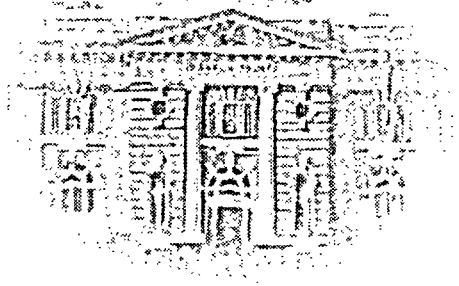


Neva J. Corkrum
District 1

Kathleen "Sue" Miller
District 2

Frank H. Brock
District 3



Fred H. Bowen
County Administrator

Patricia L. Shults
Executive Secretary

Mary Withers
Clerk To The Board

Board of County Commissioners FRANKLIN COUNTY

March 22, 2004

Nuclear Regulatory Commission
Washington, DC 20555

Re: Notification of Land Use Management Plan and Desire to Participate in State and Federal Land Use Planning Efforts

Gentlemen:

Franklin County formally requests that its County Commissioners be specifically notified of, and be granted the opportunity to participate in all land use or other planning efforts and/or decision making processes undertaken by the Nuclear Regulatory Commission within the borders of our County.

The County also wishes to take this opportunity to inform your agency or department that Franklin County has adopted a Natural Resource Management Plan to protect the local customs, culture, and economic base of the County. This plan protects private landowners and the economic stability of the local area. The plan furthers the County's ability to coordinate county, federal and state government efforts and actions affecting land use and natural resources in Franklin County. Franklin County Ordinance Number 2-2003 is enclosed with this letter.

Franklin County is interested in participating in all state/federal activities that will or may, directly or indirectly, affect the citizens or the tax base of this County. Those governmental activities possibly affecting this County could include plans for new land acquisitions, the revision or creation of all state, regional and local land use and management plans, the creation or revision of state, regional or local wildlife plans or other renewable and non-renewable resource management plans, and the creation or revision of any planning documents requiring an environmental assessment (EA), a Finding of No Significant Impact (FONSI), or an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA).

Rev'd STP- 3/31/2004

March 22, 2004

Page 2

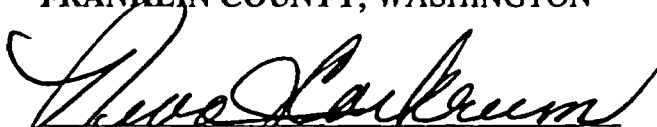
Franklin County is requesting each federal or state agency fully and adequately consider the effect of any proposed decision on the physical environment, customs, culture and tax base of the citizens of Franklin County. In these considerations, Franklin County requests to be named as a joint lead or cooperating agency. Further, Franklin County requests a copy or list of all activities your agency will undertake or plans to participate in, in the coming year. This is requested so Franklin County can coordinate and ensure consistency between federal/state land planning and management activities, and local land use plans and other projects.

The opportunity for participation given to local governments is a distinct process and such notice should be given to local governments before the general public is asked to comment on a federal/state land use or management plan.

Thank you for your cooperation.

Sincerely,


BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON



Neva J. Corkrum, Chairman



Frank H. Brock, Chair Pro-Tem



Sue Miller, Member

ORDINANCE NUMBER 2-2003

BEFORE THE BOARD OF COMMISSIONERS, FRANKLIN COUNTY, WASHINGTON

RE: Adoption of The Natural Resource Land Use Management Plan to Protect the Customs, Culture, and Economic Base of Franklin County, Washington.

WHEREAS, the Natural Resource Land Use Management Plan to Protect the Customs, Culture, and Economic Base of Franklin County was developed by the Franklin County Natural Resource Advisory Committee (NRAC) who encourage and recommend its adoption by the Board of Commissioners, and

WHEREAS, the adoption of this Plan furthers the implementation of County Ordinance #09-95 which is an Ordinance for the purpose of coordinating County, Federal, and State Government actions affecting land use and natural resources in Franklin County, and

WHEREAS, the public use and interest will be served by approving the above mentioned Plan, and

WHEREAS, the Board of County Commissioners have reviewed the Plan and have recommended its approval, and

NOW THEREFORE, BE IT ORDAINED that the above-mentioned Natural Resource Land Use Management Plan to Protect the Customs, Culture, and Economic Base of Franklin County, WA be approved and hereby reads as follows:

CHAPTER:

- 1. Introduction**
- 2. Custom, Culture, and Economic Base of Franklin County**
- 3. Multiple Use and Coordination With Federal and State Agencies**
- 4. Primary Guidelines**
- 5. Management Actions**
- 6. The Continuing Process**
- 7. Severability**

CHAPTER 1
INTRODUCTION

Franklin County is a political subdivision of the State of Washington, having corporate powers and exercising the sovereignty of the State of Washington within its boundaries, as provided in the Revised Codes of Washington (RCW) those powers specified by and those necessarily implied there from (RCW 36).

The County's powers can only be exercised by the Franklin County Board of Commissioners (hereinafter referred to as the "Board") or by agents and officers acting under the authority of the Board (RCW 36.01).

The Board serves as the executive authority of the County Government and is in charge by law with performing all duties necessary to the full discharge of these specified and implied executive duties (RCW 36.01).

One of the critical duties of the board is to supervise and protect the tax base of the County. The board is also charged with the duty of establishing a Growth Management Comprehensive Plan for the orderly physical development of the County (RCW 36.70A). This plan will guide the present and future allowed uses for all lands in the County and identify the County's environmental, social and economic goals. In 1995, the Board adopted the County's most recent Growth Management Plan (County Resolution #95-071). It is anticipated that the County's Growth Management Plan will be updated and amended during the Year of 2003.

In the Growth Management Plan, the County is required to, at a minimum, address the following planning elements: land use; capital facilities; utilities; rural lands/development; growth management goals and local circumstances; transportation issues; economic development; and parks and recreation (RCW 36.70A). These elements are all reviewed and discussed in the 1995 Plan.

As the County's governing body, the Board is charged with governing Franklin County in the best interest of all its citizens.

The Board is well aware that the historical, overriding and predominant goal of the County's citizens, and therefore its government, has been the continuation of a lifestyle which assures the highest degree of private property rights and property interests and assure the highest degree of protection of these rights. Property rights and interests are important to the independent people who live and work in Franklin County. People who live in this County are reliant upon the land and its productive use. Private ownership and the incentive provided by private ownership is the driving force, which supports the livelihood of all Franklin County citizens.

The Board is also aware that at this time federal and state managed lands make up 12 percent of the land mass of Franklin County and that there are continuing efforts to increase that amount. Franklin County economy is dependent on business activities inseparably tied to all lands in the County, both private and public. To a substantial

degree the County and its people are at the mercy of state and federal planning decisions and agencies (i.e. the Hanford Reach), often to the detriment of local communities and citizens, and the Board is of the opinion that such circumstances are contrary to the basic principles of property rights, and sound resource management.

Believing that the American concept of "government of the people, by the people and for the people" is best served when government affairs are conducted as close to the people as possible (i.e. at the County level), the Board in carrying out its specified and inherent duties to operate the government of Franklin County in the best interest of all its citizens and to protect and preserve the County's tax base, has found it necessary to expand its Natural Resource Land Use Planning efforts into the area of planning for the use and management of federally and state managed lands in the County.

The board has reached that decision because of the massive portion of land in the County that is managed by either the federal or state government and because the use and management of that land has severe impact on the economic stability of Franklin County. The Board is therefore legitimately interested in fully participating in the planning process utilized by federal and state agencies for determining and implementing their Natural Resource Land Use Plans for managing lands located in the County. The Board's interest extends to plan formulation, development, and implementation (which includes monitoring and evaluating implementation).

The Board initiated the process by appointing the Franklin County Natural Resource Advisory Committee (hereinafter referred to as "NRAC"), and charging its members with the task of developing and recommending a Natural Resource Land Use Plan to provide a general planning framework within which the Board's purposes and goals can be successfully pursued.

CHAPTER 2
CUSTOM, CULTURE AND ECONOMIC BASE OF FRANKLIN COUNTY

Historically, the custom and culture of Franklin County is not unlike many Western counties. Bounded by the Snake, Columbia, and Palouse Rivers, this was an arid expanse of land lending itself to the use of only the hardiest of settlers. The settlement of the County is based on the beneficial use of the land at a time when jobs and homes were in great demand – when Grand Coulee Dam was built, and the Columbia Basin Irrigation Project was constructed. Historically the people of Franklin County have relied upon the natural resources of the area for their livelihood. The economy of the County has always been and is today dependent upon and economically related to the availability and utilization of natural resources and reasonably accessible water supplies. Either directly or indirectly the majority of the persons employed in Franklin County are dependent upon ranching and farming, recreational activities, mining, and other activities related to and reliant upon the availability of natural resources. The natural resources critical to the economy of Franklin County are either managed by federal or state agencies or are affected to a large degree by state and federal regulation. The economy of the County is dependent upon commercial activities relating to agriculture, outdoor recreation, etc., which in turn are affected by state and federal regulation. Recognizing the critical tie between the degree of federal and state regulation and the degree of utilization of the County's natural resources to the benefit of the County's residents, the Board developed the Natural Resource Land Use Planning process to ~~serve as a guide to direct Federal and State agencies' activities~~ regarding the County's natural resources. The Board will actively and positively work to maintain the traditional, historical livelihood of the County's citizens, and to preserve the County's custom, culture, and economic stability. The Board will also actively and positively work to protect private property rights, private property interests and investment backed expectations, and to facilitate a free market economy. The Board will actively and positively work to provide a voice for individual citizens and for local communities in planning the future of the County. The Board's purpose and goals will be successfully implemented only with a vital on-going process, initiated by the appointment of NRAC.

CHAPTER 3
MULTIPLE USE AND COORDINATION WITH FEDERAL AND STATE AGENCIES

SECTION 1. INTRODUCTION – MULTIPLE USE AND COORDINATION

This Natural Resource Land Use Plan provides a positive guide for NRAC and the Board to coordinate their efforts with federal and state land management agencies in the development and implementation of Natural Resource Land Use Plans and management actions which are compatible with the best interests of Franklin County and its citizens. The Natural Resource Land Use Plan is designed to facilitate continued, revitalized and varied use of all lands within the County.

NRAC, the Board, and the citizens of Franklin County recognize that federal law mandates coordinated planning with local government of federally managed lands and they positively support varied uses of these lands and also state managed lands. Such varied use necessarily includes continued maintenance of the historic and traditional economic uses which have been made of federally managed and state managed lands within the County. It is therefore the policy of Franklin County that NRAC and the Board work constantly to assure that federal and state agencies shall inform the County Commissioners of all pending or proposed actions affecting local communities and citizens and coordinate with the Board in the planning and implementation of those actions.

Such coordination of planning is mandated by federal laws governing land management, including but not limited to the following particulars:

SECTION 2. BUREAU OF LAND MANAGEMENT (BLM)

The Federal Land Policy and Management Act, 43 U.S. Section 1701, declared the National Policy to be that “the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a use planning process coordinated with other federal and state planning efforts.” See 43 USC Section 1701 (a)(2). 43 U.S.C. Section 1712 (c) sets forth the “criteria for development and revision of Natural Resource Land Use Plans.” Section 1712 (c) (9) refers to the coordinate status of a county which is engaging in Natural Resource Land Use Planning, and requires that the “Secretary (of Interior) shall coordinate the land use inventory, planning, and management activities...with the Natural Resource Land Use Planning and management programs of other federal departments and agencies and of the State and local governments within which the lands are located.” This provision gives preference to those counties, which are engaging in a Natural Resource Land Use Planning program over the general public, special interest groups of citizens, and even counties not engaging in a Natural Resource Land Use Planning program.

Section 1712 also provides that the “Secretary (of the Interior) shall assist in resolving, to the extent practical, inconsistencies between federal and non-federal government plans.” In view of the requirement that the Secretary (of the Interior) “coordinate” land

use inventory, planning and management activities with local governments, it is reasonable to read the requirement of assisting in resolving inconsistencies to mean that the resolution process takes place during the planning cycle instead of at the end of the planning cycle when the drafted federal plan is released for public review.

The section further requires that the "Secretary (of the Interior) shall" provide for meaningful public involvement of state and local governmental officials...in the development of land use programs, land use regulations, and land use decisions for public lands." When read in the light of the "coordinate" requirement of the section, it is reasonable to read "meaningful involvement" as referring to on-going consultations and involvement throughout the planning cycle, not merely at the end of the planning cycle. This latter provision of the statute also distinguishes local government officials from members of the general public or special interest groups of citizens.

Section 1712 (C) (9) further provides that the Secretary (of the Interior) must assure that the BLM's Natural Resource Land Use Plan be "consistent with State and local plans" to the maximum extent possible under federal law and the purposes of the Federal Land Policy and Management Act. It is reasonable to read this statutory provision in association with the requirement of coordinated involvement in the planning process.

The provisions of Section 1712 (C)(9) set forth the nature of the coordination required by the Board with planning efforts by the Indian tribes, other federal agencies, and state and local government officials. Subsection (f) of Section 1712 sets forth an additional requirement that the Secretary (of the Interior) "shall allow an opportunity for public involvement" which again includes Federal, State and local governments. The "public involvement" provisions of Subsection (f) do not limit the coordination language of Section 1712 (C)(9) or allow the Board to simply lump local government officials in with special interest groups of citizens or members of the public in general. The coordination requirements of Section 1712 (C)(9) set apart for special involvement those government officials who are engaged in the Natural Resource Land Use Planning process as is Franklin County. The statutory language distinguishing the County because it is engaged in the Natural Resource Land Use Planning process makes sense because of the County Commissioner's obligation to plan for future land uses which will serve the welfare of all of the people of the County and promote continued operation of the government in the best interest of the people of Franklin County.

Historically, the Congress, the Bureau of Land Management, and the Federal Courts have recognized that community economic stability is an important consideration in the management of federally managed lands. In interpreting the Taylor Grazing Act, 43 U.S.C. Section 315 et seq. (the Act which created the agency to become known as the Bureau of Land Management) the Courts have recognized that the purpose of the Act "is to stabilize the livestock industry and to permit the use of public range according to needs and qualifications of livestock operators with base holdings." See *Chournos v. United States* 193 Fd2d 321 (10th Cir. Utah 1951), Cert den. 343 U.S. 977 (1952). In *Red Canyon Sheep Co. v. Ickes*, 98 Fd2d 308 (1938), the Court stated that the purpose of the Taylor Grazing Act is to provide the "most beneficial use possible of public range because the livestock industry of the West is an important

source of food supply for the people of the nation.” Red Canyon also pointed out that “in the interest of the stock growers themselves” the Act was intended to define “their grazing rights and to protect those rights by regulation against interference.”

Similarly, Bureau of Land Management regulations mandate that the agency coordinate its Natural Resource Land Use Plans with local governments who have adopted comprehensive Natural Resource Land Use Plans of their own:

(1) 43 C.F.R. Section 1601.3-1(a)

In addition to public involvement, the BLM is obligated to coordinate its planning processes with local government Natural Resource Land Use Plans.

(2) 43 C.F.R. Section 1610.3-1(c)(1)

“In providing guidance to BLM personnel, the BLM State Director shall assure such guidance is as “consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other State agencies, Indian tribes and local governments that may be affected....”

(3) 43 C.F.R. Section 1610.3-1(e)

The BLM is obligated to take all practical measures to resolve conflicts between federal and local government Natural Resource Land Use Plans.

(4) 43 C.F.R. Section 1610.3-2 (a)

The BLM plan must be consistent with officially approved and adopted local Natural Resource Land Use Plans, as long as such local plans are consistent with federal law and regulations.

(5) 43 C.F.R. Section 1610.3-2 (e)

Prior to BLM resource management plan or management framework plan approval, the BLM shall submit a list of known inconsistencies between the BLM plans and local plans to the governor.

(6) 43 C.F.R. Section 1610.3-2 (c)

The BLM has no duty to make its plan consistent with a local government plan, if the BLM is not notified by the local government of the existence of its local plan.

SECTION 3. U.S. FOREST SERVICE (USFS)

(1) 36 C.F.R. Section 219.7 (a)

The Forest Service is obligated to coordinate with equivalent and related planning efforts of local governments.

SECTION 4. ENDANGERED SPECIES ACT (ESA)

- (1) Idaho Farm Bureau Federation, et al. v. Babbitt, No. 93-0168-E.-HLR (Dec. 14, 1993)

The Fish and Wildlife Service is required to follow all procedural mandates in the ESA when listing a species as threatened or endangered, including (1) listing the species within one year of publication of the notice of proposed listing, otherwise Fish and Wildlife Service must withdraw the regulation; (2) providing actual notice to local governments prior to listing; (3) providing adequate public review of data used to list the species; and (4) adequately considering and responding to public comments regarding the proposed listing.

- (2) 16 U.S.C. Section 1533 (b)(5)(A)(ii)

Not less than ninety days before the effective date of the regulation, the Fish and Wildlife Service is required to give actual notice to local governments of its intent to propose a species for listing or change or propose critical habitat

- (3) 50 C.F.R. Section 423.16 (c)(i)(ii)

Once notified, the local government has the opportunity to comment on the proposed species listing or critical habitat designation.

- (4) 16 U.S.C. Section 1533 (i)

The Fish and Wildlife Service must directly respond to the "State agency" See note 3.

Note 3: Under the ESA, a "State agency" is a division, board, or other governmental entity that is responsible for the management and conservation of fish, plant or wildlife resources with a State 50 C.F.R. Section 424.02(1)

- (5) 16 U.S.C. Section 1533 (f)(5)

Other federal agencies must also consider local government and public comments regarding the management of threatened or endangered species

- (6) 16 U.S.C. Section 1533 (b)(1)(A)

The listing of a species as threatened or endangered by the Fish and Wildlife Service is to be based on the best scientific and commercial data available.

(7) 16 U.S.C. Section 1533 (b)(i)(A)

The Fish and Wildlife Service shall list species only after taking into account efforts of State or political subdivisions to protect the species.

(8) 16 U.S.C. Section 1533 (b)(2)

Critical habitat designations must take economic impacts into account. Areas may be excluded as critical habitat based upon economic impacts unless the failure to designate the area as critical habitat would result in extinction of the species.

(9) Douglas County v. Lujan, 810 F. Supp. 1470 (1992)

The Fish and Wildlife Service is required to complete full NEPA documentation when designating critical habitat.

(10) 16 U.S.C. Section 1533 (f)(1)

The Fish and Wildlife Service shall develop and implement recovery plans for the survival of endangered species unless it finds that such a plan will not provide for conservation of the species.

(11) National Wildlife Federation v. Coleman 529 F.2d 359 (1976) cert. denied 429 U.S. 979 (1977)

Pursuant to the Endangered Species Act, the Fish and Wildlife Service is responsible for species listing, the designation of critical habitat and the development of protective regulations and recovery plans. Once a species is listed, federal agencies have the responsibility to consult with the Fish and Wildlife Service under Section 7 of the ESA. However, once consultation has occurred, the agency is then free to make the final determination. The Fish and Wildlife Service does not have veto power over federal agency actions.

(12) 54 Fed. Reg. 554 (January 6, 1989)

The Sensitive Species Program was created on January 6, 1989 by the Fish and Wildlife Service and is implemented by all federal agencies. These federal agencies are to give "special consideration" to those plant and animal species that the Fish and Wildlife Service is considering for listing but lacks the scientific data to list.

SECTION 5. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

The National Environmental Policy Act requires that all federal agencies consider the impact of their actions on the environment and on the preservation of the culture, heritage and custom of local government.

(1) 16 U.S.C. Section 4331

"It is the continuing responsibility of the federal government to use all practicable means, consistent with other essential considerations of national policy, to...preserve important historic, cultural and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice."

The term "culture" is defined as "customary beliefs, social forms, and material traits of a group; the integrated pattern of human behavior passed to succeeding generations." See Webster's New Collegiate Dictionary at 277 (1975). A custom is a usage or practice of the people, which, by common adoption and acquiescence, and by long and unvarying habit, has become compulsory and has acquired the force of law with respect to the place or subject-matter to which it relates. See Bouvier's Law Dictionary, 417 (1st ed. 1867). Thus, by definition, the National Environmental Policy Act requires federal agencies to consider the impact of their actions on the custom of the people as shown by their belief, social forms, and "material traits". It is reasonable to read this provision of the National Environmental Policy Act as requiring that federal agencies consider the impact of their actions on rural resource dependent counties such as Franklin County where, for generations, families have depended upon the "material traits" of farming, ranching, mining, recreation, hunting, fishing and other resource based lines of work for their economic livelihoods.

(2) 42 U.S.C. Section 4332(2)(c)

All federal agencies shall prepare an environmental impact statement (EIS) or an environmental assessment (EA), i.e. a NEPA document for "every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment."

(3) 42 U.S.C. Section 4332 (C)(iii)

Such EIS or EA shall include, among other things, alternatives to the proposed action.

(4) 42 U.S.C. Section 4332 (C)

Copies of comments by State or local governments must accompany the EIS or EA throughout the review process.

(5) 40 C.F.R. Section 1502.16 (c)

Each NEPA document shall include a discussion of possible conflicts between the proposed federal action and local land use plans.

(6) 40 C.F.R. Section 1506.2 (b)

Federal agencies shall "cooperate to the fullest extent possible" to reduce duplication with State and local requirements. Cooperation shall include:

- a. Joint planning
- b. Joint environmental research
- c. Joint hearings
- d. Joint environmental assessments

(7) 40 C.F.R. Section 1506.2 (d)

Environmental impact statements must discuss any "inconsistency of a proposed plan with any approved State or local plan and laws (whether or not federally sanctioned)". Where inconsistencies exist, the EIS should describe the extent to which the agency would reconcile proposed action to the plan or law.

(8) 40. C.F.R. Section 1508.20 (e)

Mitigation includes (a) avoiding the impact altogether, (b) limiting the degree of the impact, (c) repairing, rehabilitating or restoring the affected environment, (d) reducing the impact by preservation opportunities, or (e) compensating for the impact by replacing or providing substitute resources or environments.

(9) Douglas County v. Lujan, 810 F. Supp. 1470 (1992)

A local government, because of a concern for its environment, wildlife, socio-economic impacts and tax base, has standing to sue federal agencies and seek relief for violation of NEPA.

(10) 16 U.S.C. Section 1271

It is Congressional policy to protect "...historic, cultural or other similar values in free-flowing rivers or segments thereof."

(11) 16 U.S.C. Section 1279 (b)

Wild and scenic river designations on federal lands cannot affect valid existing rights.

(12) 16 U.S.C. Section 1282 (b)

The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise and cooperate with States or their

political subdivisions.... to plan, protect, and manage river resources. Such assistance, advise, and cooperation may be through written agreements or otherwise.

(13)16 U.S.C. Section 1276 (c)

The study of any river for designation under the Act shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, (and) shall be carried on jointly if request for such joint study is made by the State....”

(14)16 U.S.C. Section 1281 (e)

The Federal agency charged with the administration of any component of the National Wild and Scenic Rivers System “may enter into written cooperative agreements withthe appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component.”

(15)16 U.S.C. Section 1283 (c)

Wild and Scenic River designations cannot affect valid existing leases, permits, contracts or other rights.

(16)16 U.S.C. Section 1277 (c)

The federal government is precluded from condemning or taking private land adjacent to a wild or scenic river so long as the local zoning ordinance protects the value of the land.

SECTION 6. HISTORIC PRESERVATION ACT REGULATIONS

(1) 36 C.R.R. Section 800.5(e)(1)(i)

If a Federal, State or local action is determined to have an adverse affect on a historic property, the State and Federal Historic Preservation officer shall consult with the head of the local government, if requested by the local government.

SECTION 7. CLEAN AIR ACT

(1) 33 U.S.C. Section 1251 (g)

Federal agencies shall cooperate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.

(2) 33 U.S.C. Section 1252(A)

The Environmental Protection Agency "shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs" for preventing water pollution.

SECTION 8. SOIL and WATER RESOURCES CONSERVATION ACT

(1) 16 U.S.C. Section 2003 (b)

"Recognizing that the arrangements under which the Federal Government cooperates ... through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources...it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable..."

(2) 16 U.S.C. Section 2008

"In the implementation of this Act, the Secretary (of Agriculture) shall utilize information and data available from other Federal, State and local governments..."

SECTION 9. RURAL ENVIRONMENTAL CONSERVATION ACT

(1) 16 U.S.C. Section 1508

"(The Secretary (of Agriculture) shall, in addition to appropriate coordination with other interested Federal, State, and local agencies, utilize the services of local, county, and state (soil) conservation committees...."

SECTION 10. RESOURCE CONSERVAION ACT OF 1981

(1) 16 U.S.C. Section 3411 (5)

Congress finds that solutions to, "chronic erosion-related problems should be designed to address the local, social, economic, environmental, and other conditions unique to the area involved, to ensure that the goals and policies of the Federal Government are effectively integrated with the concerns of the local community..."

(2) 16 U.S.C. Section 3432

"The local unit of government is encouraged to seek information from and the cooperation of....(2) agencies of the Department of Agriculture or other Federal agencies..."

(3) 16 U.S.C. Section 3451

"It is the purpose of this subtitle to encourage and improve the capability of State and local units of government and local nonprofit organizations in rural areas to plan, develop, and carry out programs for resource conservation and development."

(4) 16 U.S.C. Section 3455

"In carrying out the provisions of this subtitle, the Secretary (of Agriculture) may...(2) cooperate with other departments and agencies of the Federal Government, State, and local units of government, and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans..."

(5) 16 U.S.C. Section 3456(a)(4)

The Secretary of Agriculture may provide technical and financial assistance only if "the works of improvement provided for in the area plan are consistent with any current comprehensive plan for such area."

SECTION 11. PRESIDENTIAL EXECUTIVE ORDER 12866 – REGULATORY PLANNING AND REVIEW (September 30, 1993)

(1) Introduction

"The American People deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves health, safety, environment, and well being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory policies that respect the role of State, local and tribal governments; and regulations that are effective, consistent, sensible and understandable. We do not have such a system today."

(2) Section 1(b)(9)

"Wherever feasible, agencies shall seek views of appropriate State, local and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local and tribal regulatory governmental functions."

(3) Section 5(b)

“State, local and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.”

(4) Section 6 (a)(1)

“In particular, before issuing a notice of proposed rule making, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those who are expected to be burdened by any regulation (including, specifically, State, local and tribal officials)Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rule making.”

SECTION 12. PRESIDENTIAL EXECUTIVE ORDER 12630 – GOVERNMENTAL ACTIONS AND INTERFERENCE WITH CONSTITUTIONALLY PROTECTED PROPERTY RIGHTS (March 15, 1988)

(1) Section 1 (a)

‘The Fifth Amendment of the United States Constitution provides that private property shall not be taken for public use without just compensation...Recent Supreme Court decisions, however, in reaffirming the fundamental protection of private property rights provided by the Fifth Amendment and in assessing the nature of governmental actions that have an impact on constitutionally protected property rights, have also reaffirmed that governmental actions that do not formally invoke the condemnation power, including regulations, may result in a taking for which just compensation is required.’

(2) Section 1 (c)

The purpose of this Order is to assist Federal departments and agencies in undertaking such reviews and in proposing, planning, and implementing actions with due regard for the constitutional protections afforded by the Fifth Amendment and to reduce the risk of undue or inadvertent burdens on the public fisc resulting from lawful governmental action.’

(3) Section 3 (c)

“The Just Compensation Clause (of the Fifth Amendment) is self-actuating, requiring that compensation be paid whenever governmental action results in a taking of private property regardless of whether the underlying authority for the action contemplated a taking or authorized the payment of compensation.” Accordingly, governmental actions that may have significant

impact on the use of value or private property should be scrutinized to avoid undue or unplanned burdens on the public fisc.

SECTION 13. CONCLUSION – MULTIPLE USE AND COORDINATION

In accordance with these federal Laws regarding Natural Resource Land Use Planning and the protection of private property interests, NRAC and the Board recognize that it is their duty and obligation to enter into official Natural Resource Land Use Planning activities in order to participate equitable and fully with the federal management agencies in the effort to maintain and revitalize the various multiple uses of the state and federally managed lands. To that end, NRAC has developed, and the Board adopts, this Natural Resource Land Use Plan, which includes General Planning Guidelines as well as Management Actions regarding the various multiple uses of state and federally managed lands in Franklin County.

CHAPTER 4
PRIMARY PLANNING GUIDELINES

SECTION 1. COMMUNITY STABILITY

One of the biggest problems facing local governments today is loss of tax base. In order for any community to provide needed schools, health care, police protection and other services, industry and commerce within the community must be encouraged and strengthened. Suffocating governmental regulations are not only destroying local enterprise, but eroding the most important feature of freedom itself, the right of people to the control and use of their own property. A primary guideline and overriding intent of this Plan is to foster cooperation and coordination with federal and state management agencies and all adjacent counties where there is a community of interests, including but not limited to grazing, farming, timber, mining, recreation, wildlife and all other activities related to and reliant upon the availability of natural resources on all lands within their respective jurisdictions.

SECTION 2. CONSTITUTIONAL PRINCIPLES AND PRIVATE PROPERTY.

NRAC, the Board, and the people of Franklin County accept, support, and sustain the Constitutions of the United States and the State of Washington. The Constitution of the United States, Article 1, Section 8, Clauses 17 and 18 limits the authority of the federal government to own only specific lands. We hereby reaffirm our rights that all lands in Franklin County not so specifically designated in the Article 1, Section 8, Clauses 17 and 18 of the United States Constitution be managed in coordination with NRAC, the Board and thereby the citizens of this County. Further, NRAC, the Board and the people of Franklin County reaffirm the fundamental rights of mankind as enumerated in the Declaration of Independence and acknowledge the limited nature of government as intended by the nation's founding fathers. Based on these cherished traditions, we declare that all natural resource decisions affecting Franklin County shall be guided by the principles of protecting private property rights, protecting local custom and culture, maintaining traditional economic structures through self-determination, opening new economic opportunities through reliance on free markets, and enhancing environmental quality.

SECTION 3. LAND DISPOSITION, ACQUISITION AND USE POLICIES

Recognizing that land is essential to local industry and residence, it shall be the policy of this County that the design and development of all federal and state land dispositions and acquisitions, including land adjustments and exchanges, be carried out to the benefit of the citizens of Franklin County to ensure the following:

- a. The County shall suffer no net loss in tax revenue.
- b. That private property interests are protected and enhanced.
- c. The citizens of Franklin County shall suffer no adverse aggregate economic impacts.
- d. To increase opportunities for local economic development by increasing the amount of private and non-federal and/or state land within the County.

- e. To increase opportunities for local economic development by increasing the private use of federal and/or state land within the County.
- f. Federal and/or state land agencies should not acquire any private lands or rights in private lands within Franklin County without first ensuring the items listed above.
- g. That federally and/or state managed lands that are difficult to manage of which lie in isolated tracts should be considered for exchange or sale.
- h. The general public and the Board shall be notified of, consulted about, and otherwise involved in all federal and state land adjustments in Franklin County. Franklin County shall review all proposed changes to see if the proposal is in the best interest of the County.
- i. Franklin County shall review and make recommendations on proposed public land withdrawals for hazardous and non-hazardous waste storage as well as the types of such waste.
- j. Before federal and state land agencies can change land use, impact studies on uses shall be conducted at the expense of the agency proposing the change and mitigation measures adopted in coordination with Franklin County. Impact studies shall as needed address community stability, local custom and culture, grazing rights, flood prone areas, access, and any other area identified as a concern to the local community.

SECTION 4. NATIVE AMERICAN CULTURAL CONCERNS

The culture associated with Native American activities in Franklin County is necessary to the livelihood and well being of Native Americans in Franklin County. Therefore, it is the policy of Franklin County to support and protect their inherent rights, while still protecting their property rights.

- a. Opportunities for Native American activities shall be continued at levels consistent with the historical customs, the protection of property rights and sound resource management policies.
- b. Federal and state government shall not unreasonably obstruct historic Native American cultural activities on their respective lands.

SECTION 5. WATER RESOURCES AND POLICIES

Franklin County recognizes that the protection and development of its water resources are essential to its short and long term economic and cultural viability. It is therefore the policy of Franklin County to ensure the following:

- a. The protection of existing water rights and water uses within the County is of primary importance to the County's economic and cultural well being. Therefore, transfers in water use shall be carefully considered in relationship to the history, traditions, and culture of Franklin County.
- b. That any federally proposed designation of Wild and Scenic Rivers and all federal policies regarding riparian management in Franklin County shall be coordinated with NRAC and the Board.

- c. That Franklin County should prepare plans for the protection of all Threatened and Endangered Species within its boundaries and that federal agencies managing land, waterways and wetlands containing such species shall coordinate their management activities and plan with NRAC and the Board.
- d. That Franklin County should consider alternative uses of water, including but not limited to recreation and hydroelectric power.
- e. That any regional water plan(s) shall be assessed and may be considered for inclusion as part of this Plan.
- f. That Franklin County should promote and should be actively engaged in providing opportunity for the development of water-based recreation within the County.
- g. That Franklin County should review all water policies to determine if they are appropriate and adequate.
- h. That NRAC and the Board shall be notified of all state, regional, interstate and federal actions that have any impact on the water of the County prior to such actions being initiated. In addition, such proposed actions, including federally proposed Wild and Scenic River designations, shall be coordinated with the Franklin County Board and this Plan and the Franklin County Growth Management Comprehensive Plan prior to adoption and implementation. It is the intent of the County to develop, plan and be part of the management with Federal and State agencies in the planning and management of the County's water resources and all other natural, cultural, and economic resources.
- i. That Franklin County should develop its water use policy to ensure both water quantity and water quality and to ensure that such policy does not adversely impact water users inside the County.
- j. That Franklin County should develop riparian management plans in concert and coordination with landowners, ranchers, and the appropriate state and federal agencies.

SECTION 6. AGRICULTURAL POLICIES

The custom and culture associated with agricultural production in Franklin County is necessary to the livelihood and well being of its citizens. Therefore, it is the policy of Franklin County to protect agricultural land and promote the continuation of agricultural pursuits by protecting private property rights, relying on self-determination and ensuring open market conditions. NRAC and the Board seek to ensure all of the following:

- a. That opportunities for agriculture on federal and state lands shall be continued at levels consistent with historical custom and culture and the protection to equitable property rights and sound management practices.
- b. That federal and state governments shall not obstruct agricultural opportunities on their lands respectively managed by them.
- c. That Franklin County requires federal and state land managing agencies to coordinate with NRAC on all matters affecting livestock grazing and farming on all federal and state managed lands.
- d. That incentives for improved grazing lands and promoting good land stewardship shall be developed through:
 - 1. Encouraging permittee ownership of range improvements;

2. Appropriate fee schedules;
 3. Allowing subleasing of equitable property rights;
 4. Allotments plan flexibility; and,
 5. Increasing grazing capacity or allowing other economic benefits to accrue to permittee making investments in range betterments.
- e. That incentives for improving grazing lands and promoting good land stewardship shall be developed.
 - f. That Franklin County advocates market and incentive systems to reduce administrative and grazing costs of federal and state lands.

SECTION 7. PEST CONTROL POLICIES

Franklin County advocates the control of predatory animals, rodents and noxious weeds on all state and federal lands in accordance with local custom and culture, protecting bordering private lands and within the boundaries of good husbandry practices and sound environmental restraints not to exclude chemical control and seeks to ensure all of the following:

- a. That Franklin County should establish an animal damage control plan for the protection of livestock and crops.
- b. That government agencies will coordinate their plans with Franklin County with regard to Pest Control actions and regulations.
- c. That government agencies shall be required to prepare and implement plans for controlling predatory animals, rodents and noxious weeds in accordance with proven and recognized husbandry practices on public lands.
- d. That Franklin County recognizes trapping as a historical and environmentally sound method of controlling predatory animals and reducing property damage and encourages its use.
- e. That Franklin County advocates the control of disease bearing vectors because they are a recognized threat to public health.

SECTION 8. FORESTRY AND FOREST PRODUCTS POLICIES

<To be determined>

SECTION 9. CULTURAL RESOURCES, RECREATION, WILDLIFE, FISHERIES AND WILDERNESS POLICIES

Franklin County supports varied use of public and private recreational and cultural opportunities compatible with local custom and culture and within the constraints of private property rights and the quiet enjoyment thereof, and local self-determination and endorses all of the following policies:

- a. Franklin County should oversee protection and recovery of all federal and state listed threatened, endangered or candidate species and their habitat.
- b. Federal and state agencies shall prepare a plan in coordination with Franklin County before the introduction or reintroduction of any species into public or private land, which is likely to impact Franklin County.

- c. Franklin County requires coordination of federal and state land and wildlife and fishery management and enforcement agencies with the Board.
- d. No additional Wilderness Areas shall be designated in Franklin County without prior planning coordination with Franklin County.
- e. Franklin County advocates the expeditious review and determination of the status of any Wilderness Study Areas in the County.

SECTION 10. MINERAL RESOURCES AND POLICIES

Franklin County recognizes that the full development of its abundant mineral resources is desirable and necessary to the economic well being of the county, state and the nation. Therefore, it is the policy of Franklin County to encourage mineral exploration and development which is:

- a. Consistent with local history, custom and culture.
- b. Beneficial to the County's economic stability and well being.
- c. Beneficial to Franklin County, the State of Washington and our nation.
- d. Further, it is the intent of this policy to eliminate unreasonable barriers, prohibitions and impediments to such exploration and development, except for those that arise naturally from a regime of secured private property rights and free market conditions.
- e. It is the further policy of Franklin County to support the retention of and compliance with the 1872 mining law and to support large and small-scale mining and exploration consistent with sound economic and environmental practices.
- f. It is the further policy of Franklin County that all state and federal agencies coordinate reclamation plans with Franklin County.

SECTION 11. ARCHEOLOGICAL RESOURCES

It is the policy of Franklin County that archeological studies required by the federal or state agencies shall be coordinated with the County, that archeological studies shall be paid for by the agency requesting the study and that all studies shall be done in a timely manner.

SECTION 12. ENERGY RESOURCES POLICY

There are many energy resources on both private and government managed lands within Franklin County. These resources include but are not limited to geothermal, biomass, hydroelectric, and solar. These resources hold a promise of great economic potential, which is of importance to the citizens of this County. Franklin County has a Utilities Element in its Growth Management Comprehensive Plan, and it is the policy of NRAC and the Board that this Natural Resource Land Use Plan will reflect coordination and cooperation with the Utilities Element (as well as all other elements) of the Growth Management Comprehensive Plan.

SECTION 13. ACCESS AND TRANSPORTATION POLICIES

It is the policy of Franklin County to develop and maintain a transportation plan that optimizes accessibility and that minimizes the cost of movement between all communities and across federal and state managed lands within the County.

Access to or across federal and state managed land shall not entail encumbrances or restrictions on private property rights.

CHAPTER 5
MANAGEMENT ACTIONS

SECTION 1. INTERAGENCY NOTIFICATION

It is the nature and intent of the Franklin County NRAC to protect the custom and culture of County citizens through protection of private property rights, the facilitation of a free market economy, and the establishment of a process to ensure self-determination by local communities and individuals. It is the policy of Franklin County that federal and state agencies shall inform local governments of all pending actions, both within and without the boundaries of Franklin County, affecting local communities and citizens and to coordinate with them in the planning and implementation of those actions. Franklin County and the NRAC, when affected by such actions, shall be consulted and coordinated with in accordance with the laws of Washington and the laws of the United States.

As stated in federal and state laws, all federal and state agencies shall comply with the plan and coordinate with Franklin County and the NRAC for the purpose of planning and managing all lands within the geographic boundaries of Franklin County, Washington. Federal and state agencies proposing actions that will impact the plan shall prepare and submit in writing, and in a timely manner, report(s) on the purposes, objectives and estimated impacts of such actions, including economic, to the Franklin County Commissioners for review and recommendations with regard to appropriate action to be taken by the County.

CHAPTER 6
THE CONTINUING PROCESS

SECTION 1. PROCESS INTRODUCTION

NRAC recognize that the General Planning Guidance and the Action Alternatives set forth in this Natural Resource Land Use Plan constitute the continuation of a constantly ongoing process.

At each stage of the continuing planning process, NRAC and The Franklin County Commissioners will consider and review the Planning Guidance and Action Alternatives set forth in this document.

Further planning alternatives will be developed and added to the plan. The ongoing planning process will include consideration of all historical and current land uses in Franklin County, NRAC will consider guidance and action alternatives relative to all identified uses and the impact upon them of management plans for the federally and state managed lands.

SECTION 2. THE FRANKLIN COUNTY NRAC MAKE-UP

1. All members of NRAC shall be citizens or property owners of Franklin County and shall not be employed by any federal and/or state resource management agency.
2. Upon adoption of this Ordinance, NRAC shall be made up of its existing membership, together with such additional members as the Board shall desire to appoint, it being understood that the total membership of NRAC shall not exceed twenty-five (25) persons at any given time.
3. It shall be the responsibility of the Board to ensure that NRAC has an adequate geographic interest representation.
4. In order to fulfill its role, the Board as a whole must have both the knowledge of all the resource issues in the County and a working knowledge of this specialized Natural Resource Land Use Planning process.

5. In order to ensure continuity and to maintain its required diversity of expertise, vacancies on NRAC shall be filled by Board appointees that are knowledgeable in those subject areas deemed essential by the Board to protect the broad interests of the County and its citizens.

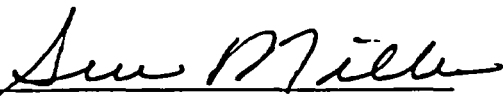
CHAPTER 7
SEVERABILITY

SECTION 1. SEVERABILITY

If any provision of this Ordinance or the application thereof is held invalid, such invalidity does not effect any other provision of this Ordinance which can be given effect without the invalid provision or application, and to those ends the provisions of this Ordinance are severable.

SIGNED AND DATED THIS 24th DAY OF FEBRUARY 2003.

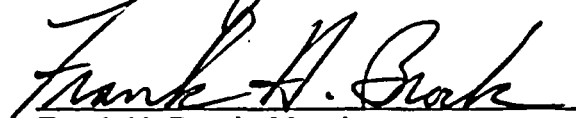
**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**



Sue Miller, Chairman



Neva J. Corkrum, Chair Pro Tem



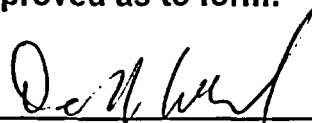
Frank H. Brock, Member

Attest:



Clerk of the Board

Approved as to form:



Darin Campbell,
Chief Civil Deputy