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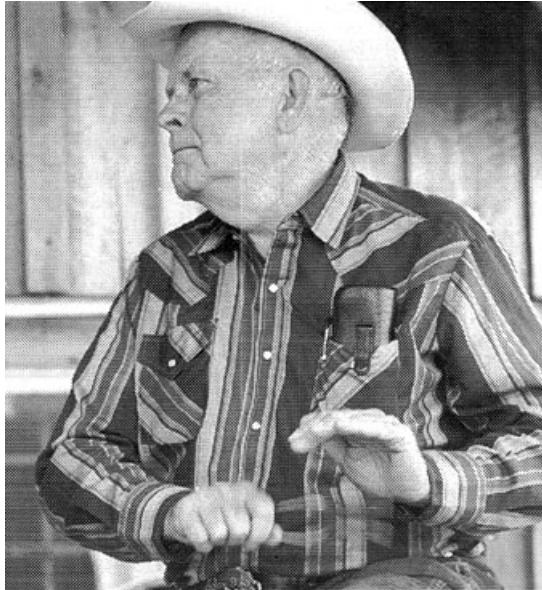
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Administrative Profile: Claude Ferguson

When a Career Public Servant Sues the Agency He Loves: Claude Ferguson, the Forest Service, and Off-Road Vehicles in the Hoosier National Forest

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*Claude Ferguson, who in his own words “met the test of his lifetime,” deviated from the norms of the U.S. Forest Service articulated by Herbert Kaufman in *The Forest Ranger* to become a government guerrilla against the organization he loved. This profile highlights several enduring themes: the inherent tensions between democracy and bureaucracy, the many masters of career bureaucrats, how organizational culture can both empower and constrain employees, and what it means to act responsibly, ethically, and with integrity as a public servant. In addition, this case demonstrates how the Forest Service has evolved since Kaufman’s classic study. First, Kaufman depicted forest rangers as “valuing the organization more than they value[d] getting their own way,” yet this profile underscores that public servants do not check their worldviews, mores, or ethics at the door. Second, Kaufman described*

the Forest Service’s efforts to routinize the decisions of its employees in an effort to prevent allegiances to, or co-optation by, local populations. Yet in this Administrative Profile, Ferguson’s hidden strategic tactics co-opted local stakeholders to enlist their support for a cause he deeply felt was right and just.

This Administrative Profile concerns the efforts of a career employee of the U.S. Forest Service to protest and eventually halt off-road vehicle (ORV) trails built in the Hoosier National Forest in the state of Indiana. This story is about one man, Claude Ferguson, who in his own words “met the test of his lifetime” and, deviating from Forest Service norms, became a government guerrilla against the organization he loved. “Guerrilla government” is my term for the actions of career public servants who work against the wishes—either implicitly or explicitly communicated—of their superiors (O’Leary 2006). While this case took place in the 1970s, it highlights several enduring themes that are still relevant today: the inherent tensions between democracy and bureaucracy, the many masters of career bureaucrats, the ways in which organizational culture can both empower and constrain employees, and what it means to act responsibly, ethically, and with integrity as a public servant.

Forest rangers . . . have many masters: local residents, timber companies, ranchers, miners, conservationists, members of the general public, congresspersons, and the President. Despite the possibilities for fragmentation, the Forest Service of Kaufman’s era was amazingly cohesive and uniform in action.

The culture of the Forest Service was first brought into the limelight by Herbert Kaufman in his classic book *The Forest Ranger* (1960). In that work, Kaufman examined the Forest Service of the 1950s from the ranger district upward. In Kaufman’s own words, his book is about how daily decisions and actions at lower echelons make concrete the realities of policy statements and the declared objectives of the leadership. Forest rangers are members of

the federal bureaucracy, yet much of their work is carried out in a decentralized fashion in locations far from Washington, D.C., in remotely dispersed locations. They have many masters: local residents, timber companies, ranchers, miners, conservationists, members of the general public, congresspersons, and the president. Despite the possibilities for fragmentation, the Forest Service of Kaufman's era was amazingly cohesive and uniform in action.

Much of Kaufman's book describes the mechanisms by which Forest Service leaders maintained uniformity and control over the diffuse organization, seeking in part to discourage guerrilla government before it had a chance to germinate. As deviation threats increased, for example, central controls multiplied. As impulses toward fragmentation grew, the discretion of field officers was contracted. In order to narrow latitude, "preformed decisions" were made at all levels above the rangers (Kaufman 1960, 213). Rangers were thoroughly screened to promote homogeneity, while the Forest Service "manipulate[d] the intellects and wills" (232) of its members. In-service indoctrination and training promoted standardization. An attempt to diffuse differences of opinion was made prior to the promulgation of policies. Allegiances to local populations were neutralized by frequently rotating rangers throughout the United States. The result was that the patterns of informal organization in the national forests were rarely at odds with the policies enunciated at higher levels, and centrifugal tendencies were vanquished. Forest rangers in the 1950s, in short, tended to "value the organization more than they value[d] getting their own way" (199). Despite these attempts to forge a tightly run Forest Service and to produce nearly all-obeying forest rangers, Kaufman acknowledged that there were exceptions: "In the last analysis" he wrote, "all influences on administrative behavior are filtered through a screen of individual values, concepts, and images" (223).

Claude Ferguson: The Early Years

Claude Ferguson first joined the Forest Service in 1940, years before the publication of Kaufman's book, as a lookout in the Mark Twain National Forest in Missouri while a senior in high school. He later served as a National Youth Administration crew member before permanent appointment as a fire control aide with the Forest Service in the Mark Twain National Forest. He worked closely with the Civilian Conservation Corps in fire control in three camps.

After three years in the U.S. Navy, he returned to the Mark Twain National Forest as a forestry aid for four years, where he was engaged in timber management and land acquisition. Prior to working in the Hoosier National Forest, he worked as a forester in the Nicolet National Forest in Wisconsin, as district ranger in the Shawnee National Forest in Illinois, as district ranger in the Hiawatha National Forest in Upper Michigan, and as staff forester in the Ottawa National Forest in Upper Michigan in charge of lands, recreation, wildlife, soil and water. He later served as chief of the Branch of Cooperative Forestry Management and chief of the Branch of Operations in the Forest Service regional office in Milwaukee. In 1966, he was transferred to Bedford, Indiana, where he was forest supervisor for both the Hoosier National Forest and the Wayne National Forest in Ohio. In 1971, he stepped down from the position of forest supervisor at his own request after he married another Forest Service employee. His successor was a man named Donald Girton, who will return later in this profile.

The Off-Road Vehicle Challenge Emerges

Ferguson's awareness of an off-road vehicle problem in Indiana was sparked by an event that occurred in April 1970, when he was forest supervisor. The event was dubbed the "Buffalo 100," named after John Buffalo, an avid motorcyclist who had purchased 20 acres of private land located in the middle of the Hoosier National Forest. Without asking for permission or notifying the Forest Service, Buffalo and his friends marked a 100-mile trail through the Hoosier National Forest and held a motorcycle race on the federal land. With the district ranger, Ferguson filmed the damage caused by the motorcyclists, including the tearing up of hiking trails, the destruction of fragile forest land not meant for trails, the trampling of young trees, the ripping down of branches, the destruction of wildlife habitat for both endangered and nonendangered species, littering, and excessive noise levels. Several motorcyclists fractured bones when their ORVs hit tree stumps and tree limbs.

When the organizers of the Buffalo 100 were told by Ferguson the next year that they could not hold their event again in the national forest, he was warned that they "know how to strike matches," a not-too-veiled threat that they were willing to burn down portions of the forest if Ferguson did not kowtow to their demands. Ferguson told them to talk to the Bureau of Motor Vehicles, as it handled motorized vehicles. His job, Ferguson told them, was to protect the national forest.

The eastern national forests were established under the 1911 Weeks Act after public outcry concerning uncontrolled logging and fires. The act allowed the federal government to purchase private land east of the Mississippi River for the protection of the headwaters of navigable streams and for the production of timber. The boundaries of the Hoosier National Forest were drawn to embrace the lands of the Norman and Crawford physiographic regions in Indiana that were most susceptible to erosion by water. By definition, according to Ferguson, they would be the last soil types to select for ORV use in Indiana.

"At every staff meeting I attended," Ferguson said, there was not one staff member who supported the use of Hoosier National Forest lands for ORVs. He continued,

After one of the many show[s] of hands on this question at a staff meeting, I questioned further consideration of the issue because we had reached a consensus. Mr. Girton, the Forest Supervisor, advised the group that this was an "erroneous consensus," and that he was speaking to a wealth of interdisciplinary professional people whom he had hired to counsel and advise him in their fields of expertise. Girton obviously felt he had to be all things to all people and that it was in our best interests to broaden our base of support beyond hikers, hunters, conservationists, and environmentalists. After several such meetings it became clear that the final ORV policy as adopted and implemented would be solely Girton's policy, ghost-written in part by the American Motorcycle Association (AMA). When the AMA published proposed ORV trail standards at the tail-end of this process, professional foresters blasted them.

Ferguson Works with Environmental Interest Groups

In July 1972, the Forest Service held many listening sessions in order to glean public sentiment on the issue. Many people spoke at

these sessions, both for and against ORVs in the Hoosier National Forest. Despite the fact that the data gathering was not yet complete, Supervisor Girton stated that certainly some portion of the forest would be allotted to ORV users, enraging many who felt that he had made up his mind prematurely and without analyzing the biophysical evidence or listening to the majority of the public. When written comments were solicited, they ran 20 to 1 against reopening a portion of the Hoosier National Forest to ORV use. Despite the widespread negative sentiment concerning ORVs in the forest from both the lay public and professional foresters, Girton made the decision to proceed with a policy of ORV use in the Hoosier National Forest and announced that it might occur as early as September 1972. Ferguson commented,

In my mind this decision was just plain wrong for several reasons: data collection and analyses were incomplete; the public, generally, did not want the trails; professional foresters had counseled against the trails; and the fragile Indiana terrain could not support the trails. We were kowtowing to one special interest group: the AMA, who, by the way, had bought Girton's two children trail bikes.

In December 1972, the state of Indiana published a report concluding that ORV use was not compatible with the natural resource purposes of the state properties, and therefore continued its closure of state properties to ORVs. On the federal side, the Forest Service decided in 1973 to write an environmental impact statement (EIS) and proposed rules regulating ORV usage in limited terrains. Frustrated with the closed doors he was facing with Girton, Ferguson took guerrilla action and submitted comments expressing his professional view against ORV trails through the national environmental group Citizens for a Better Environment. Ferguson explained,

By the time the final EIS was written and distributed in 1974, the original ORV trail standards had been removed, language had been watered down, and trail standards developed by the AMA—which arrived after the cutoff date for responses—were published as an appendix to the EIS. The public response to this unpopular decision was as expected—people were outraged and my phone rang off the hook with calls from angry citizens.

In response to the EIS, the Indiana Division of the Izaak Walton League of America (IWL), of which Ferguson was a member, filed an administrative appeal with the regional forester requesting that the policy be set aside. Ferguson helped draft their appeal, but initially did not reveal his authorship. Before responding to the IWL appeal, in August 1974, the Forest Service launched a crash project to construct and open ORV trails in the Hoosier National Forest by October 14, 1974. The IWL reacted by requesting a stay of construction from the regional forester pending a decision on its administrative appeal. The regional forester denied the stay on October 2, 1974.

Trail construction was commenced without advance approval, as required by Forest Service regulations, and without the required

advance-approved project plans. The Forest Service Manual in effect at the time required advance approval, on an individual project basis, by the regional forester, for all grades with slopes in excess of 15 percent. There were several such grades completed on this project prior to any submission of the construction plans for regional forester approval. The survey and design were conducted simultaneously with construction, which was contrary to the federal requirement that plans be completed and approved prior to construction. Ferguson explained,

I witnessed these trails being built illegally with \$34,000 of public money that was budgeted for routine maintenance of roads and trails. The Forest Service's own guidance on financial planning for that fiscal year clearly said, in regard to forest roads and trails appropriation: "Forest supervisors have no authority to make fund adjustments between the maintenance and construction activities of the Forest Roads and Trails appropriation" (U.S. Department of Agriculture, *Forest Service Guidance on Planning*, FY1974 and FY 1975). The Hoosier National Forest budgets had been severely reduced already for fiscal years 1974 and 1975. This reduction was particularly severe for the Forest Roads and Trails appropriation. The

budget cuts forced a reduction in force (RIF) in engineering personnel and were barely sufficient for routine maintenance of the then existing roads and trails systems. The contractor who did the work was told to bill the Forest Service for "routine maintenance." To divert these funds for the pet project of one man was clearly against the public will and a violation of law. I was outraged.

... Ferguson took guerrilla action and submitted comments expressing his professional view against ORV [off-road vehicle] trails through the national environmental group Citizens for a Better Environment.

Ferguson Decides to Sue the Forest Service

On October 9, 1974, Forest Supervisor Girton and District Ranger Frank Haubry conducted a field trip for the Hoosier National Forest staff to review the newly constructed ORV trails. Ferguson was one of those on the field trip. They met at an assembly point and proceeded to drive the two-track trail system in four wheel drive vehicles. They examined small segments of the one-track system by short hikes on foot. Ferguson expressed his reaction:

I was appalled. I personally observed violations of the [February 1972] President's Executive Order [concerning the use of ORVs on public lands] as well as flagrant violations of the Forest Service's trail standards. For example, roads and trails were located and constructed to damage soil and watershed on lands acquired for the protection of streams. Vegetation had been removed and destroyed during the construction and more damage was eminent from the proposed use on lands acquired for the production of timber. Trails were located on land acquired especially for wildlife habitat and public hunting and specially developed by the Indiana Department of Natural Resources using hunter firearms tax money under the Pittman-Robertson Wildlife Restoration Act.

These trails were located in one of the most significant wildlife habitat areas in the State of Indiana and in one of the very few wild turkey and ruffed grouse ranges in the State. The trails

were located where significant conflicts would result with other existing recreational uses—primarily hunting, hiking, and horseback riding. It was evident that very little consideration had been given to the effects of noise and exhaust pollution on the forest, water, and wildlife. I observed violations of regulations for reverse curves, trail grades, and minimum safe stopping sight distance. I observed stumps that were not flush cut in the middle of ORV trails. I observed fallen logs, up to six inches in diameter that were left in place across trails. I observed many areas requiring trail surfacing that were not surfaced.

My most serious concern, however, was this: given the fact that there was no age limit for ORVs on these trails, they posed one of the most serious threats to public safety—especially to the very young—that I had ever witnessed on public land paid for with public funds. Liability . . . claims were certain to be filed against the Forest Service and lives could be lost—with the blessing of the Forest Service. I could not live with the thought of a child losing his or her life because of our negligence or inaction.

At the conclusion of the field trip the group assembled in a parking lot for commentary. I expressed that I was “professionally sick” with what I had just seen: it was truly the most sickening thing I had seen in my career. I recited some of the violations I had seen and asked how any of us could defend what we had done when queried by the public. Mr. Girton dismissed my remarks by stating that they were one man’s opinion. I immediately called my contacts at the IWL and told them that if they truly were going to sue the Forest Service over the ORV trails, as we had discussed at an earlier date, to count me in as a supporter.

On October 13, 1974, Ferguson conducted a field trip to the ORV trails that several members of the public, including environmentalists and reporters, attended. That same day, he also participated in a meeting of the Indiana Conservation Council. The minutes of that meeting reported,

Claude Ferguson reported on the latest developments in the Nebo Ridge area. (The Nebo Ridge area is a pristine wilderness area in Indiana that several of us were trying to keep in its natural state.) He mentioned that he would be working with a conservation group in formulating plans to initiate a suit to close the Hoosier National Forest to ORV use. He also mentioned that The Nature Conservancy will begin a fund drive to obtain money to purchase key tracts of land in the Nebo Ridge area so that it can be preserved as a wilderness. (Indiana Conservation Council 1974)

Ferguson Works through the Media and the Courts

On October 16, 1974, an article authored by a reporter named Don Jordan appeared in the local paper, the Bedford *Times-Mail*. Ferguson was quoted as follows when asked his opinion about the ORV trails system: “You can quote me as being professionally sick. . . . This is the most sickening thing I’ve seen in 30 years of service.” The following day, Ferguson was confronted by Girton and asked whether the quote was accurate. Ferguson said that it was. Girton handed Ferguson a copy of part of the Forest Service Manual that deals with

Claude Ferguson’s Clashing Obligations

Forest Service Regulation 6173.53h (1974): “*Involvement in Public Controversies*. Employees are expected to avoid becoming involved in public controversies on matters of public policy. Disagreements as to either fact or policy should not, under any circumstances, be publicly aired through statements to the press or any other medium.”

Code of Ethics for Government Service (1974): “*Any person in Government service should*: Put loyalty to the highest moral principles and to country above loyalty to persons, party or Government department.”

Part 735 Employees’ Responsibility and Conduct, Title 7 Agriculture, Subtitle A—Office of the Secretary of Agriculture, Subpart E (1974)—Conduct Prohibited conduct—general: (b) (10) Taking any action which might prejudice the Government’s interest in a criminal or civil case; (b) (11) Giving aid or assistance, other than in the discharge of official duties, to any claimant in prosecuting any claim against the United States; (b) (12) (ii) Directly or indirectly condemn or criticize the policies of any Government department or agency.

Excerpt from the Affidavit of A. Claude Ferguson; *Indiana Division, Izaak Walton League of America Endowment, Inc., vs. Donald Girton, Supervisor, Wayne-Hoosier National Forest, Indiana and Jay Cravens, Easter Region Forester, United States Forest Service*: “At this point I respectfully remind the Court that I am an employee of the Forest Service, United States Department of Agriculture. I am subject to the Employee Responsibilities and Conduct [rules] as set forth in Office of Personnel Regulations Part 735. . . . I am torn between my responsibilities to citizens (Subpart A) for whom I serve as a professional manager of their resources and the prohibition against prejudicing the Government’s interest in a criminal or civil case (Subpart B (b) (10)).”

involvement in public controversies. Ferguson later offered to send the newspaper the following clarification:

The statements ascribed to me were my own professional opinion and were not intended to, nor did they, represent official condemnation or criticism of any policy of my employer. I regret that they may have been so misconstrued and hereby retract any such connotation. A. Claude Ferguson, October 17, 1974. (U.S. Department of Agriculture 1975)

Girton would not allow Ferguson to take such action, later explaining to a special agent of the U.S. Department of Agriculture that he felt the disclaimer “would tend to compound the public misunderstanding about the Forest Service’s position in the matter” (U.S. Department of Agriculture 1975).

The IWL then filed suit in federal court on October 19, 1974, seeking a temporary restraining order and an injunction halting the trails. An affidavit that Ferguson had authored documenting the damage to the ORV trails (complete with evidence collected with the assistance of student volunteers from Indiana University) was

attached to the request. The temporary restraining order and injunction were granted on October 24, 1974.

After learning that Ferguson had filed the affidavit in the federal court suit, Girton wrote to the regional forester,

We are now faced with the immediate task of working with the U.S. Attorney to prepare for a hearing within the next 20 days. It will be extremely difficult for my staff to work with the U.S. Attorney to prepare a case that will involve confidential communications when a key member of my staff has signed an affidavit in support of the plaintiff's position. (U.S. Department of Agriculture 1975)

Five days later, Ferguson was informed by Girton that he was being transferred by the regional forester to Milwaukee to work in the Fire and Aviation Management Group, and that his initial detail would be for three weeks, from November 4, 1974, through November 22, 1974. Girton later put in writing that he considered this transfer "a possible temporary solution to the problem" and "timely" (U.S. Department of Agriculture 1975). Ferguson responded as follows:

I considered the detail to be harassment and punishment for exercising my constitutional right to free speech, as well as a shallow cover for my fraudulent removal from office. I refused to go. (U.S. Department of Agriculture 1975)

After the regional forester denied the IWL appeal in January 1975, the American Motorcycle Association joined the lawsuit on behalf of the Forest Service. Bureaucratic guerrilla warfare was in full force. The Sassafras (Indiana) Chapter of the Audubon Society, the National Audubon Society, the Indiana Conservation Council (the National Wildlife Federation affiliate in Indiana), and the National Wildlife Federation joined the lawsuit supporting the Izaak Walton League.

Bureaucracy versus Democracy?

On March 3, 1975, Ferguson was given notice that he was to be transferred permanently to Milwaukee, where he had been "selected" for a GS-12 position to begin on April 13. On April 3, 1975, he wrote to Girton and to Carl Webb, director of personnel management for the Forest Service in Milwaukee, stating his refusal to be transferred, especially given the fact that the Forest Service had refused to transfer his wife, who was also a Forest Service employee. The IWL appealed the ORV case to the Board of Forest Appeals on April 4, 1975, and waited eight months for a denial of appeal from the board.

On April 9, 1975, Girton received a memo from Webb. In part, that memo read,

Claude has made public statements regarding Forest Service policies that have brought criticism against the Forest Service. The public has difficulty differentiating from Forest Service policy and Mr. Ferguson's personal views. Since one of his key duties as a Forest Staff Officer involves the Informa-

tion and Education program, we feel there is a situation that may result in continued conflict of interest. There have been recent complaints about his statement and actions regarding the proposed Eastern Wilderness Legislation. We conclude that this reassignment is warranted to preclude continuation of this problem.

On May 19, 1975, Ferguson received a memorandum from Webb indicating that his transfer to Milwaukee was being delayed pending an investigation, but that he would be detailed on May 27, 1975. On May 20, Ferguson received a second memorandum stating that the effective date of the transfer to Milwaukee had been moved to June 2, 1975.

That same month, May 1975, Ferguson received an award from the Sassafras Chapter of the National Audubon Society commending his "extraordinary efforts in the preservation of our natural resources." The commendation read in part,

Claude Ferguson is a seasoned forester who is a staff officer in the management of the Hoosier National Forest. For thirty-two years he has served well the interests of us all in the United States Forest Service. We salute him today not for any single accomplishment, although many could be cited. Rather, we want to commend him for a career-long demonstration of sensitivity and concern for the preservation of our natural environment.

Most of us find that our own interests often conflict with those of other people in our society. Mr. Ferguson labors within a milieu where those conflicting forces have to be balanced. He performs there with a grace and gentle spirit that must be admired. He maintains both a personal and vocational love for the kind of world that Audubon members strive to achieve and pass on to subsequent generations. For this we thank him.

An opinion survey released [in 1975] by the Forest Service for the Midlands Area ... reported that 63 percent of the Forest Service personnel who replied to a question on whether ORVs should be allowed in the forests stated that they should be prohibited.

An opinion survey released by the Forest Service for the Midlands Area soon after this reported that 63 percent of the Forest Service personnel who replied to a question about whether ORVs should be allowed in the forests stated that they should be prohibited. Only 6 percent felt that they should have been allowed (Dustin 1975). Ferguson broadened his guerrilla attack, and government officials reacted:

I then asked the Office of Inspection within the Forest Service to investigate my case. They ended up investigating only my complaints of harassment, fraud and deceit in connection with my detail to the regional office in Milwaukee (and found my detail to be "reasonable"). Two of my colleagues went on record accusing me of being mentally ill. One used confidential medical records of an illness I had had years ago as "proof" that I was mentally unstable [U.S. Department of Agriculture 1975]. . . . The investigator was told not to look into my charges of wrongdoing connected to the ORV issue because it was a subject being considered in the civil action in court.

In June 1975, Ferguson submitted a report to the Office of Inspection within the Forest Service that documented wrongdoing in the development of the ORV trails. Ferguson received no response to that report. After being suspended from the Forest Service for two weeks without pay, Ferguson was notified that he would be removed from office, effective February 15, 1976, for participating in a lawsuit in which the government had an interest, and for conflict of interest. This was 18 months before he would have been eligible for retirement. Ferguson explained,

I asked for early retirement instead, but my request was denied, putting me in jeopardy of losing up to \$300,000 in pension benefits due me for 34 years of service. I immediately held a press conference protesting my treatment and filed a request with the Secretary of Agriculture for a full investigation. “As of Monday I will join the ranks of the unemployed,” the local paper quoted me as saying. “I regret this loss of protection for my family, but honor has no price tag in our circles.” (Snapp 1976)

The Public Rallies; Ferguson Wins Awards

The City Council of Bedford, headquarters of the Hoosier National Forest, passed a unanimous resolution requesting that a fair and impartial investigation of Ferguson’s treatment be made (Joseph 1976b). That resolution was sent to John R. McGuire, chief of the Forest Service; Edward H. Levi, attorney general of the United States; and U.S. Representative Phil Hayes. An editorial in a local paper commented, “It is a sad state of affairs when an employee of government is prohibited from speaking out on something that is obviously wrong, and then fired if he does so” (*Times-Mail* 1976). Another newspaper wrote, “Claude Ferguson, whose career in the U.S. Forest Service apparently ends tomorrow, belongs to the rare breed of government employe [*sic*] who recognizes that his ultimate responsibility is to his conscience and to the public. . . . What confronted Mr. Ferguson was a conflict between what he considered the greater public good and a Forest Service policy” (*Courier-Journal and Times* 1976). Additional protests were voiced by the Sassafras Audubon Society, the Indiana Division of the Izaak Walton League, the Indiana Conservation Council, the Nebo Ridge Study Committee, the Sierra Club, and the student committee of the Sassafras Audubon Society. “It is a question of whether public servants serve the public or their immediate supervisors,” commented Phil Schrodt of the student committee of the Sassafras Audubon Society (Young 1976) (see inset for Ferguson’s clashing obligations.) Ferguson explained further,

My family rallied around me. My father contacted Congressman Richard Ichord of Missouri, while my daughter wrote the President of the United States. I continued to write policy makers around the country, including Congressman John Dingell, Agriculture Secretary Robert Bergland, and Attorney General Bell.

When questioned by the press, Supervisor Girton commented, “I guess it goes back to this old adage—if you must condemn and you must criticize externally, I think it gets to the point where the individual had better just resign his position and pursue his course of action—if he feels that strongly about it” (Holwager 1976). In a separate article, Girton commented, “Employees [*sic*] have to refrain

from directly or indirectly criticizing the rules of the agency” (Jordan 1976). Later, Girton said that Ferguson had always been against the idea of ORV use in the forest and that he had “disguised” his beliefs so that he could attack the policy (Lindley 1976).

It is important to note that around this time, Girton publicly admitted to certain trail deviations (Joseph 1976a). Congressman Hayes asked the Public Integrity Section of the U.S. Department of Justice to review Ferguson’s case. He also sent letters of support to John G. McGuire, chief of the Forest Service; Edward H. Levi, attorney general, and L. Lucius Free, assistant director of the Office of Investigation of the U.S. Department of Agriculture (*Indianapolis Star* 1976). When asked to comment on Hayes’s actions, Ferguson was quoted as follows:

When the bright morning sunshine reaches the dark corners in this case, I am confident that the dust and cobwebs will become highly visible to those whose duty is to keep our house of government clean and in good order. (*Indianapolis Star* 1976).

In June 1976, Ferguson received a “conservation service citation” from the National Wildlife Federation “for outstanding and distinguished service in the field of natural resource management.” It was accompanied by a citation that described him as “a professional in every respect.” “A trained, experienced, dedicated forester and wildlife manager,” the citation read, “Ferguson found himself in a position where he was caught between his own moral convictions and professional responsibilities on one side and a decision from his own agency on the other. He made the hard choice—to follow his own moral and professional dictates.”

The citation continued,

Claude was enough of a professional to go through all of the prescribed channels to convince his agency that its course of action was wrong. When this failed to produce results, he turned to the people who, in reality, are the owners of the natural resources involved. This entailed certain risks to Claude and his professional career; brought harassment and personal indignities, official censure and personal hardships, ostracism and substantial loss of income and earned retirement rights. Claude Ferguson laid his career and his professional well-being on the line for what he thought was right, and we have no doubts that history will prove that he was right.

The citation contained two quotations, the first by Abraham Lincoln and the second the credo of Sigma Delta Chi, the national professional journalism fraternity: “To sin by silence when one should protest makes cowards out of men,” and “He serves best who serves the truth.” At that same meeting, Ferguson was given a plaque from the Indiana Conservation Council that read, “For outstanding service, loyalty, and devotion to conservation in Indiana—1976 Award” (*Bloomington Herald-Telephone* 1976).

On July 17, 1976, at the national convention of the Izaak Walton League of America in Baltimore, Ferguson received a conservation award for “steadfast devotion to . . . high personal standards as a professional forester and a defender of soil, woods, water and wildlife, without regard for his own personal comfort and economic

security" (*Bloomington Herald-Telephone* 1976). In August 1976, Ferguson received an Environmental Quality Award from the U.S. Environmental Protection Agency for being a "citizen activist"; he had been nominated for the award by the Bloomington, Indiana, chapter of the Sierra Club. In their letter of nomination, the Sierra Club members wrote that by protesting illegal ORV trails, Ferguson had put his "loyalty to citizen ideals and professional principles above loyalty to the department which he had served faithfully for 33 years" (*Bloomington Herald-Telephone* 1976).

Hearing on the Firing of Claude Ferguson Convened

As public opinion grew in his favor, Ferguson requested that the U.S. Civil Service Commission hearing concerning his firing be held in his hometown of Bedford. The hearing was convened in December 1976 by a hearing officer from the Civil Service Commission. Ferguson's attorney, David Mosier, city judge of Columbus, Indiana, and president of the Indiana Chapter of the Nature Conservancy, had subpoenaed the Forest Service chief of personnel from Washington D.C., as well as the regional forester, the assistant regional forester, and the Forest Service chief of personnel from Milwaukee, among others. Ferguson described the proceedings as follows:

After consultations with my attorney, family, friends and some colleagues, I had concluded that the best thing for all would be my reinstatement to the full retirement I had requested when I was first notified of my transfer to Milwaukee. Forest Service regulations allowed such action. I was tired and worn out by the battle, but wanted it to end justly and honorably. More importantly, I did not want to harm my coworkers or bring more controversy to the Forest Service I loved by being reinstated and then working side-by-side with Girton and others who had opposed me.

I am certain that heads would have rolled if the hearing into my removal went full course. That I did not want. There were a handful that deserved such a "comeupance," as grandmother would say, but the majority of those who would have been injured were good people who were caught between the proverbial rock and hard place—victims of the bureaucratic squeeze.

Following the opening of the hearing, my attorney suggested a recess so that he might have a private conversation with Forest Service Chief of Personnel whom he had just met. The recess was granted by the greatly relieved Hearing Officer. David Mosier suggested to the Chief of Personnel that the two of them take a stroll around the block. Away they went leaving a room full of very nervous and apprehensive bureaucrats. After perhaps 15 minutes, the strollers returned. They approached the Hearing Officer and the three of them talked quietly for a few minutes. The Hearing Officer then reopened the hearing to announce that the proceedings were completed.

David came over to me and announced in a loud voice, "Claude, enjoy your well earned retirement and let's get out of this place. I need some fresh air!" Later David told me he had recited just a little of the evidence we were going to present to the Chief of Personnel and told him of

some of the witnesses ready we had ready to testify. The top Forest Service officials quietly folded their tent and slipped quietly into the night when they came face-to-face with the reality of the facts. My retirement benefits and other fringe benefits were restored retroactive to the date of my firing.

The ORV Court Case Continues

The ORV court challenge, however, continued to drag on. In May 1977, Judge William Steckler announced that a pretrial conference in the ORV case would be held in one month. The conference was held, and a trial date was set for the first week of December. By mid-October, information leaked to the press indicated that the Forest Service was ready to settle the lawsuit by withdrawing the entire policy allowing ORVs in the Hoosier National Forest (Ellis 1977; Snapp 1977a). At the end of October 1977, the Forest Service announced that it would indeed reconsider its ORV policy, in a move that would settle the ORV case before it went to trial (*Indianapolis Star* 1977; Snapp 1977b). The Forest Service later completely terminated its policy of allowing ORVs in the Hoosier National Forest.

Elated, Ferguson held a press conference with the four plaintiffs in the ORV case. Ferguson said that it had been a "long, costly and heart-breaking three years that need not have been" (Snapp 1977c). He also asked for an investigation of some yet-to-be-answered questions:

What about the apparent collusion between certain Forest Service officials and officials of the American Motorcycle Association in generating evidence to be used against me? What about the contempt of Forest Service officials in failing to respond to questions about this matter? What about the origin, timing, and erroneous content of the letters of complaint against me and my wife that were secured and used by the Forest Service officials from officers and members of the Citizens Concerned about the Nebo Ridge area? What about the attempted character assassination attempt against me by one high Forest Service official by use of part of my medical record in violation of rules, regulations, and laws? (Snapp 1977c)

Almost simultaneously, Congressmen Morris K. Udall and Paul Simon, along with Senator Patrick J. Leahy, introduced bills in Congress that would create review boards on improper governmental actions that would decide whether complaints or reports of government employees were made in good faith, and, if so, the employee making it would be protected for two years from being harassed, fired, demoted, or given a hardship transfer for speaking out. "I've been vindicated," said Ferguson. (See inset for a poem given to Ferguson by his father as "a code for his self-guidance.")

Moral of the Story

What is the moral of this story? This Administrative Profile vividly conveys the fact that the tensions between bureaucracy and democracy are here to stay and affect the jobs of public managers daily. This case also offers a Darwinian (or evolved) view of the Forest Service, as it presents two missing pieces of the puzzle concerning the Forest Service and other public organizations treated only minimally by Kaufman.

This Administrative Profile vividly conveys the fact that the tensions between bureaucracy and democracy are here to stay and affect the job of public managers daily.

If, by Rudyard Kipling

Given to Claude Ferguson by his father as “a code for his self-guidance”

If you can keep your head when all about you
Are losing theirs and blaming it on you;
If you can trust yourself when all men doubt you,
But make allowance for their doubting too;
If you can wait and not be tired by waiting,
Or, being lied about, don't deal in lies,
Or, being hated, don't give way to hating,
And yet don't look too good, nor talk too wise;
If you can dream—and not make dreams your master;
If you can think—and not make thoughts your aim;
If you can meet with triumph and disaster
And treat those two imposters just the same;
If you can bear to hear the truth you've spoken
Twisted by knaves to make a trap of fools,
Or watch the things you gave your life to broken
And stoop and build 'em up with worn-out tools;
If you can make one heap of all your winnings
And risk it on one turn of pitch-and-toss,
And lose, and start again at your beginnings
And never breathe a word about your loss;
If you can force your heart and nerve and sinew
To serve your turn long after they are gone,
And so hold on when there is nothing in you
Except the Will which says to them: “Hold on”
If you can talk with crowds and keep your virtue,
Or walk with kings—nor lose the common touch;
If neither foes nor loving friends can hurt you;
If all men count with you, but none too much;
If you can fill the unforgiving minute
With sixty seconds' worth of distance run
Yours is the Earth and everything that's in it.
And—which is more—you'll be a Man my son!

First, Kaufman described forest rangers as “valuing the organization more than they value[d] getting their own way” (1960, 199). Not so in this case. Claude Ferguson spoke about “the Forest Service I loved” but nonetheless battled the organization head-on because of his own personal sense of what was right. In this case, Ferguson's obligation to himself and to his interpretation of the public interest trumped his obligation to his organization and profession. Public servants do not check their worldviews, their mores, or their ethics at the door. Nor can those worldviews, mores, and ethics be easily changed through professional indoctrination. Rather, public servants bring with them their own personal opinions, beliefs, desires, and biases. As Norton Long wrote in 1949, bureaucrats are driven

by their own parochial views, interests, and values. Ferguson, like many public servants, brought a very personal sense of right and wrong with him to the Forest Service.

Second, Kaufman described one rationale of the Forest Service's efforts to routinize the decisions of its employees in an effort to prevent allegiances to, or co-optation by, local populations. Yet in this Administrative Profile, an opposite phenomenon can also be seen: Ferguson's actions behind the scenes included strategic efforts to co-opt the local population in order to enlist support for a cause he deeply felt was right and just. This was done by forging alliances with interest groups, issuing press releases, writing letters to politicians, and encouraging newspaper articles in his favor. In today's era of open systems and networks spanning many organizations and including many people, this phenomenon is likely to grow.

References

- Bloomington* (Indiana) *Herald-Telephone*. 1976. Forester Ferguson on EPA “Honor Roll.” August 3.
- Courier-Journal and Times* (Louisville, Kentucky). 1975. Claude Ferguson: A Whistle-Blower Gets the Axe (editorial). February 15.
- Dustin, Thomas E. 1975. Letter to J. Carl Ferguson, July 24.
- Ellis, Leslie. 1977. Off-Road Vehicles Facing Ban in Hoosier Forest? *Courier Journal*, October 19.
- Holwager, Joe. 1976. Forester Fired in Vehicle Trails Dispute. *Louisville Courier-Journal*, February 11.
- Indiana Conservation Council. 1974. Newsletter, October, 3.
- Indianapolis Star*. 1976. Hayes Is Requesting Review of Ferguson Case. February 17.
- . 1977. Forest Service Restudies Off-Road Vehicle Policy. October 29.
- Jordan, Don. 1974. Suit to be Filed by Isaac [sic] Walton League. *Times-Mail* (Bedford, Indiana), October 16.
- . 1976. Girton Defends Ferguson Firing: “Employee [sic] Shouldn't Criticize.” *Bloomington Herald-Telephone*, February 11.
- Joseph, Gloria. 1976a. Forester Fired: Supervisor Admits to Trail Deviations. *Indiana Daily Student*, February 13.
- . 1976b. Forest Service Worker Fired. *Indiana Daily Student*, February 12.
- Kaufman, Herbert. 1960. *The Forest Ranger: A Study in Administrative Behavior*. Baltimore: Johns Hopkins University Press.
- Lindley, Tom. 1976. Forester Embroiled in Controversy. *Evansville Sunday Courier and Press*, February 29.
- Long, Norton E. 1949. Power and Administration. *Public Administration Review* 9(4): 257–64.
- National Audubon Society, Sassafras, Indiana Chapter. 1975. Commendation of A. Claude Ferguson.
- National Wildlife Federation. 1976. Citation Honoring A. Claude Ferguson.
- O'Leary, Rosemary. 2006. *The Ethics of Dissent: Managing Guerrilla Government*. Washington, DC: CQ Press.
- Snapp, Ray. 1976. Ferguson Fired by U.S. Forest Service. *Times-Mail* (Bedford, Indiana), February 10.
- . 1977a. Attorney Has No Comment in ORV Policy Case. *Times-Mail* (Bedford, Indiana), October 19.
- . 1977b. Forest Service Withdraws Off-Road-Vehicle Policy. *Times-Mail* (Bedford, Indiana), October 28.

- . 1977c. Forester Applauds ORV Policy Withdrawal; Says Questions Still Unanswered in His Case. *Times-Mail* (Bedford, Indiana), November 5. *Times-Mail* (Bedford, Indiana). 1976. Ferguson Firing (editorial). February 12.
- U.S. Department of Agriculture. 1974–75. Forest Service Guidance on Planning.
- . 1975. Investigation Report, June 5.
- Webb, Carl E. 1975. Memorandum to Donald Girton, April 9.
- Young, Jack. 1976. Ferguson Firing. *Times-Mail* (Bedford, Indiana), February 12.

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