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WALLY HERGER

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COMMITTEE ON
WAYS AND MEANS

COMMITTEE ON
THE BUDGET

Congress of the United States
House of Representatives
Washington, DC 20515-0502

April 30, 1993

President Bill Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

I am writing to make final recommendations for inclusion in your proposed solution to the forest management crisis in northern California and the Pacific Northwest.

The time has come to fully recognize that the northern spotted owl is essentially secure in northern California. We have documented nearly 4 times the number of owls in California than the government originally estimated when the species was listed in 1990. The Interagency Scientific Committee estimated that there were 533 owl sites throughout California. However, as of March of 1993, the number of owls has been shown to be at least 2,026. Since only about 50% of the private lands have been surveyed so far, the actual figure is likely much higher.

It is also obvious that the claims that old-growth, or "ancient," forests in California will disappear are totally unfounded. We have already set aside thousands of acres of old growth forests as off limits to timber harvesting in northern California. Of the 2.4 million acres of old growth timber in California, about 1 million acres are preserved in federal Wilderness areas. According to the Forest Service, less than three-tenths of one percent of California's public old growth will be harvested in any one year. Current management direction on both public and private lands will undoubtedly ensure that sufficient reserves of old-growth forests will continue to remain intact forever.

California will continue to provide habitat for old-growth related species. California has the strictest forest practice regulations in the nation. These regulations require streamside protection zones, long-term sustained yield plans, very small clearcut openings and other features which will maintain old-

President Bill Clinton
April 30, 1993
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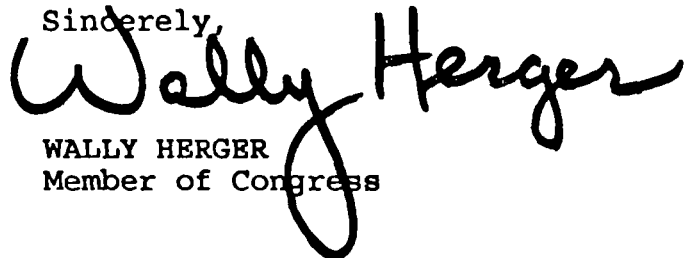
growth forest structure indefinitely on private lands. Over 40% of the private industrial lands are already managed under U.S. Fish and Wildlife approved owl management plans. The balance of private elands are managed under "no take" guidelines. In addition, the California Department of Forestry and Fire Protection is in the late stages of preparation of a northern spotted owl habitat conservation plan for the entire Klamath Province.

The timber-dependent communities and families of northern California are suffering economic devastation, yet the above facts clearly indicate that the spotted owl and old-growth forests are doing quite well. In my district alone, thousands of jobs have been lost and entire communities have been virtually shut down due to the crisis started by the listing of the spotted owl under the Endangered Species Act. Moreover, the impacts of this situation go beyond the immediate area. We have seen the cost of lumber nearly double over the past year, adding an estimated \$4,000 to \$6,000 to the cost of an average new home. Certainly this is having an enormous impact on individual families across the nation and our economy as whole.

It is time to put people on an equal footing with spotted owls and old-growth forests. I have enclosed detailed information provided by the California Forestry Association which makes specific policy recommendations which must be included in any truly balanced solution to this forest management crisis.

Thank you for your continued consideration of my views. The people of northern California look forward to your proposal.

Sincerely,

A handwritten signature in black ink that reads "Wally Herger". The signature is fluid and cursive, with the first name "Wally" being more prominent and the last name "Herger" following in a similar style.

WALLY HERGER
Member of Congress

WH/aa

Enclosure

4-26-93

PROPOSALS FOR SOLUTIONS TO THE NORTHERN CALIFORNIA FORESTRY CRISIS

CALIFORNIA FORESTRY ASSOCIATION

INTRODUCTION

The current forestry crisis in northern California's national forests did not develop overnight. It is the culmination of the impacts of laws such as the Wilderness Act of 1964, the Wild and Scenic Rivers Act of 1968, interpretations of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, the National Forest Management Act of 1976, the National Historic Preservation Act of 1980, and other well-meaning acts and agency policies which have continually reduced the land base available for forestry activities and invited appeals and lawsuits whose combined effects have radically constrained timber supply. The overlapping hodge-podge of federal laws, regulations, and policies affects forestry decisions on private as well as on public lands and currently prevents any reasonable level of timber harvest in California.

Some of the underlying causes can be addressed and modified quickly. Others will take years. Some can be addressed administratively. Others will require legislative and/or administrative action.

We can provide reasonable levels of commodity production, including wood products, from the national forests while maintaining a high degree of environmental protection and quality. We cannot do it, however, without commitment to development, enhancement, and maintenance of long-term forest health and vigor. We certainly cannot do it by continuing with programs which result in "either/or" decisions or which develop single-use or single-species forestry prescriptions.

The California Forestry Association has provided background data and information on these issues in a briefing book, Seeking Solutions Through The Diversity of California's Forests. This paper supplements that information and identifies action items which will help restore environmental, economic, and social balance to national forest decision-making in northern California.

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INTERIM ADMINISTRATIVE ACTIONS

These are actions which can be undertaken immediately within the framework of existing laws. They will not cause irretrievable or irreversible environmental effects. They will, however, serve to improve both the economic and the social outlook for the region.

1. **Emphasize the development of safe and healthy forests.** Develop a national policy to remove excess dead and dying timber across the landscape, subject to reasonable rules for retention of snags and down wood for wildlife. Where suitable habitat for spotted owls has been degraded below the level of suitability by catastrophic fire, disease, pests, or windthrow, recognize that the most efficient restoration and rehabilitation of habitat begins with the removal of dead trees, which no longer serve the owls' needs, followed by replacement with young, healthy trees which can be developed relatively quickly into stands of trees that have the owls' preferred characteristics.

2. **Strengthen current land management plan authority to adopt management techniques that will facilitate the implementation of ecosystem management programs.** Forest Service policy excessively protects spotted owl habitat. The agency allows no timber harvesting in this habitat even if the activity will not harm the habitat. Instead, it allows harvesting only if the result is to improve the habitat. The Administration can change this unnecessarily restrictive position without amending any regulations or laws. There are many opportunities for projects in these areas that, with ecosystem management guidance to develop a "desired future condition," will improve the overall forest condition without reducing the biological value of wildlife habitat. Fish and Wildlife Service officials, after having visited examples of such projects on the ground, have been heard to remark that if we could have management like this, there would be no need for circles and corridors in the land management plans' land allocation system.

3. **Revise the National Forest Management Act viability regulations.** After a species is listed as either threatened or endangered under the terms of the Endangered Species Act, its management should thenceforth be guided by the provisions of the Endangered Species Act. As currently structured, the viability regulations require the Forest Service to prepare a second and separate plan which presents a target for law suits and results in two regulatory agencies seeking to accomplish the same goal through different regulatory schemes.

Diversity should be provided within the overall multiple-use objectives of the Land and Resource Management Plans, as

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specified in the statutory language.

Management of species of individual concern should be guided by the principles of adaptive management until sufficient information is compiled to develop a reliable strategy. Adaptive management is a four-step process which 1) defines management goals, 2) identifies areas of biological and management uncertainty, 3) constructs models that bracket that uncertainty, and 4) conducts experiments to eliminate the worst models and thereby reduce uncertainty.

4. Adopt the principles of adaptive management in situations which contain high levels of uncertainty. Train Forest Service managers to understand those principles and to develop adaptive management programs that embody them.

5. Rescind directions which recognize the Forest Service's "local suitable owl habitat" definitions, as those definitions apply to the agency's efforts to comply with the provisions of Judge Dwyer's injunction. In his first injunction, Judge Dwyer used the ISC definition of "suitable habitat" (old growth) verbatim. A thorough reading of his second injunction makes it clear that he intended to do so again. The Forest Service's administrative expansion of that definition to younger stands has nearly doubled the acreage that it considers off-limits to management in California. Use the definition of "suitable habitat" contained in Judge Dwyer's first injunction which is referred to in his second injunction under the rubric "suitable habitat." This will make more acres available for the more flexible approaches permitted under ecosystem management and will soften the economic impact on local communities.

6. Permit the Forest Service to maintain adequate levels and flexibility of staffing to be able to respond immediately to any policy relief that may result from these proceedings. Recognize and make provision for any short-term potential that this may present to distort the "below-cost" calculations.

7. Provide for continued owl calling this year on all timber sales either awarded or prepared. This will avoid interruption of the two-year protocol and potential delays of future offerings or operations. If weather, budget limitations, or other practical considerations prevent full accomplishment, amend the protocols to provide owl protection without delaying the timber sales.

8. Review the procedures for submitting and reviewing biological evaluations and environmental analyses. Where procedural requirements result in excessive delays, revise those requirements. Strengthen the cooperative relationship between the Forest Service and the Fish and Wildlife Service to allow the Fish and Wildlife Service to meet its statutory time requirements

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for review of consultation documents.

The consultation burden that now exists could be eased if the Administration would acknowledge its NEPA obligation in designating critical habitat. A U.S. District Court in Oregon has ruled that the Fish and Wildlife Service violated the National Environmental Policy Act (NEPA) when it designated northern spotted owl critical habitat without conducting an environmental review. However, the Fish and Wildlife Service has not acknowledged this ruling. It could vacate the unlawfully-designated critical habitat decision without jeopardizing the owl. The land management agencies would continue to have an obligation to consult and to comply with the "take" and other prohibitions of the Endangered Species Act.

9. Develop procedures that will allow agency policy-makers full flexibility to consider, and have the opportunity to develop, any and all policy options. Allow line officers and policy managers to develop options after consultation with scientists and with peer-reviewed scientific input. Do not include scientists in policy-making deliberations, but obtain scientists' comments on options developed by line officers and policy makers. For any scientific panel or committee, provide the full range of scientific disciplines and expertise to be able to consider properly the subject matter being developed.

MID-TERM ACTIONS

For purposes of this discussion, "mid-term" begins with Fiscal Year 1994. Preparatory activities could begin now.

1. Forest Service Chief F. Dale Robertson has announced that the agency will adopt a management technique referred to as "ecosystem management." The California Forestry Association (CFA), after thorough review and analysis, has endorsed the concept of ecosystem management for the national forests of California.

Exhibit A (attached) is a one-page summary of CFA's position on ecosystem management. It recognizes the practical need for forest managers to move away from single-species management in favor of providing a variety of vegetative types, conditions, stages and species across the landscape (biodiversity) so as to meet the needs of all species in a given ecosystem.

Region 5 Regional Forester Dr. Ronald E. Stewart has proposed one possible approach to ecosystem management. Other effective ecosystem management regimes are being practiced on industrial forests in California.

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Dr. Stewart's approach would adopt a well-known, time-honored forestry technique (group selection), apply it in a conservative pattern, and develop (over time) a pattern of continuous forest cover that would exhibit the anticipated range of diversity. He should be encouraged to fully implement his proposal for a minimum of five years on California's national forests. At the same time, some of the projects being used for such implementation should be designed as adaptive management reviews.

This approach will have the following advantages:

- a) The conservative approach proposed by Dr. Stewart would allow total cumulative treatment of only 2.5% of the forested land during the entire five-year period.
- b) The adaptive management studies would provide a "safety valve" analysis in the unlikely event that unforeseen adverse results occur.
- c) The program would be extensive enough, both spatially and temporally, to develop meaningful results.
- d) The review would provide a good analysis of not only the resource management implications of Dr. Stewart's proposal but also of the business management implications, e.g. the effects on Forest Service budgets, staffing, contracting capabilities, and basic organization.
- e) During the length of time involved, the program would not have irretrievable or irreversible environmental effects, and it could become the Administration's model for the development of balanced biodiversity programs across the nation.
- f) The review will provide additional time to study and develop alternative programs without doing environmental, economic, or social harm in the interim.
- g) Group selection has been demanded by environmental groups in the appeals of the Plumas and Lassen National Forests' Land Management Plans.

2. Develop and implement other ecosystem management strategies as potential enhancements or alternatives to Dr. Stewart's strategy.

3. Recognize the flexibility in management requirements for endangered species on private lands. Review the three forest

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management programs already approved by the Fish and Wildlife Service for northern spotted owls on California industrial forest lands in order to develop a better understanding of the range of options available to public land managers.

4. Recognize that any system of permanent or semi-permanent reserves, such as habitat conservation areas (HCAs), is incompatible with California's fire-based ecology.

5. Consider revisions of the Endangered Species Act to allow for consideration of social and economic needs during the listing deliberations. Explore possibilities for developing more meaningful and timely ties between listing actions, the definition of critical habitat, and the preparation of recovery plans.

Several issues that relate to or are thought to relate to the problems of timber supply have surfaced during discussions to date. We present a discussion of those issues as a separate part of this paper.

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ISSUES

Log Exports

One recurring suggestion offered as part of the solution to the timber supply crisis on the west coast is to ban the export of all unprocessed logs. Those logs could then be sold to domestic sawmills, thereby increasing the local supply of logs and relieving the shortage caused by reduced harvest from federal lands. In California, a ban on exports is not a solution to the log-shortage problem.

Banning the export of logs from private property anywhere is an issue of private property rights and free enterprise. It has nothing to do with the appropriate management of federal land.

Historically, log exports from California have been less than 3% of all logs, public and private, produced in the state. Since 1985 the annual average volume of export has been less than 2% of all logs (see attached table). During that same period the average volume of logs exported annually was 58 million board feet.

Current regulations prohibit log exporters from buying or using federal timber. Thus, the shortage of federal timber for those who are using it cannot be related to log exports. On the other hand, sale of additional federal volume would relieve the pressure on harvest of private lands and ultimately result in reduced log exports.

LOG EXPORT FROM CALIFORNIA, % OF HARVEST

YEAR	HARVEST			EXPORT		
	PUBLIC	PRIVATE	TOTAL	VOLUME (MMBF)	% OF TOTAL	% OF PRIVATE
1985	1,500	2,200	3,700	62.6	1.69	2.85
1986	1,800	2,300	4,100	26.2	0.64	1.14
1987	1,800	2,600	4,400	32.1	0.73	1.23
1988	2,000	2,600	4,600	90.8	1.97	3.49
1989	1,700	2,700	4,400	73.7	1.68	2.73
1990	1,300	2,700	4,000	101.4	2.54	3.76
1991	1,100	2,100	3,200	69.3	2.17	3.30
1992	834	2,100	2,934	12.1	0.41	0.58
AVERAGE	1,504	2,413	3,917	58.5	1.49	2.43

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ISSUES

Old Growth

The preservation of old growth or so-called "ancient forests" is a recurring theme in discussions of federal forestry programs. From the standpoint of wildlife in general, and the northern spotted owl in particular, the structure of stands of trees is more critical than their age. Does the stand present a multi-layered canopy, or are all the trees essentially the same height? Are there small openings, or is it an unbroken canopy? What is the condition of the low vegetation, such as brush or regenerating trees?

Studies on intensively managed industrial forests have shown that spotted owls thrive in stands of timber in the 30-80 year age range. Those stands exhibit the structural characteristics preferred by the spotted owl and its prey species and, at the same time, provide an opportunity to produce wood products on a sustained-yield basis.

Ecosystems are dynamic - constantly changing - whether or not they are or have been the subject of human activity. A forest cannot be preserved in its present condition indefinitely. Young trees will age; old trees will die; seedlings will replace those that have died. The cycle is inevitable. It is not only risky, but literally impossible to manage for preservation of a forest type within set boundaries that are defined on a map, Habitat Conservation Areas included.

It is important to use management activities that develop diversity of plant and animal species on a landscape scale without partitioning the landscape into circles and corridors that will eventually break down through natural causes. Forest management activities can be designed to provide that diversity. This is the objective of ecosystem management, of which Dr. Stewart's proposal is one example.

Such management would create a forest structure that mimics, to the extent practical, the structure that resulted from pre-European settlement events. Tree ring and fire scar studies in California indicate that the percentage of forest land that was occupied by what we consider "old growth" never exceeded 20 to 40% at any one time. Fire was a frequent visitor to those forests, burning a total of six percent of the total forest land base per decade on a continual basis. The classic "suitable owl habitat" forest probably did not begin to develop in California to any great extent until the mid-1880s.

It should be noted that in California's national forests 42% of the growing stock is in trees 29 inches in diameter or larger and over half of it is in trees 21 inches in diameter or larger. Stands that contain trees in those size classes, along with others, will have developed the type of structural diversity preferred by northern spotted owls.

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ISSUES

Land Capability

According to recent Forest Service figures, there are 3.1 million acres of unreserved forest lands in the four national forests of northern California. They support a current growing stock of 62.2 billion board feet.

Average annual growth on those lands is 490 board feet per acre, or about 1.5 billion board feet over all the unreserved lands. Any timber harvest level lower than 1.5 billion board feet will be the result of losses due to tree mortality as well as reductions caused by constraints for environmental concerns or for other-resource emphasis.

Lower harvest levels will also result in a continuing build-up of vegetative material in the forest, with enhanced risks of fire and a decline in forest health and safety and certain wildlife habitats. Any forestry programs that are adopted, including ecosystem management, must recognize this accumulating hazard and make provisions for abating it. This could be accomplished most readily by treating enough acres annually to move promptly toward the desired forest condition through ecosystem management projects.

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ISSUES

Owl Numbers and Management

The time has come to recognize that the northern spotted owl is secure in California. Its population is dense, the range of habitats it uses is broad, and the level of state and federal protection it enjoys on private land is very high.

The current state of habitat description in California is chaotic. The ISC and USFWS definition requires moderate to high canopy closure (60-80%) and large overstory trees (30" dbh). The USFS Region 5 definition includes an overstory of trees as small as 21" dbh. And local definition have included stands with 40% canopy closure and trees as small as 11" dbh. Applying all of these standards simultaneously has led to paralysis.

Using modifications of a procedure developed by the USFWS for the Mexican spotted owl, the total territory-holding population in California can be estimated at 5,290 birds living on about 4,000 territories. Fully half of these birds are on private land. The locations of the sample of territories that have been counted to date (about half the total) are revealed in the first two maps in Exhibit B. Map #6 displays the owl territories known in 1988; map #7 shows the territories known today. A comparison of the two reveals that initial concerns over small population size and habitat specialization have proved to be artifacts of inadequate and nonrandom surveying.

The third map in Exhibit B shows the extent of private land on which USFWS-approved owl management plans regulate forest management. Added to this federal protection are the state forest practices regulations, unquestionably the strictest in the nation. These require streamside protection zones, long-term sustained yield plans, very small clearcut openings, and other features which ensure that existing owl habitat on private land will be maintained indefinitely. In addition, the California Department of Forestry and Fire Protection is in the late stages of preparation of a northern spotted owl habitat conservation plan to cover the entire Klamath Province.

EXHIBIT A

**-ECOSYSTEM MANAGEMENT-
What Do We Expect?**

Ecosystem management, if implemented properly, will restore the practice of general forestry to our national forests and will eliminate any further need for single species management emphasis. It will stabilize commodity production from those lands, and at the same time provide a means to substantially reduce public conflict over management programs.

Ecosystem management should be practiced on all forest lands that are not statutorily reserved, i.e. wilderness areas, wild or scenic rivers, or research natural areas. It involves the identification of a desired forest condition and the selection of projects which, when implemented, will result in or will move the forest toward that desired condition.

California Forestry Association (CFA) has defined a generic desired forest condition which can be used as the basis for more specific definitions. It contains four basic elements:

1. The forest should contain a range of vegetative seral (developmental) stages which will provide for the habitat needs of all the wildlife species of concern in the area being managed. Management practices must be designed to protect the basic resources of soil and water.
2. The forest should be maintained in such a condition as to minimize the danger of stand-destroying uncontrolled wildfire, while recognizing that some level of dead and down woody material is compatible with healthy forest ecosystems.
3. Forest tree cover should be maintained at a level of vigor that will give it the maximum opportunity to repel the effects of various natural disasters naturally.
4. Recognizing that humans are a natural part of the forest ecosystem, human activities in forest ecosystems must recognize the need to maintain the economic health of forest-related communities.

CFA also believes that forest ecosystem managers should be familiar with and understand pre-European forest conditions. Although ecosystem management need not have the establishment of pre-settlement conditions as an objective, knowledge of those conditions, how they occurred, and what led to the present changed conditions will be very helpful for any practicing forest manager.

If these objectives are kept in mind, it should no longer be necessary to practice "circle and corridor" management. Accomplishments would be based on annual acres treated to establish or maintain the desired condition, rather than on production of hard commodity target levels. No single resource or commodity would provide a driving objective around which all others would be designed. Rather, all resources would be viewed equally, and positive management projects would be designed for the specific benefit of each or of several at a time.

California Forestry Association**EXHIBIT B****OWL MAPS**

Maps #6 and #7 illustrate the distribution of known northern spotted owl sites (territories) in the Klamath Province of California at two separate dates. "Territories" are defined as discrete areas where at least one owl has responded to survey calls or has been sighted. At least 50% of these territories contain a breeding pair.

MAP #6

This shows the distribution of known spotted owl sites in 1988 (957 sites). The green areas are national forests. This year was chosen because it was prior to major industrial landowners surveying their lands for owls, and it was the last full survey season's data before the U.S. Fish and Wildlife Service proposed listing the northern spotted owl as threatened under the Endangered Species Act.

MAP #7

This map illustrates the known northern spotted owl sites (more than 2000 sites) discovered through the 1992 survey season. As the 1993 season begins, about one-half (934 sites) are known to be on private ownerships in California. Approximately 50% of the forested land in the Klamath Province has yet to be surveyed for the northern spotted owl.

SPOTTED OWL MANAGEMENT STATUS ON PRIVATE LANDS

This map shows the extent of the private land in the Klamath Province whose management is regulated by various provisions of the federal Endangered Species Act.