

**GREEN MOUNTAIN DIVISION
NEW ENGLAND SOCIETY OF AMERICAN FORESTERS
POSITION STATEMENT
PRIVATE PROPERTY RIGHTS**

ISSUE: The Fifth Amendment provides the Constitutional basis for requiring compensation when government takes private property rights through regulatory actions. The rights of private landowners to use their land entail the responsibility to respect the rights of others. These reciprocal rights have been enforced through the courts under the common law doctrine of nuisance. The issue of whether compensation is required under the Fifth Amendment involves the balancing of the legitimate interest of the individual with those of the community.

BACKGROUND: Government regulation which significantly limits the use of private property can work to destroy the incentive for private landowners to invest time and capital in long-term forest management. Private forest landowners have contributed greatly to one of the largest environment success stories of the century, the restoration of healthy and productive forests across much of the nation. This Renaissance has produced abundant supplies of timber, improved the quality of water flowing from forest lands, enhanced wildlife populations, and contributed to the public's recreational and aesthetic enjoyment of our forests.

Continued production of all types of forest resource values is critically dependant on the productivity of privately owned forests. Good management of these forest requires private owners to invest large amounts of their capital. Investment is based on the prospect of a fair return in the marketplace. If the prospects of a fair return on investment are decreased or become uncertain due to government regulations, then the available capital will be shifted to other uses.

The many contributions of forestry to this nation have resulted from the free market actions of private landowners, eight million of them according to some sources. It is vital to our nation that forestry continues to make strong contributions in the future. Our forests' values can be sustained by a freely functioning, market based system in which private forest landowners balance economic and environmental needs fo the present and future with minimal government involvement.

POSITION: The Green Mountain Division believes that government regulation which significantly limits the use of private property to enhance its usefulness to the public in general is a "taking" of private property rights and, therefore, must follow "due process" and provide "just compensation" as specified in Amendments 5 and 14 of the United States Constitution. Furthermore, the Green Mountain Division believes condemnation of private property to meet society's environmental goals should be the measure of last resort and should be accomplished only through due process and just compensation as the Constitution specifies.

The Green Mountain Division believes that all landowners are responsible for managing their land and associated natural resources to achieve their own objectives using practices which ensure long-term sustainability and a balance of economic and environmental values which benefit all Americans.

EXPIRATION: Two Years from Acceptance - 01/30/09