolve implementation challenges (administrative, contractual, etc.).
- Find and share successful stewardship projects (there are many throughout the nation); mirror successful strategies on your local unit.
- Bring in experts from other units or regions that can assist with your projects and relationships. There are some nationally-funded experts to provide this type of assistance.