

**Comments on USFS DRAFT
FSTAG (Forest Service Trail Accessibility Guidelines)
FSORAG (Forest Service Outdoor Recreation Accessibility Guidelines)
26 November, 2002**

The comments combined below are from various e-mails regarding the above documents. They are arranged in reverse chronological order.

Morgan Sommerville, 10/16/02
Hi, Theresa.

We ended up with new comments from Marianne Skeen, Bob Almand and myself on the FSTAG and FSORAG drafts. Dave Startzell and Don Owen commented previously, and I believe you have their comments, too.

With the exception of Don, (and I don't know your thoughts) the reviewers feel the FSTAG process is workable, relatively straight forward (though complicated enough to be confusing in places), and does not pose a serious threat to ANST management and construction. Marianne was "favorably impressed." All had serious concerns about several items though:

1. Training is ESSENTIAL for both the USFS staff and our volunteers. The planned USFS training booklet will be very useful. It would be great to be involved in its production, at the outline level at least. It should also include some reference to maintenance of accessible trails. Perhaps this can be done through Pete Irvine.
2. Project level decisions are ESSENTIAL.
3. Facilities are not adequately addressed.
 - a. Must new facilities "in the middle of nowhere" comply?
 - b. Shelters and privies, specifically, should be addressed clearly, without reference to ADAG citations.
4. A full range of definitions should accompany FSTAG. A definition of "FIRM AND STABLE" is ESSENTIAL. Native soils are likely to knock the A.T. out of the process in almost all cases, except where there is consensus to make an A.T. section accessible using imported surfacing.

5. Imported surfacing and the preparation for it are very expensive, particularly in comparison to our traditional construction methods.

a. How will construction of accessible trail sections be funded?

b. If no funding is available, may a trail section be built on an accessible alignment but to normal standards pending funding to provide surfacing, etc.? It does not seem appropriate to hold up construction for the majority of users if funding for an accessible section is unavailable.

6. In communicating with the clubs, we need to translate the FSTAG and FSORAG into short sweet laymans terms that summarize the good and concern points. They should be made aware that the only trail work that will be effected is relocations which connect to trailheads, not those that do not connect to accessible trails or areas, or maintenance and reconstruction. It would also be useful to show what making facilities accessible actually means so they think of simplicity, and do not automatically think of ramps, stainless steel grabbars, and ridiculous requirements.

10/4/02 Morgan Sommerville

Generally, the FSTAG does a good job of both providing for accessibility on trails and protecting the primitive quality of the A.T., in particular. There will be places along the A.T. where making the A.T. accessible is desirable, and even quite feasible; there will also be places where it undesirable and/or not feasible. FSTAG provides a means to both ends. I do not fear that FSTAG will lead to any significant decrease in the primitive quality of the A.T., as long as decisions are handled locally.

I expect that we will address each trail project on a case-by-case basis, and make decisions regarding accessibility through the local A.T. cooperative management system. There may be USFS personnel that try to ram something unacceptable down our throats, but if we have a well reasoned position, we will win in the appeals process. Ultimately, the USFS is unlikely to do any construction work themselves, so if they want something to happen, we're going to need to reach consensus.

Which raises several interesting concerns. First, we need more experience with putting these standards into action. Until we see results and understand the amount of effort needed to reach them we are wasting a lot of debate. I have a great deal of respect for many of the people who have commented on this information, but most of them do not design or build trails or the associated facilities. This may make them more paranoid than is needed. Second, who is going to pay for the

increased material costs likely for a fully accessible trail section? And third, if no money is forthcoming, will construction of that section to a non-accessible standard (business as usual) be permitted? Don Owen raises some good points about costs, and the possibility that accessible trails will not be needed in the future.

Bob Papp raises some interesting concerns about subjectivity in measuring key standards. Trailwork is by nature subjective, and almost all trailwork 'standards' are subjective. I don't view this as a problem, as long as those involved act in a professional manner. I may not get the same results that someone else will, but I trust that both will be attempting to do their best.

Finally, the term "firm and stable" is key to this whole discussion, and must be defined. By my definition, the native soils of the A.T. will rarely meet the firm and stable standard, and will usually require some type of amendment to reach this level. That supposition must be tested against a reasonable definition, which will likely often determine the "condition of departure" for the A.T. from accessibility requirements.

Don Owen, 10/03/02

Dave -

Sounds like my remarks (and those of others) on the accessibility guidelines were not all that well received by Janet.

Most of the issues that I raised - increased cost, maintenance, liability, technology improvements, and impact on volunteers - still have not been addressed. And what constitutes "changes to the setting" still remains an undefined and absolutely critical issue.

I was pleased, however, to hear that Janet thought that the regulations would apply to one half of one percent of all trails. It's perhaps instructive, though, to remember that when NEPA originally came out, everyone thought it would only apply to nuclear power plants, interstate highways, and mega-dams. The Park Service was absolutely convinced that it didn't apply to them at all, since all they ever did was build itty-bitty little visitor centers and parkways. Now, 30 years later, NEPA applies to postholes for fence lines in national parks. And NEPA compliance is not an aberration, either - the regulatory processes for compliance with other laws, like Section 7 of the Endangered Species Act and Section 106 of the

National Historic Preservation Act, have undergone very similar evolutionary processes as people realized that these laws in fact applied to all federal actions.

I still think my concerns are valid - and, at this point, unanswered. I hope you can keep constructively engaged in the process.

Don

Bob Papp, 10/01/02

>From: "Bob Papp" <bobpapp@northcountrytrail.org>

>To: <jzeller@fs.fed.us>

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>Janet-

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>I appreciated your detailed and thoughtful reply, which Mary Margaret
>forwarded to me, regarding the comments you've received from a number of
>us on the proposed FSTAG. I have to say, though, that I was a little
>surprised. Just as you've suggested that some of us are rushing to
>judgement without thoughtful consideration, with respect, I have to
>point out that you've done the same regarding our comments. Your
>statement that we are approaching FSTAG in a panic, with blinders on,
>suggests an insensitivity to both the passion and professionalism of the
>people who are trying to help the FS through this process.

>

>Personally, I've been closely monitoring and commenting on this process
>for about five years, and have put a considerable amount of thought into
>it. Some of my past suggestions would have resulted in a much greater
>percentage of the North Country Trail being built to accessible
>standards than the current FSTAG. Yet, if my own comments are so easily
>dismissed as close-minded panic, I have to assume that the FS itself is
>close-minded on this subject. My own feelings, though, are irrelevant.
>What's more important is that this exchange helps you anticipate what
>might happen when FSTAG is opened for public comment. I understand the
>issues, goals and constraints. Most people who will see FSTAG for the
>first time will not.

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>I do understand your sense that the vast majority of new trails will end
>up being exempted from FSTAG, once review is properly conducted during
>the design stage. I question your estimate of 0.5%, though, and caution

>you against using (and STRESSING) a statistic that has not resulted from
>field testing of FSTAG. I'm sure you're basing the 0.5% figure on some
>statistical analysis of current FS trails, but the point of FSTAG is
>that we should incorporate a review of accessibility potential into the
>design of all NEW trails. Since existing trails were constructed
>outside of the FSTAG process, statistics derived from them have no
>reliable bearing on the impact of FSTAG.

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>More important, though, is the thorny issue of properly conducting a
>FSTAG review. This was the thrust of my earlier comments, which,
>unfortunately, I feel the need to restate here.

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>Conceptually, I agree that most primitive and semi-primitive trail might
>end up being exempt, once the FSTAG review process is completed. The
>review might go something like this:

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>1. FSTAG comes into play during the design stage for a trail
>segment.

>2. No surface exists during the design stage - it is determined
>through design.

>3. If the design parameters call for a class 1 or class 2 trail,
>meeting the technical provision for a firm and stable surface would
>alter the trail class, therefore, a condition for departure exists.

>4. This condition for departure is true for over 15% of the trail,
>therefore, FSTAGs do not apply.

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>However, the glaring weakness in this process lies in step 3. How does
>the designer determine that "meeting the technical provision for a firm
>and stable surface would alter the trail class"? You seem ready to
>assume that this will be a simple, straightforward determination, but in
>reality, that will not be the case.

>

>For example, the trail surface doesn't even exist until after the trail
>has been built. Typically, building trail for us means using hand tools
>to bench the trail into a slope. So, the forest floor is not the same
>as the trail surface. Do we build a test section of trail to evaluate
>the resulting surface? During what season do we do this? Do we test it
>on top of a hill, on the side slope, or at the bottom? Do we first
>build a test section and then wait for leaf cover to drop in the fall
>and then test it? What exactly determines whether a potential trail

>surface is "firm and stable"? How, when, where, and how frequently do
>we measure it? If the underlying assumption of FSTAG is that a surface
>cannot be firm and stable without artificial reinforcement, then this
>should be STATED, not implied or suggested.

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>Taking (or projecting?) such measurements for each technical provision
>forms the most critical step of the FSTAG review, yet FSTAG is
>absolutely silent on how such measurements and reviews should be
>completed. Defining "cross slope," "firm and stable surface," etc. is
>an entirely different task than defining how to TAKE such measurements
>on an, as yet unbuilt, primitive or semi-primitive trail. As I've
>stated before, FSTAG's glaring omission in this regard will ensure that
>all FSTAG evaluations will be mostly subjective. The subjective nature
>of such analyses will ensure that future trail construction will be wide
>open to legal challenges. This vulnerability to legal challenge will,
>in turn, motivate trail designers to avoid building non-accessible
>trails. If you sense "panic," this is its source.

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>I completely understand and agree with your assertion that the INTENT of
>FSTAG is to "maximize accessibility where it can be integrated WITHOUT
>changing the character and experience of the setting." However, stating
>this in e-mails, preambles and Q&A's is entirely different than crafting
>implementation guidelines (standards?) to ensure that it's true.
>Because of the inherent subjectivity in FSTAG reviews, the guidelines
>fail to meet the intent of the FS and the RegNeg committee. FSTAG
>probably works reasonably well from a big picture, administrative
>perspective, however, it crumbles at the level of on-the-ground
>implementation. Since most trails people are "on-the-ground" types,
>they understand this failure, and will react to FSTAG out of this
>understanding.

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>Honestly, I don't think FSTAG is that far off the mark. Its major
>failure is simply that it doesn't go the extra mile needed to ensure
>fair and clear implementation.

>

>Bob Papp
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Dave Startzell and Janet Zeller, 9/30/02 PM

Janet:

Thanks for the timely and thorough response to the comments Mary Margaret and I submitted last week. I will share your response with others here. I also have asked the chair of our Trail and Land Management Committee to form a subcommittee that can pour over the standards document and develop additional comments that we might offer at a later date--hopefully within the next 30 to 45 days.

In your message, you expressed some frustration that some of the commenters tend to assume the worst--for example, that primitive trails will cease to exist under the proposed standards. You also expressed the belief that many portions of long-distance trails are likely to be exempted due to physical constraints, and/or changes to the setting or trail classification.

I think there are several reasons why people tend to react that way, and I tried to address some of those in my earlier comments to you. One problem is that the relationship between the standards and the trail class is not clear in the current iteration of the draft standards. You, and your working group, may have an idea of how the two are related, but many readers aren't even familiar with TRACS or the trail classes USFS presently is using, and even if they were, it still might not be clear how a determination will be made as to whether a modification to meet accessibility standards will result in a change in trail class. Somehow, that has to be clarified--you're not just writing the standards for a relative handful of USFS "accessibility-aware" recreation staff.

Another aspect of the problem concerns measurement methodology. That was the concern that Bob Papp voiced. And, I think he has a point. Many people will tend to assume that the measurements required to make general-exception or technical-provision exception judgments will be either arbitrary or overly burdensome. Again, somehow, I think you need to address the question of methodology more than you have in what presently appears in the process-overview flowchart.

I didn't keep a running list of terms that people wanted defined. Actually, I didn't hear from that many people. I made the suggestion because, in general, I think it's prudent to assume that many readers are not

necessarily going to be familiar with ADAAG or universal-design terminology unless they have had some reason in the past to wade into that particular facet of trail or facility design (which many haven't). I'd just do a "global search" for any term that doesn't have a standard definition in Webster's.

Dealing with the ADAAG-reference problem by inserting the relevant standards in the appendix is one possible approach to the problem, if you are concerned with the length and level of detail in the main document. I'm not clear on how much more text would be required in order to include the actual ADAAG specifications. I had assumed it wouldn't be that much, since you cite specifications for many of the technical elements already. But, if it would require a lot more language, then I suppose it could work to have it in an appendix--at least the reader wouldn't be forced to seek out a whole separate document or to jump to some other part of a web site.

Having participated in the Access Board reg-neg process, I fully understand that the ROS approach was resoundingly defeated, particularly by disabled representatives in the group. Rightly or wrongly, they simply didn't have faith that an ROS approach would be applied fairly or would be sufficiently objective. Nothing in my comments was intended to suggest that we should abandon the exceptions-based approach and reembrace the ROS approach (much as I might like to). I understand USFS is walking a fine line here in terms of trying to stick fairly closely to the Access Board guidelines. I won't be too surprised, however, if you receive some similar comments/concerns about "setting" and "trail class." Some may suspect that these terms simply are euphonisms for the former ROS concepts.

All for now....

Dave

From Janet:

>Mary Margaret and Dave,

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>Thank you for sharing your comments, and those you have received thus far,
>on the FSTAG and some on the FSORAG as well. I really appreciate the
>specificity of some comments, that included the exact citations, rather
>than broad general impressions. That specificity helps as to target the

>edits that are needed.

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>The FSTAG development group is reviewing all of the comments and we are
>preparing responses to some and making edits directly in the FSTAG as well.
>We will get back to you as soon as possible. In the meantime, please share
>this e-mail with those who have been, or are currently, reviewing the draft
>FSTAG.

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>We will also be adding some of the issues you raised to the revised Qs and
>As. Those Qs and As will also be attached to the appendix per your
>suggestions. You are correct as to the original source of the answers of a
>number of the Qs and As. Many of the questions were raised in e-mails,
>since that is the primary way in which we receive questions these days, and
>consequently the answers are based on the replies to those e-mail
>questions. They have been heavily edited from their original e-mail reply
>form. But we will certainly revisit them. However, please keep in mind the
>Qs and As are not intended to be a user friendly field guide to the FSORAG
>and FSTAG. Their purpose is simply to reply to questions that have been
>raised concerning the technical aspects in those guidelines.

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>Thank you, Dave, for sharing that you have found these FS draft guidelines
>to be a significant improvement over the Access Board RegNeg Committee's
>draft AGODA. Those who have worked on the FS guidelines for such a long
>time appreciate hearing that we are making some progress within the limits
>that the previous Access Board RegNeg Committee decisions have placed upon
>us.

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>Mary Margaret, I appreciate your understanding of the intention of the
>FSTAG. As you stated, they put accessibility on the table in the planning
>stages of a trail project, and take it off where conditions for departure
>and limiting factors make accessibility inappropriate or impossible.

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>And I understand from your statements that you and others feel the FSTAG
>don't seem to be working yet. However, I am deeply concerned and
>disappointed that so much of each of the responses tend to the belief that
>application of the accessibility guidelines will do away with primitive
>trails and/or Trail Classes. That question is clearly addressed in the

>FSTAG Q.2. I really am at a loss for how we help folks to stop the panic,
>and resulting blinders that are thrown up, as soon as accessibility and
>trails are put into the same sentence. We will add a executive summary at
>the beginning of the preamble that will highlight the purpose of the FSTAG
>--as is stated in the FSTAG narrative- "To provide guidance for maximizing
>accessibility while at the same time recognizing and protecting the unique
>characteristics of the natural setting". Perhaps that placement earlier in
>the document will help folks to remain calmer while they read through
>document and thereby be better able to absorb the protections for the Trail
>Classes, settings, and so forth they are built into the FSTAG.

>

>Would the FS have preferred our ROS approach that was laid out in our 1993
>Design Guide absolutely. The FS took that approach to the Access Board Reg
>Neg Committee, presented it to the committee, advocated for it, but the
>support was not there from the majority of the RegNeg committee, the Access
>Board staff, and the other natural resource managers including trail
>groups--and ROS was firmly refused. The Access Board RegNeg drafted and
>the Access Board has adopted the policy of 1 level of access applied to all
>trails with conditions of departure and exceptions to fit the setting, etc.
>to be applied to every new or reconstructed trail that is managed for
>pedestrian use. That is going to be the Access Board approach. That is
>what the final federal law will require. The FS cannot adopt any lower
>standard than that or when the Access Board trails accessibility guidelines
>finalize the FS would be forced to adopt that higher Access Board standard.
>As the result the FSTAG cannot automatically exempt certain trail classes
>>from the evaluation for accessibility potential. However, the Process
>Overview was developed to take the planner through the step-by -step
>questions to quickly determine if the FSTAG would apply to the trail they
>are designing.

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>Is it likely that the FSTAG will NOT apply to most of the long distance
>trails because of the slopes, soil types, and settings? Yes, that is
>exactly what it means. However, it is also likely that there will be areas
>such as from the parking lot to the waterfall or scenic overlook that could
>be made accessible without a change to the setting. And it will be likely
>that the FSTAG will apply to such as the new nature trail behind the
>visitor center. The reality of the FSTAG is that these guidelines will
>probably apply to only about .5% of trails. Yes that reads point 5%.

>

>What the Access Board level of application requires is that the trail

>designer look at each new or reconstructed trail, that is managed for
>pedestrian use, and make the determination as to whether or not the FSTAG
>applies. With the tools that are provided the process overview now and the
>guidebook coming, that should not be a major task. IF the designer will
>not close his/her mind to process. What I am reading in many of the
>comments you sent seems to boil down to - we don't want to be required to
>consider the possibility of accessibility just rule out certain trail
>classes and leave them alone. I appreciate the sentiment, but the bottom
>line shifted when the Access Board RegNeg Committee refused the ROS option.
>This is the future. We need to work together to help folks understand that
>evaluation for accessibility is a step that must be taken. AND that the
>end result will be the trails just as we know them now with few exceptions.

>

>How can we all work together most effectively to help the trails community
>understand that evaluation for accessibility is here to stay through the
>FSTAG and through the Access Board accessibility guidelines AND when
>applied according to those guidelines, they will not change the setting and
>the purpose of the trails? And how can we reach this understanding within
>the realities of time and money available?

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>Dave, you expressed concern as to how it can be determined that changes to
>the trail solely for the purpose of meeting the accessibility guidelines
>would change the setting or Trail Class per Condition of Departure #2. You
>shared that you and Bob Papp believed the judgement call required related
>to the potential for a change of the setting appears to be subjective.

>

>As I shared previously, because the RegNeg disapproved the FS ROS approach
>and insisted on the 1 level of access to be applied to all trails, we are
>now unable to apply the ROS to the FSTAG. Were the FS to use the ROS in
>our guidelines, those guidelines would be over ruled by the Access Board
>guidelines when they are finalized because the Access Board guidelines
>would then be the higher standard. As I recall the hiking organizations,
>were among the supporters of the conditions of departure and exceptions
>approach, given that the alternative was to turn all trails into generic
>accessible pathways. The FS also worked hard through the RegNeg to ensure
>that the conditions of departure and exceptions would allow the setting not
>to be changed. Did the FS prefer the ROS approach you bet but now that is
>not an option. In reality the conditions of departure and exceptions
>approach actually allows for great flexibility to ensure that the outdoor
>environment that currently exists will continue to exist. We are simply

>seeking to maximize accessibility where it can be integrated WITHOUT
>changing the character and experience of the setting.
>
>As to Trail Class it is a straightforward change or no change. If meeting
>the specifications required to make that trail accessible would move the
>trail into a different Class, within the FS TRACS Trail Class system,
>because of the increased width, different surfacing, etc., than that would
>mean the FSTAG does not apply because meeting those specification would
>change the Trail Class.
>
>Yes, it may well be subjective to decide the broad question of whether or
>not implementing the FSTAG on a trail would cause a change in the
>setting. That freedom has been given to the trail designers because, in
>both the FSTAG and in the RegNeg draft document upon which the FSTAG is
>based, the opportunity to make that judgement call is grounded in the
>assumption that the entity designing the new or reconstructed trail for
>pedestrian use has a commitment to provide the highest quality trail that
>will serve the public and the natural resource in the best manner possible.
>
>Will some seek to simply not be bothered with the FSTAG and build the trail
>as they want to, I hope not, but that possibility is there. However the
>final test comes when the public visits that new or reconstructed trail. If
>the public perceives that the trail could have provided better
>accessibility, they will raise the issue. That is also why the FSTAG calls
>for documentation of any decision not to apply the FSTAG. When that
>decision is made, it may have long term ramifications.
>
>Dave, you suggested inserting the full ADAAG citations. I appreciate the
>potential confusion of the references to ADAAG citations that are not
>included in the technical specification document; however, we are trying to
>balance that with previous comments and suggestions to simplify, shorten,
>and condense the guidelines. We will assess how best to include the ADAAG
>citations in the overall document. Because the same ADAAG citations are
>repeated in a number of areas, for example the ADAAG citation for operating
>controls appears under 4.2 Cooking Surfaces; 5.4 wood Stoves; 5.5
>Utilities; 5.6 Utility Sinks; 6.2 Trash Receptacles; 6.4 Telescopes; 6.5
>Mobility Storage Devices; and 6.8 Outdoor Rinsing Showers. Rather than
>greatly expanding the length of the FSTAG scoping and technical
>specifications section as would occur if the ADAAG citation were to be
>repeated each time, perhaps we can add them as a section in the Appendix

>titled ADAAG References.

>

>Dave- a question for you. You stated a number of reviewers requested
>definitions for firm and stable, prominent feature, protruding object and
>clear tread width. There is a section of definitions in the FSTAG
>technical provisions beginning at the bottom of FSTAG 2. Clear Tread Width
>is defined there. We can certainly add the other 3 definitions to that
>section. But you stated these were the definitions requested among others.
>It would be helpful if you could be specific as to what other definitions
>were requested.

>Mary Margaret and Dave, I do appreciate your taking the time to comment and
>your sharing the comments you have received. We want the FSTAG to be the
>best document it can be despite the extremely tight side-boards we are
>dealing with between the Access Board decisions on direction and the
>Federal Register and FS Directives format requirements. We value your
>comments and we will integrate into a number of changes into the FSTAG.
>Please share other comments as you receive them and/or you wish to make
>them.

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>In closing I am sharing one of the number of positive comments we have been
>receiving. These comments are from Bob Magon trails manager on the
>Coronado NF, after he thoroughly reviewed the draft FSTAG:

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> "The following is my response regarding the draft 9-3-02, USDA Forest
> Service, Trails Accessibility Guidelines.

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> Response:

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> Very good, acceptable requirements, and understandably written. Trail
> target project goals do not appear to be jeopardized, because the
> compromises made to allow reasonable deviations were well thought out,
> practical and applicable to on-the-ground activities."

>

>Thanks!

Janet A. Zeller

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Dave Startzell and Janet Zeller, 9/30/02, AM

Janet:

When we last spoke, you mentioned that, as I was gathering my thoughts and preparing responses to the FSTAG and FSORRAG materials you had shared previously, if I had any questions, I should let you know. I do have what might best be characterized as a "process" question. This question was raised as recently as this morning, during the course of a conference call I had with other members of the AHS conservation committee, who are copied on this message. Although my primary "hat" is as ATC executive director, I also am a member of the AHS board and chair its conservation committee.

My understanding is that you shared a version, initially of the FSORRAG standards, and more recently of the FSTAG standards, with a limited number of individuals external to the agency (I'm not clear to what extent that material has been reviewed internally within the agency)--including me, Mary Margaret Sloan, and Peter Jensen--as a means of obtaining some first-blush reactions from us before posting the draft standards on the USFS accessibility web site. At this point, the FSORRAG standards already are posted on the USFS web site, so perhaps the emphasis now is on the FSTAG or trails standards. I understood further that, with the benefit of any comments you receive as a result of the website posting, you hope to publish revised draft standards in The Federal Register at some point--perhaps as early as November.

My sense is that there is a fairly low internal-review threshold required before publishing materials to an agency web site. Indeed, I think the Access Board posted a number of prepublication iterations of the draft accessibility guidelines on their web site even before the final report from the reg-neg group was completed. But, my impression is that publication of draft guidelines or standards in The Federal Register is a whole different "kettle of fish," and that it requires high-level internal-agency review, as well as OMB (and perhaps White House-level) review.

The question that came up in our conversations this morning basically has to do with where USFS is in this process. The concern is: Is this the time when we should be seeking broad input from various trails groups about the draft standards? Or, are we going to gear up for that only to learn a month or two from now that the standards may not see the light of day for months or a year or more because an DOA assistant secretary or an OMB examiner or a CEQ watchdog decides to bury the draft standards? This is basically what happened in terms of the earlier Access

Board process. A number of us (perhaps me most of all) devoted a fair amount of energy writing articles, presenting workshops, etc. to raise awareness of the emerging guidelines, caught a fair amount of flack from some quarters, and then learned that the Access Board guidelines were hopelessly mired at OMB, presumably because no one could come up with a reliable method for estimating the cost impacts associated with implementation of the guidelines (a concern that I would think might be relevant within USFS as well).

Can you shed any light on this issue? How do you envision the review/comment/revision process unfolding, and at what point do you think the new standards (however they may be revised) are likely to be applied in the field at the Forest level? This question really goes beyond "process": As you know, one of the concerns I have voiced previously is that, because the standards are (or at least appear to be) quite technical, it is very likely that trail-organization cooperators are going to need some "hand-holding" from their agency colleagues, particularly during the initial application of any new standards. Does USFS have the capacity to provide such "hand-holding" through training, on-the-ground oversight, etc., before, or within a reasonable period after, adoption and initial application of the standards?

Dave

Thank you Dave for your good process question. I will add a "process" question and reply to the next version of the FSTAG Qs and As that will be posted on the FS web page -with the draft FSTAG- in about 2 weeks.

In April of 2002 the Forest Service formally filed with OMB the submission forms and documentation re the content, scope etc. of our proposed guidelines--both the FSORAG and the FSTAG. About 6 weeks ago the Forest Service received formal notification from OMB of a designation of "not significant" --because these guidelines will effect only Forest Service managed lands --and they will not apply to all agencies, states, and so forth --as will the Access Board guidelines.

Due to this finding these guidelines will not be going through all of those other levels of clearance as would have been required had OMB found otherwise. Therefore these guidelines are moving forward through the agency approval process - with publication in the Federal Register as the

final step in that process. It is difficult to estimate the exact timing of publication-- as the internal process does bog down at times. But the expectation is by winter of 2003 they should be final.

As to review -- The draft FSORAG has been reviewed widely in the FS since last spring -and on the public web page since July. The draft FSTAG has been under various levels of FS review since July, full agency internal review since September 5th - when you and Mary Margaret and Peter also received it for internal review --and it will go up on the public website by the middle of October. As soon as it is on the web page we will be encouraging you and others to share widely the information that both drafts are available for comment. We have also widely shared the notice of the public website access opportunity to review the draft FSORAG --with independent living centers, outdoor recreation groups, etc. Of course the Access Board has also been reviewing it. We will do the same information distribution to the public as soon as the draft FSTAG is posted on the web site.

As stated in the FSTAG Qs and As, and as we have discussed, the review process is ongoing --with edits being made until publication in the Federal Register. Because of the uncertainty at this time of that publication date --as it depends on the efficiency of the internal FS process- I can't offer a firm date right now. As soon as we know the Federal Register publication date we will post it and I will notify you and Mary Margaret.

As to "hand holding" - we have always sought to work closely with our partners in trails development and maintenance. We will continue to do so. One of the greatest helps we can all give to each other is to ask that folks approach the guidelines calmly --always keeping in mind that preeminent is the rule that the character and experience of the setting is never to be changed solely of the purpose of accessibility. These guidelines support that rule. As we have often discussed the FSTAG will likely only effect about .5% of all trails- the majority of which will fall in the areas of parking lot to waterfall or scenic vista, the nature trail behind the visitors center and so forth.

Because the Access Board RegNeg stood firm on the 1 level of accessibility applied to all trails managed for pedestrian use--rather than accepting the ROS approach the FS proposed - as the result all trails managed for pedestrian use must be evaluated to determine their applicability to the

accessibility guidelines. We have to all accept that is the way the Access Board guidelines are going --and the FS must adopt the same approach -- or be superseded by the Access Board guidelines when they finalize. However the Process Overview flow chart was designed to be the tool for all to follow--- by reading through it one question at a time it becomes clear fairly quickly whether the FSTAG even apply to the trail being considered- and thereby lightens the otherwise confusing process of weeding ones way through the regulations themselves. The Process Overview was designed to hold all of our hands through the application process.

As I explained in the e-mail message that accompanied the draft FSTAG "After both the FSORAG and FSTAG have completed the rule making process through the Federal Register - the plan is to develop a accessibility guidebook on outdoor recreation areas including trails--in user friendly language -including graphics." Our plan is to have that out by spring/summer of FY03. Funding for its publication is a major issue in the agency right now --but publication on the FS web page is always a starting option to get it out.

I wish I could say we had the \$\$ to bring all of our employees and partners together for training. We do not. We will seek every opportunity to provide assist and to "hand hold" on the local level as well.

Hope that helps to address your questions re process.

Thanks!

Janet

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Janet:

Here I will provide some initial reactions to the draft FSTAG and FSORAG documents you were kind enough to share with me previously. I'll also touch on the Q & A documents that you shared. Originally, I had hoped to await responses from some of our field-office personnel before compiling those and sharing them with you. However, in looking at my schedule, I realized that if I did not send along some comments now, it might be November before I have another opportunity to do so: The entire month of October is a disaster!

Permit me to first cite some caveats: I have received very few comments from our (ATC's) trail-management staff about the draft standards documents, even though I shared copies with them some time ago. It simply is a very busy time here and most of our folks are up to their eyeballs in other pressing activities. Therefore, the comments that follow are mostly my own and may not reflect the prevailing views among our trail-management staff, let alone our volunteer trail-maintainers and managers (who I did *not* copy on those documents). I did have the benefit of seeing some of the comments that Mary Margaret Sloan received, particularly from some folks involved in the North Country NST project. A number of those comments (especially those of Bob Papp) are thoughtful and should be given full consideration. I also have attached some comments I received from a colleague in the National Park Service. His comments may be representative of the sorts of reactions many people in the trail community may have to the proposed standards, even though many of them have been hearing about the Access Board's AGODA guidelines (mostly from me) for the past several years. In any case, here goes....

First, I'll dispense rather quickly with the two Q & A documents you shared. Basically, I think the idea of a Q & A document to accompany each of the two standards documents is a good one. However, in their present form, the two Q & A documents read more like stream-of-consciousness, internal email exchanges among a select few "insiders" in the Forest Service. They need to be rewritten with a lay audience in mind.

Next, while I may quibble about the two standards documents in the comments that follow, I must acknowledge at the outset that the two documents represent a significant improvement over the Access Board's AGODA report.

In terms of the **FSORAG**, I have a number of observations and/or concerns. One primary one involves the outdoor recreation access route (ORAR) issue. While I understand that a trail that provides access to a campsite does not necessarily have to meet ORAR standards, I remain concerned that any pathway or route that

connects "elements" within the campsite area may have to meet such standards. This, potentially, is a very big deal at many backcountry campsites where, oftentimes, "elements" of the site (including shelters, privies, and water sources) are separated by some distance and sometimes purposefully situated up- or down-slope from the primary element (the shelter). For example, it is not uncommon to situate a shelter below a water source and above a pit-toilet or privy for obvious sanitation reasons. Although I believe you have provided for the possibility of an exemption from the ORAR requirement if topographic or other barriers preclude such a route, I still suspect many will find the requirement for an access route connecting elements at *backcountry* shelter or camping sites worrisome, and potentially burdensome.

Among the sorts of "constructed features" addressed in the FSORAG, there is no discussion of shelters or lean-tos (eg-Adirondack-style, three-sided shelters). Perhaps this is because they are considered structures, which are addressed in ADAAG. However, I think shelters should be addressed in the FSORAG. We have a system of more than 230 shelters on the A.T. They also are common along many other trails in the East, including those maintained by the Green Mountain Club, the Appalachian Mountain Club, the Adirondack Mountain Club, the Randolph Mountain Club, etc. For this reason, there no doubt will be considerable interest among those organizations and others about the sorts of modifications that may be required to render shelters "accessible."

In general, a lay reader reviewing either the FSORAG document or the FSTAG document is at a significant disadvantage because both documents place considerable reliance on the reader's understanding of ADAAG. In a number of instances, the documents simply refer the reader to ADAAG 4.4 (or whatever). Realistically, probably less than one-half of one percent of the lay readers who are likely to review these documents will be familiar with ADAAG or have access to a copy of it (I have two copies--both of which are buried somewhere in the great dumping ground that is my office). I would encourage USFS to insert the applicable language from ADAAG in those sections where you are deferring to those standards, rather than simply addressing them by reference.

A related concern (and one that was ably articulated by Bob Papp from the North Country Trail Association) involves measurements or measurement methodologies, particularly those involved with the various elements addressed in the **FSTAG** document. As Papp states: "*On any short stretch of primitive trail traversing anything but the flattest terrain, countless unique measurements could be obtained for grade and cross slope. The point and method of measurement*

could easily be manipulated to either demonstrate the need for compliance or the need for exception. If the purpose of defining guidelines is to standardize the implementation of ADA on trails, these guidelines will fail completely because such measurements are so subjective on primitive trails....The exceptions approach must be supported by evaluative methods that are clear, objective and fair. These guidelines merely create the illusion of proposing objective evaluation, by liberally sprinkling clearly defined objectives throughout the technical provisions. All the technical provisions do, though, is show trail builders and trail users where to hold their yardsticks if they wish to demonstrate that a primitive trail either fails or meets the provisions...."

I believe the lack of a standardized methodology for establishing the sorts of measurements required for many of the technical provisions, as well as some of the general exceptions, is a critical omission in both the Access Board's AGODA guidelines and the draft FSTAG and FSORAG standards. I suspect this issue was not addressed in the FSTAG or FSORAG documents because you plan, at some point, to develop an implementation manual of some kind (indeed, I think the creation of such a manual, as well as training programs, for both USFS personnel and cooperators, will prove critical to the implementation of these standards). The problem, however, with not addressing that issue in the standards documents is that it forces the reader to form his or her own conclusions about how and how frequently those measurements will be made. In many cases, readers will assume the worst case. In other words, readers will assume that the standards are unworkable or overly burdensome because it will be necessary to take detailed measurements along every foot of new or "altered" trail.

When the working group met in January, one of the biggest issues a number of us raised concerned the notion of developing an evaluative process that would enable trail designers to make a determination early in the design process--without the necessity of taking many detailed measurements--as to whether or not a given segment of new or altered trail even arguably could be designed and constructed to be accessible. In the draft FSTAG, you have attempted to address that concern, in part, by providing a "process overview" flow chart. While that chart is somewhat helpful (although I suspect many readers are likely to be overwhelmed by it), it nevertheless could be interpreted to suggest that a great many detailed measurements will be required before a determination can be made as to whether or not the segment will be designed to meet accessibility standards, and which technical provisions will apply at various points along the trail segment. Somehow, I think USFS (and the Access Board for that matter) needs to address this concern

in the FSTAG document, rather than placing total reliance upon an implementation manual that doesn't exist at this point.

In this regard, I was pleased to note that USFS has retained general exception 1 (7.1.2.1) in the FSTAG. As you know, this exception is similar to the general exception that was identified late in the Access Board reg-neg process, and that became known as the "what's the point" exception (I should, perhaps, acknowledge that I was one of the most vocal proponents for this exception). The whole idea behind this exception was to enable the trail designer to focus on only a limited number of critical factors (such as running slope, cross slope, and surface conditions) in making an initial determination as to whether or not it made sense on a given segment of trail to engage in many detailed measurements if it is obvious that the segment, by virtue of prevailing slope or surface conditions, will never meet accessibility standards. For me (and, I suspect, for many readers), this is a critical exception. Perhaps it would be helpful to further highlight it in some way in the FSTAG document. In contrast, I find general exception 2 (7.1.2.2), which permits a general exception if permitted deviations from technical provisions occur along more than 15 percent of the trail length, to be far less useful. In order to make that determination, it will be necessary for the trail designer to consider every technical provision and, potentially, to inventory virtually every foot of the trail.

A number of reviewers have commented on the advisability of including (or expanding) a definition of terms section in the document(s). I support that suggestion. Such terms as "primary feature," "firm and stable," "clear tread width," and "protruding objects," among others, require clarification, especially for readers unfamiliar with ADAAG or universal-design concepts.

A related issue concerns references (primarily in the FSTAG preamble) to Forest Service Trail Business Rules related to Infrastructure (Infra), the TRACS system, and Meaningful Measures. While these references may have meaning to some in the Forest Service, they have little meaning to a lay reader. In the Q & A document related to the FSTAG, there is some discussion concerning the distinction between "designated use" and "managed use." There also is a passing reference to "trail classes." If memory serves me, the notion of "trail classes" is retained in the current iteration of TRACS. However, the relationship between such class distinctions and the accessibility standards is not at all clear, assuming there is any relationship at all. Another reference to "trail class" appears under the Conditions for Departure (7.1.1), in the second condition, which concerns compliance that would "substantially alter the physical or recreation setting; the Trail Class,

Designated Use or Managed Use of the trail or trail segment; or would not comply with forest land and resource management plans." However, it is not at all clear how determinations will be made as to whether or not compliance will alter the trail class. As you will note in the attached comments from my National Park Service colleague, many readers of the FSTAG are likely to conclude that "primitive" trails, as such, will cease to exist once the FSTAG standards are embraced by the agency.

Similarly, you have emphasized in a number of your communications with me that a guiding principle of FSTAG will be that modifications to meet accessibility standards will not be pursued if such modifications result in a change in "setting." However, I find only a passing reference in FSTAG to the concept of setting. It appears in the preamble under Purpose of the FSTAG, where it states that the purpose is: "to provide guidance for maximizing accessibility while also recognizing and protecting the unique characteristics of the natural setting." Again, how will a determination be made as to whether or not a modification is likely to result in an alteration to the natural or recreational setting? Having effectively abandoned the ROS-system approach, how will the Forest Service in the future define "setting"? And, what methodology will be employed to make a reasoned determination that a given setting would be violated or altered by some action? Does even a relatively simple action, such as modifying the width of the trail tread from 18 inches to 32 or 36 inches, alter the "primitive" nature of the trail? Such setting-related judgments are largely subjective.

I probably could go on, but I'm basically out of time. So, I'll conclude my comments for now with the insertion below of my colleague's remarks. Once I've received more feedback from our trail-management staff, I may pass along additional comments.

Again, Janet, thank you for providing me with an opportunity to comment on the draft standards in advance of posting them on the USFS accessibility web site. At what point will it be appropriate to advise a broader sample of people in the trails community of the existence of the draft standards and the opportunity to comment?

Dave Startzell

Dave Startzell, 9/30/02 AM

Theresa:

I am writing to you, in your capacity as chair of TLC, to advise you of an important and somewhat time-sensitive issue that may require some thoughtful (but speedy) review by at least some subset of the TLC: Recently, the USFS released draft accessibility standards for both outdoor recreation facilities (FSORAG) and trails (FSTAG). The former already are posted at the USFS website for public comment; the latter are likely to be posted there within the next couple of weeks. Ultimately, within the next few months, the standards will be published in The Federal Register. This process actually has been in the works for some time. In fact, last January, I was invited to meet with the "working group" at USFS that was in the beginning stages of developing the new standards. The standards are modeled, for the most part, on the earlier, "exceptions-based" approach developed by the Architectural and Transportation Barriers Compliance Board (aka-Access Board) several years ago. You may recall that ATC was represented in that process by Peter Jensen and me.

In any case, the ATC Executive Committee discussed this issue briefly this past weekend. The group agreed that it would be appropriate for ATC to advise all of the trail-maintaining clubs of the existence of the new draft standards and the opportunity to comment on them. This potentially could be a very big deal, since more than 1,000 miles of the A.T. (and many side trails) are situated on Forest Service land. The group also felt that it would be appropriate for ATC to develop a formal response to the proposed standards, since it is likely that many of our clubs may look to us for guidance in terms of how to react to the new standards. In order to be most useful, however, I would think we would need to develop a position statement or formal response within the next month or so. And, since TLC is not scheduled to meet until just before the November BOM meeting, it may be necessary to form some sort of subcommittee or working group that can review the materials and discuss a potential response via email or a conference call. If you agree with that approach, the composition of the group is entirely up to you. However, I will offer a couple of suggestions here. First, Peter Jensen has considerable experience with this issue. I have spoken with Peter and, although he is very busy during the next few months, he agreed to participate in some way, especially by email or telephone (a face-to-face meeting would be more problematic given his travel schedule). Carl Demrow also volunteered to participate. Morgan Sommerville would be another good addition, since he already has some experience applying the earlier Access Board standards in the field. Teresa Martinez also might be appropriate. Karen Lutz has an interest in this issue. However, Karen is about to go on medical leave, so I'm not sure how engaged she could be. It may be appropriate to have a few club people involved in the review as well, since they are the ones, ultimately, who will have to apply any new standards

in the field. Ordinarily, I would like to be involved as well, given that I have a lot of history with this issue. However, my travel schedule is such that I'm only going to be in the office about six or seven days the entire month of October.

By way of background, I am providing a considerable amount of that, both below, and in the attachments. In order of appearance, the first insertion below is a message I sent last week to Janet Zeller, the USFS national accessibility coordinator who is really driving this whole process. My question to Janet mostly concerned where USFS is in its process and what authorities it has. Janet's response to that query follows. After that, I have inserted my initial comments to Janet on the draft standards--I wanted to get my "shots" in early, in part because I am going to be away so much during the next few weeks. Finally, attached are electronic copies of the two draft standards documents (I apologize to those who are copied on this message who already have seen some or all of this).

When you get a chance, let me know how you would like to proceed with grappling with this issue.

Sorry to hit you "out of the blue" with this.

Dave Startzell

Don Owen, 9/27/02

To Dave Startzell, on 9/24/02, in response to the recently released USDA Forest Service DRAFT Outdoor Recreation Accessibility Guidelines (FSORAG) and DRAFT Trails Accessibility Guidelines (FSTAG)

Dave -

I'm not sure where the most constructive place to start would be, but I've got several major "beefs" with the FSORAG and FSTAG questions and answers and the accessibility "guidelines" (which are standards, not guidelines) in general. Hopefully, if I can provide them to you in unadulterated language, you can find the right words to convey them to the people you are working with on this issue. Here goes:

- 1) The first is that building trails, bridges, parking lots, and other primitive facilities to accessible standards will, in reality, frequently change the recreational setting. By its very nature, a graded, uniform, 32-inch minimum width trail does provide a different recreational

experience and change in the recreational setting from a primitive, rock-strewn, variable-grade, goatpath like the Appalachian Trail. Trying to set uniform standards for primitive paths or trails can easily change a primitive setting to a non-primitive setting. But, how do you measure these changes in "setting"? You can't. Settings are more a matter of perceptions than any quantifiable factors. And, in the worst of all possible outcomes, well-meaning Forest Service and Park Service personnel will interpret the proposed accessibility standards (they're not "guidelines") with a conservative eye, and many, many sections of the A.T. and other trails near the primitive end of the spectrum will be overbuilt - and in the process, we'll lose some of the essence of the Appalachian National Scenic Trail. I know that there's language in there that is supposed to prevent these regulations from changing the "setting," but I don't see how that will be put into practice - standards and regulations have a way of overpowering issues that are difficult to quantify (like "settings").

2) The next issue is cost. Time and time again during the development of these regulations, we heard that cost would be evaluated near the end of the process. What the Forest Service has done seems to have eliminated this absolutely critical step in the formulation of these regulations. The simple reality is, that if trails have to be constructed and maintained to higher standards (which costs more money), fewer trails will be constructed and maintained. The Falls Village Accessible Trail section of the A.T. is a case in point. It cost nearly \$70,000 to build a 1.5-mile section of trail in near-level terrain within a few hundred yards of a trailhead/parking area. The section of Trail that had existed at that location prior to reconstruction as an accessible trail section had been constructed by volunteers for perhaps a few hundred dollars in materials and perhaps a hundred hours of labor per mile. If that kind of cost disparity is not taken into account, what does that mean for all trails? Unless there's lots of additional money, ultimately, it means less trails - lots less trails.

3) The third issue is the cost of maintenance, and the potential liability exposure if trails designated as accessible are not maintained to accessible standards. Once trails are constructed to accessible standards, whose job is it to keep them at that standard? Right now, there is no true "standard" for trail maintenance (or if there is, it varies tremendously from 100%-plus ascents on stretches of the A.T. in Maine and New Hampshire

to rock-strewn sections of the A.T. through Pennsylvania). Trail Design, Construction, and Maintenance provides guidance, not standards, because standards would be impossible to maintain. Setting standards brings a whole host of issues into the equation of trail maintenance. Would volunteers have to be out every week or two ensuring that accessible trail sections are maintained to accessible standards? What happens when natural events (erosion, etc.) create barriers to access? Has anyone even begun to measure the cost, which could be many times that of routine maintenance? And what happens if someone with a disability goes out on a trail that has been designed and built to accessible standards but that has eroded from a 5% sideslope to a 15% sideslope (which happens a lot along the A.T.), and the volunteer workforce just hasn't had a chance to get out there yet (or more likely, doesn't even know about it), and a person with a disability attempts to get around a rock fall or blowdown or eroded or weathered section of accessible trail, and there's an injury or fatality? Who is liable? Has anyone consulted a torts claim or liability specialist?

4) Another concern that I have with the proposed regulations is that there is no provision for improvements in technology. As the design of equipment for people with disabilities improves (witness the Cobra), standards for accessible trail design will become less and less relevant. Twenty years from now, they may not be relevant at all. And in the meantime, we'll be overbuilding trails to meet the limitations of technology that no longer exists.

5) The next to last concern that I have is that the regulations will have a significant adverse impact on volunteers. Trail design, construction, and maintenance will become far more technical, as people designing and constructing trail realize they need to measure side slopes, the height of potential rock obstacles, and many other variables, and people realize that constructing accessible trail usually requires heavy construction equipment, and people maintaining trails discover that trails must be maintained to a much higher standard and that they, among others, face potential liability issues if their trails are not maintained to accessible standards. The net result: fewer volunteers, which in many cases, would be a disaster for trails.

6) Finally, by and large, I think that people should visit the backcountry on its own terms. Trails in backcountry environments should lie lightly on the land, and should not be built to standards that provide access for 100%

of the population. The A.T. Comprehensive Plan says it best (even though it is not directly dealing with the issue of accessibility): "Trail design, construction, and maintenance should reflect a concern for safety without detracting from the opportunity for hikers to experience the wild and scenic lands by their own unaided efforts, and without sacrificing aspects of the Trail which may challenge their skill and stamina. Attempts to provide protection for the unprepared lead to a progressive diminution of the experience available for others." We're all disabled to some extent, and I do not, in any way, shape, or form, want the Appalachian Trail or other backcountry areas changed so that I can still visit them when I am no longer able. Yes, I think that accessibility should be addressed, and yes, I think we should provide it where it makes sense to do so. But I don't think we should impose it. The end result will be that we - with the best of intentions - will end up destroying the resource we seek to enjoy.

Don