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MEMORANDUM

TO: Ricki Seidman
Rahm Emanuel
Regina Montoya
Marla Romash

FROM: Katie McGinty

SUBJECT: REVIEW OF THE SCIENTIFIC ANALYSIS TEAM (SAT) REPORT

DATE: 3/19/93 11:30 A.M.

This is the second and final draft of a review of the Scientific Analysis Team Report. Please call 456-6224 if you have any questions.

REVIEW OF THE SCIENTIFIC ANALYSIS TEAM (SAT) REPORT

In 1987 a lawsuit was brought against the Bush Administration's Department of Interior for failing to heed the advice of their scientists who recommended that the old-growth dependent Northern Spotted Owl be listed as a threatened species under the Endangered Species Act. This law suit started a long chain of legal, congressional and administrative actions which have led to the formation of the Scientific Assessment Team (SAT). The SAT is a team of 24 scientists formed in July, 1992 by the Chief of the Forest Service to respond to questions U.S. District Judge William Dwyer raised regarding the Forest Service's Final Environmental Impact Statement on Management for the Northern Spotted Owl in the National Forests.

There are two outstanding lawsuits that have bearing on policy in these areas:

(1) In 1991 Judge Dwyer placed an injunction on the sale of any national forest timber within spotted owl and associated old growth related species habitat until the Forest Service developed a plan that would protect such species.

(2) In 1992 Judge Frye placed an injunction on 13 timber sales that the Bush Administration "exempted" from the Endangered Species Act. In other words, the Bush Administration's action to "exempt" these sales meant that this timber could be cut even though it was in Spotted Owl habitat.

When the Forest Service responded in 1992 with an owl protection plan, Judge Dwyer found it to be insufficient and asked the Forest Service to answer three questions and present a revised plan by August 19, 1993. To answer these questions, the Forest Service asked Dr. Jack Ward Thomas to chair Scientific Assessment Team (SAT). Dr. Thomas is a well known Forest Service scientist who has completed a number of highly acclaimed -- and controversial -- reports on spotted owl and old growth issues.

WHAT DID THE SAT ANALYZE?

Judge Dwyer asked the Forest Service to address the following three questions. Highly condensed responses follow.

1. Would decisions by the Endangered Species Committee to allow the 13 Bureau of Land Management timber sales change owl viability ratings assigned to alternatives in the Final Environmental Impact Statement (FEIS)? (In other words, would the Bush Administration's decision to "exempt" these 13 timber sales from the Endangered Species Act, and in so doing, allowing the sales to proceed, have an impact on the viability of the Spotted Owl.)

Response: A one time exemption of the 13 sales would have minimal impact on spotted owls or the proposed Forest Service final plan.

2. Would new biological information change the owl's viability ratings in the FEIS?

Response: New information since the release of the final plan does not necessitate a change in the plan regarding protection of the northern spotted owl.

3. Would implementation of the selected alternative affect the viability of other old-growth related species identified in the FEIS?

Response: In addition to the owl, 482 old-growth forest related species are at risk. Mitigation measures to protect them will be needed to assure long-term viability.

The scientists have concluded that if viable populations of the species are to be maintained, significant stands of old growth forests will have to be retained rather than harvested. This will require significantly reduced harvest levels on Federal lands. The report does not specify sustainable harvest levels nor total acreage of protected areas. Nevertheless, if the Administration decides to follow the best available science on conservation of biodiversity on Federal lands in the Pacific Northwest and Northern California, the Forest Service and Bureau of Land Management will be forced to reduce harvest levels on Federal lands by 75% to 85% from historic levels. (This represents a total regional reduction of 25% to 30% when state and private resources are accounted for.)

DISTINGUISHING THE SCIENCE FROM POLICY

It is critical to distinguish this report from policy. This is a scientific report, not a policy statement. The forest conference represents a step toward a comprehensive, long term and balance policy that recognizes the importance of the timber industry to the economy and jobs in the region as well as the importance of America's precious old growth forests that are part of our national heritage.

The report does not represent any official position of the Forest Service.

It is a biological analysis of old growth ecosystem components within the range of the northern spotted owl.

The report was required by the court in response to actions taken by the Bush Administration; it does not reflect policy determination of the Clinton Administration.

The report presents one set of management proposals, based upon various scientific, legal, political and administrative assumptions, that the scientific panel believes would raise the viability rating to "high" for the northern spotted owl and all other native vertebrate species associated with late-successional (i.e. old growth) forests.

There are certainly many other options available to resolve the Northwest old growth issue. No policy decisions have been made by the Clinton Administration.

The Forest Service has not prepared any analysis of the impacts on timber harvest or jobs if the recommendations in the SAT report are implemented.

Where Will the Wood Come From?

An Update on the Lumber Market Situation

March 9, 1993

**American Forest & Paper Association
1250 Connecticut Ave. NW
Washington, D.C. 20036
Phone: 202/463-2700**

**National Association of Home Builders
1201 M Street, NW
Washington, D.C. 20005
Phone: 202/822-0200**

**National Lumber & Building
Materials Dealers Association
40 Ivy Street, SE
Washington, D.C. 20003
Phone: 202/547-2230**

**United Brotherhood of Carpenters & Joiners
of America
101 Constitution Ave, NW
Washington, D.C. 20001
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Where Will the Wood Come From?

An Update on the Lumber Market Situation

I. Introduction/Summary

Soaring lumber prices are disrupting home building and threatening housing affordability. From early October 1992 to the end of February 1993, lumber prices (as measured by the Random Lengths composite average) increased by 90%, from about \$250 per 1000 board feet to \$474. Record-high lumber prices are a symptom of a worsening timber/lumber supply crisis that is also resulting in sawmill closures and unemployment throughout the western timber-producing region. Record high lumber prices are occurring mainly because forests are being shut down by court injunctions and federal land management policies.

Federal timber sales have been dramatically reduced because:

- Court injunctions have prevented the sale of Forest Service and Bureau of Land Management timber in the northern spotted owl region.
- Appeals and litigation have obstructed the sale of Forest Service timber in other regions.
- The Forest Service has delayed timber sales or amended forest plans to address threatened and endangered species and has had difficulty implementing the long-range forest plans developed under the National Forest Management Act.
- Congress has been unable to resolve conflicts over management of federal lands and Congress has not provided sufficient funds for an adequate timber sale program.

Timber supply from state and private lands is being constrained because of the Endangered Species Act and other environmental regulations.

As a consequence of reduced timber supply, lumber prices have nearly doubled in a few short months. Additionally, 132 sawmills and plywood mills have closed since 1990, affecting 12,868 people directly employed by those mills and an equal number of employees in supporting industries.

A critical question is whether high lumber prices are jeopardizing the economic recovery. Housing has historically led the U.S. economy into recovery and is again a significant factor in the recent economic improvement, but the recovery has been

sluggish and anemic by historical standards. An explosion of lumber prices could rekindle inflationary expectations, cut into housing demand, and stifle the expansion of the economy. The recent increase in lumber prices represent an additional \$10 - 12 billion burden on home buyers and on households seeking to remodel their homes.

II. The Current Market Situation

During the 1980's, lumber prices lagged inflation, but lumber prices recently have escalated at unprecedented rates. During the week ending March 5, the Random Lengths Composite Price for softwood lumber stood at \$474 per MBF. Prices for structural panels and many other wood products are also up sharply.

The lumber market responds continuously to factors affecting demand and supply. Price spikes tend to occur whenever there is a surge in demand or a disruption in supply. However, during the past two years, the volatility in wood product markets has increased markedly. Price "bubbles" have occurred with increasing frequency and have reached successively higher levels before settling back down. Significantly, the history of lumber prices during the past two years has closely followed administrative and judicial developments in the saga of the spotted owl (Figure 1).

III. Housing and Timber Supply

Home building and residential remodeling each account for about one-third of lumber consumption. In 1992, housing starts totaled 1.2 million units. Housing starts are forecast to increase by 120,000 units in 1993, to 1,320,000 units, with the increase entirely in the single-family category. Repair & remodeling expenditures are also expected to rise, along with other sources of wood consumption. Assuming lumber use factors (e.g. board feet per housing start) similar to recent experience, lumber demand is projected to grow from approximately 45.3 billion board feet in 1992 to 48 billion in 1993 (Tables I & II).

These increases in housing starts and lumber demand are not extraordinary. The 10 percent increase in housing starts projected for 1993, and the 18 percent increase in 1992, pale in comparison with the 61 percent increase in 1983, and total starts will be far below the 1.8 million in 1986. Total lumber consumption forecast for 1993 is also below the 1987 peak of 50.5 billion. Thus, neither the total size of the demand nor the rate of increase is overwhelming in historical perspective. Clearly, the price bubble is not simply a matter of unusually high construction activity and wood products demand.

This year, the nation will require an additional 3.1 billion board feet of softwood lumber, 1 billion square feet of structural panels (plywood and OSB) and 500 million square feet of non-structural panels. Lumber requirements will increase even more in

1994 and beyond if forecasts for housing and remodeling construction hold. NAHB forecasts 1994 housing starts at 1.41 million and repair and remodeling expenditures increasing steadily in real terms from \$92 billion in 1992 to \$130 billion in the year 2000. Using conservative assumptions about wood use in housing construction and other construction categories, softwood lumber demand in 1994 would be 51 billion board feet, and 54 billion board feet in 1995. These demand levels cannot be accommodated with timber supplies dramatically curtailed as they are now.

IV. Where Will the Wood Come From?

A. Federal Lands

Half of standing softwood timber in the United States is owned and managed by government agencies. Historically, timber harvests from federal lands have accounted for over one-third of U.S. softwood sawtimber production. In 1992, they accounted for an estimated 22 percent and this year, their contribution to national supply is continuing to decline.

As a consequence of court injunctions, litigation and administrative appeals, federal timber sales and harvests are declining. In modern times, the volume of uncut federal timber under contract to be harvested has never been lower (Figure 2).

Between 1990 and 1992, federal timber sales declined from 9.9 billion board feet to 4.5 billion board feet, a 55 percent reduction, equivalent to the amount of lumber and panels used to build 404,000 average-size single-family houses per year. Each board foot of timber can produce 1.5 board feet of lumber, so this reduction is equivalent to 24 percent of U.S. softwood lumber production in 1992 and about 18 percent of U.S. softwood lumber consumption. Clearly, the reduction in timber available from federal lands represents a significant portion of the total U.S. supply of raw material normally used to manufacture lumber and wood products (Table III).

The lower volume of sales is partly due to explicit policies by government agencies, but much of the reduction is due to court injunctions and administrative appeals by environmental groups. Ambiguities and conflicts in three major laws affecting forest policies -- the Endangered Species Act (ESA), National Environmental Policy Act (NEPA), and National Forest Management Act (NFMA) -- have resulted in legal gridlock, with most new timber sales in the West held up by court injunctions.

Congressionally-authorized timber sale levels have not been met since 1987 (Figure 3). Congress approved Section 318 in the 1990 Interior Appropriations which authorized specific harvest levels for the national forests in the Pacific Northwest. Section 318, a one-year temporary fix, declared that the 1990 timber sale program met the requirements of all relevant environmental statutes so the timber sale program

could proceed. Congress has been unable to reach agreement to insulate subsequent timber program authorizations from judicial review.

In May 1991, U.S. District Court Judge William Dwyer enjoined 80 percent of the Forest Service timber sale program in the region for failure to comply with NEPA and NFMA. The temporary injunction was made permanent in July, 1992. U.S. District Court Judge Helen Frye enjoined Bureau of Land Management (BLM) timber sales in February and July 1992 for similar reasons. And a decision by the Endangered Species Committee (which was comprised of officials at the highest levels of government) to permit a limited number of BLM timber sales was also stymied by the injunction and subsequent litigation. Appendix A includes a detailed chronology of events leading to the current gridlock in the Pacific Northwest.

While the situation is most acute in the coastal region of the California, Oregon and Washington, the federal timber program has also been drastically reduced east of the Cascades and in the Rocky Mountains. The situation is getting worse because of the September 1992 listing of marbled murrelet, the expected listing of the Mexican Spotted Owl under the Endangered Species Act, and Forest Service plans to protect the California Spotted Owl. In addition, the Administration's economic package includes a proposal to reduce federal timber sales in national forests where costs exceed sale proceeds.

The 1993 appropriations bill for funding the U.S. Forest Service contained a provision requiring the agency to issue new regulations governing appeals for timber sales and harvests. Appeals have stymied the agency's ability to sell national forest timber. While the Congressional directive is designed to streamline the handling of appeals and provide more opportunities for public input before decisions are made, new regulations have yet to be issued.

B. The Private Land Situation

Although the major short-term problem with timber supply is in the government-owned forests, environmental regulations are also having deleterious effects on the supply of private timber as well. In both the Northwest and the South, private landowners are facing restrictions. In the State of Washington, there are 900 known owl nesting sites on private land. Harvesting is essentially prohibited within 500 acres of each nest and restricted on 6,600 surrounding acres. The volume of timber locked up is equivalent to the lumber used to construct 2.5 million single-family homes (Table IV). Similar timber withdrawals are occurring on private lands in California and Oregon.

In the South, long-rotation forest management is being discouraged because of the Endangered Species Act. Landowners are discovering that older stands provide habitat for red-cockaded woodpeckers, placing those stands off-limits to harvesting.

Many landowners are electing to shorten the rotation age, harvesting smaller trees which produce less lumber.

Wet conditions in parts of the south have been a problem in the short-term, but bad weather is a relatively minor factor in today's lumber market.

C. Regional Supply Sources

The major softwood lumber producing regions are in the west, the south and Canada (Table V & Figure 4). Although it accounts for the largest share of U.S. supply of wood products, the western region will continue to decrease output unless the existing timber supply situation is reversed. In 1992, despite rising demand, western lumber production actually fell an estimated 2.5 percent (500 million board feet). Producers are simply running out of logs and are slowly metering log supplies from existing contracts in the hope that policy will eventually change.

Southern producers have significantly increased output in response to higher market prices. Southern pine production increased an estimated 10 percent, or 1.5 billion board feet, in 1992. However, the timber supply in the South cannot support much additional production. Even at vastly higher prices, the South is unlikely to increase production by more than 1 billion board feet in 1993.

The northern U.S. region, which historically has accounted for less than 5 percent of total U.S. softwood lumber production, has, for the most part, reached its capacity limits. Any increase in that region would be marginal since the supply of softwood timber in the region is used mainly for paper production.

As construction activity increases, and the demand for lumber products grows, there is less flexibility in the producing sector to accommodate the additional requirements. Typically, as demand increases, sawmills extend or add shifts to increase production. Currently, insufficient log supply is an impediment to increased production for many mills, particularly those dependent on federal timber, so production cannot expand to meet the demand at current prices.

D. Imports

A major portion of U.S. lumber supply is imported from Canada. Despite a 6.5 percent countervailing duty imposed on Canadian softwood imports last year, the Canadian share increased from 27.3% of U.S. consumption in 1991 to 29.3% in 1992. Because Canadian supplies are also affected by environmental pressures, there isn't much potential for further increases in Canadian timber supplies. This year, British Columbia, which provides the lion's share of U.S. imports, is expected to scale back allowable harvest levels in provincially-administered timber licenses. In Canada, unlike in the United States, production during the past decade has exceeded what provincial authorities believe to be sustainable levels. They have decided to reduce the allowable harvest levels by as much as 25 percent over the next several years. While some

increase in Canadian shipments to the United States is possible, even likely given the higher U.S. price levels and softer overseas markets, it will be insufficient to compensate for rising U.S. demand and decreased western production.

Yet another possibility is that higher prices will spur imports from countries other than Canada. Russia is often cited as a potential supplier of an almost unlimited volume of softwood timber or lumber, but lacks infrastructure for forest development. New Zealand and Chile are also possibilities. To date, imports from countries other than Canada have been relatively small (less than one percent) and are likely to remain fairly limited.

E. Exports

The U.S. is a large net importer of softwood lumber, but also exports softwood logs to the Pacific Rim and other markets. Log exports have declined because of higher domestic prices and weak economies in Japan and other importing nations. Last year, softwood log exports totaled 2.8 billion board feet, 19 percent lower than in 1991, and 39 percent lower than five years ago. Exports of unprocessed logs from public lands -- both federal and state -- are prohibited by law.

V. Impact on House Prices

Since about 15,800 board feet of framing lumber goes into a typical new 2,000 square-foot single-family home with median price of about \$120,000, the increase in lumber prices at the mill between the low point in October and the record high in February translates directly into an increase of \$3,500 for such a house. Taking into account the increases in the prices of panel products (e.g. plywood), as well as costs that rise in proportion to the materials cost, such as sales tax, financing, insurance, and real estate brokers' commissions, the effect on home prices will be over \$4,600 (Table VI).

Other things being equal, a \$4,600 price increase would reduce the number of households who would qualify for a mortgage on a median-priced home by about 2,800,000 based on standard criteria for the maximum ratio of monthly payments to income. Since only about 4.5 percent of households actually purchase a home in any given year, the number of households that would actually be affected would be much smaller. If we ignore the fact that home buyers could choose smaller or less elaborate homes to offset the higher cost of wood products, the effect of the price increase would be to price about 127,000 new and existing home buyers out of the market. Many home buyers would stay in the market but choose more modest homes. In any case, the price increase will limit growth in the real value of construction activity for new homes. Residential additions and alterations may be affected (proportionately) even

more than new construction, since, according to some estimates, a larger share of remodeling outlays goes to wood products.

The effect of higher prices on housing demand will not be limited to the impact on the ability to make mortgage payments. At current mortgage rates the down payment requirement is the greatest barrier to home ownership for first-time home buyers, and higher prices mean higher down payments. Moreover, some households with the financial ability to buy a home may simply choose not to do so at the higher price level.

VI. Consumer Response

To compensate for higher costs, builders may use fewer wood materials for new construction and remodeling. One way to use less wood is to build fewer homes, and higher prices will drive away some home buyers. Secondly, smaller houses might be constructed. This means that the prevailing 1980's trend of larger houses might be reversed. Consumers would have to settle for a smaller house with fewer wood amenities.

Builders could engineer systems which are less wood intensive. For example, conventional 16 inch on center stud spacing may give way to wider spacing or other wood-saving designs. This may or may not affect housing quality, depending on how the construction is ultimately engineered. The use of engineered wood products, manufactured from lower valued raw material will increase significantly. Examples are I-Joists, trusses, panelized systems and laminated lumber products.

Builders in some cases may switch to non-wood substitutes. Masonry, steel and plastic building materials will find greater acceptance as prices for wood products increase. While the use of such materials will limit lumber price increases, the cost of construction will still rise.

VII. Impact on Employment

The social and human costs associated with the timber supply crunch are considerable. Eventually, nearly half of the 100,000 timber dependent jobs in the spotted owl region could be lost. In addition, another 50,000 indirect jobs (retail, wholesale, business services, etc.) are in jeopardy.

Higher prices also mean job losses in home building. Each new home lost represents roughly one year-round full time job in home building and another in supplier industries such as building materials, retailing, and transportation. Moreover,

there will further losses as the industries that provide goods and services to workers in the forest products and construction industries are affecting.

The full job impact of the ban on federal timber sales has been muted by the availability of timber purchased before the court injunctions. However, this backlog of "sold but uncut" timber is being depleted rapidly and is likely to be exhausted by the end of the year. In fact, many workers have already been laid off as the result of mills closing for lack of timber. During the past year alone, over 5,000 mill workers have lost their jobs in the 3-state owl region. Small businesses have been particularly hard hit by the timber supply recession. In California, for example, small lumber businesses numbered 49 in 1980, but were down to 25 in 1992.

VII. The Bottom Line

The timber supply crisis is affecting not only the timber-producing regions, but is having ramifications throughout the economy in the form of higher product prices. To date, neither the Administration, nor the Congress, has acted to alleviate the crisis. President Clinton has committed himself to holding a "forest summit" in an effort to work out a solution to the problem. In the absence of an Administration plan, and Congressional action to implement one, the log supply situation will worsen, debilitating one of the nation's most internationally-competitive industries.

The crisis needs to be addressed if the economic recovery is to be sustained. Among the steps which need to be taken are:

- President Clinton should expeditiously convene the "forest summit" to develop a consensus for legislative action.
- The legislative solution must assure protection of the northern spotted owl and old-growth values, provide for a more stable and predictable timber supply from public lands in the short and long term, reduce the gridlock caused by appeals and litigation, and provide community assistance and worker retraining for logging and mill workers dislocated by reductions in timber supply.
- Congress should act quickly on a legislative package.
- Even before convening the forest summit, the Administration should implement measures to enable the harvesting of dead and dying trees (salvage timber), and Congress should appropriate the necessary funds to carry out a more ambitious salvage program.

The bottom line is that unless something is done to alleviate the timber supply bottleneck in the very near future, lumber prices are going to remain problematic. Timber supply will become an increasingly constraining factor on lumber production and the home building industry, and the nation's economic recovery could be jeopardized.

TABLE I

Indicators of Lumber Demand

<u>INDICATOR</u>		<u>1991</u>	<u>1992</u>	<u>1993</u> <u>Forecast</u>
TOTAL HOUSING STARTS	(units)	1,014,700	1,201,000	1,320,000
- New Single-Family Housing	(units)	841,600	1,030,000	1,239,000
- New Multi-Family Housing	(units)	173,100	171,000	171,000
REPAIR & REMODELING EXP.	(\$ Bil 1987)	82.7	86.7	91.0
OTHER CONSTRUCTION	(\$ Bil 1987)	217.2	217.2	225.0
[Non-Residential]				
MANUFACTURERS SHIPMENTS	(\$ Bil 1987)	199.6	204.0	213.0
[Industrial/Other]				

Source: Housing Starts, NAHB; Repair & Remodeling Expenditures, NAHB; Non-Residential Construction, DOC & Cahners; Manufacturers Shipments (Monthly Average), DOC & NFPA.

TABLE II
Lumber Required for Economic Recovery

<u>Indicator</u>	<u>Lumber Use Factor</u>	<u>1992 Consumption</u>	<u>Proj. 92/93 Increase</u>	<u>Add'l Lbr. Requirement</u>
Single-Family Housing	15.8 MBF/unit	16.3 Billion BF	120,000 units	1.9 Billion BF
New Multi-Family Housing	5.7 MBF/unit	1.4 Billion BF	—	—
Repair & Remodeling	150 MMBF/\$ Bil (87)	13.0 Billion BF	\$ 4.0 Billion	0.6 Billion BF
Other Const.	30 MMBF/\$ Bil (87)	6.5 Billion BF	\$ 7.8 Billion	0.2 Billion BF
Industrial/Other	40 MMBF/\$ Bil (87)	<u>8.1 Billion BF</u>	\$ 9.0 Billion	<u>0.4 Billion BF</u>
		45.3 Billion BF		3.1 Billion BF

SOURCES: Lumber use factors for housing from Anderson and McKeever, "Wood Used in New Residential Construction in the United States (1988)"; Other factors based on AFPA estimates.

NOTE: The Monthly Average of Manufacturers Shipments is used as a general measure of industrial production, furniture manufacture and materials handling to describe Industrial/Other Sector; the economic recovery will also require 1.5 billion square feet in structural and non-structural panels in 1993.

TABLE III

TIMBER PRODUCTION (in MMBF)

	1987	1988	1989	1990	1991	Estimated 1992
Federal*						
Sales -- Total	12,479	11,982	9,160	9,895	6,887	4,545
West	10,248	9,963	7,080	7,926	5,008	2,742
Other	2,231	2,019	2,080	1,969	1,879	1,803
Harvest -- Total	14,015	14,238	13,299	11,444	9,069	7,940
West	11,399	11,672	10,941	8,799	6,978	5,752
Other	2,616	2,566	2,358	2,645	2,091	2,188
Uncut Timber Under Contract	27,334	23,172	19,110	18,213	13,761	10,760
NW State Harvest**	1,402	1,346	1,334	1,053	817	750
NW Private Harvest	9,057	8,972	9,248	8,726	8,351	8,200
Log Exports						
Total	3,959	4,594	4,519	4,000	3,478	2,823
From Northwest ports	3,168	3,682	3,614	3,008	2,542	2,234

Sources: US Forest Service; BLM; AFPA

Notes: * Includes timber in national forests and Bureau of Land Management

**NW includes Oregon, Washington, Montana and Idaho

TABLE IV

State of Washington Private Land Impacts Northern Spotted Owl Listing	
Area per OWL NEST (1.8 mile Circle)	6,600 Acres
Area which cannot be logged in circle	2,523 Acres
Timber volume per Acre of Habitat	20,000 BF-log
TIMBER volume set-aside for OWL	50,460,000 BF-log
Lumber use in average HOME	15,800 BF-lbr
Plywood use in average HOME (1,890 square-foot home)	8,400 SF3/8"
Lumber MBF per Timber MBF conversion	1.6 MBF-lbr
Plywood M3/8 per Timber MBF conversion	3.4 M3/8"
TIMBER volume required per HOME	12,300 BF-log
THEREFORE:	
Each OWL NEST locks-up enough Timber to supply Lumber and Plywood to build	4,100 HOMES
Estimated OWL CIRCLES in Washington	900
Adjustment for Overlap of Circles	.68
Total HOMES lost to OWLS in Washington	2.5 Million

TABLE V

LUMBER STATISTICS (in MBF)

Estimated	1987	1988	1989	1990	1991	1992
Production						
West	23,942	23,638	23,212	21,175	19,075	18,570
South	12,473	12,676	12,544	12,911	12,507	13,924
Other	1,820	1,816	1,789	1,705	1,579	1,624
Total U.S.	38,235	38,130	37,545	35,791	33,161	34,118
Lumber Imports						
Canada	14,564	13,700	13,526	12,081	11,650	13,259
Other	116	106	112	67	92	122
Lumber Exports	2,423	3,264	3,319	2,970	3,090	2,651
+/- Mill Inventory Change	(65)	159	111	(34)	(185)	(463)
Total Apparent Lumber Consumption	50,427	48,831	47,975	44,935	41,628	45,311

Source: American Forest & Paper Association

TABLE VI

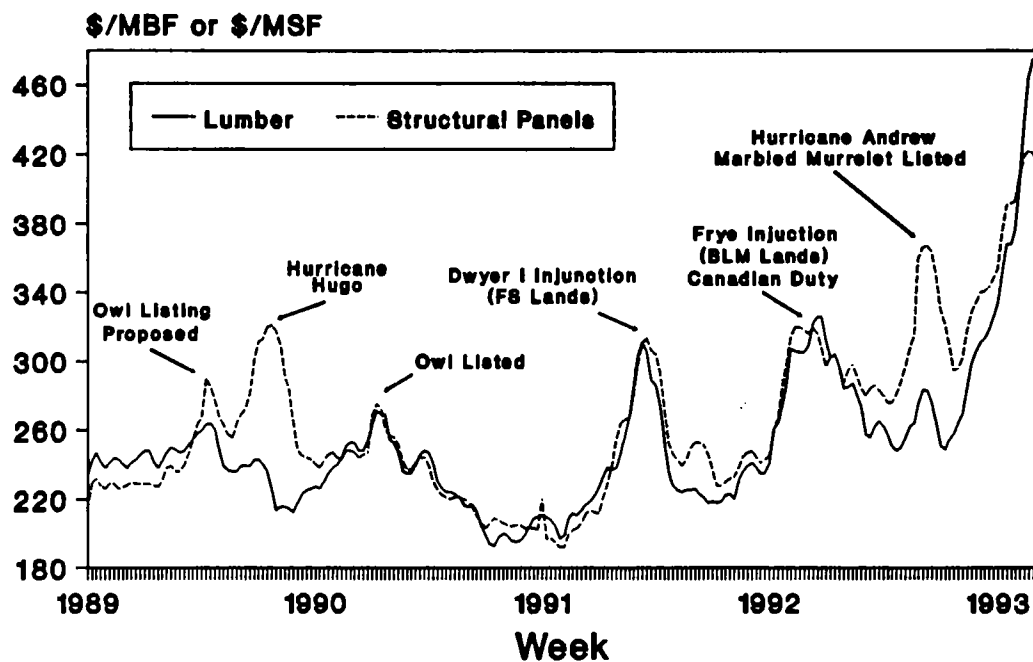
House Price Impact

	LUMBER*	STRUCTURAL PANELS**	TOTAL
MILL PRICE INCREASES:			
Mill Price 2/26/93	\$474	\$421	
Mill Price 10/9/92	\$249	\$321	
Increase	\$225	\$100	
Percent Increase	90%	31%	
Quantity, excl millwork	14.659	6.278	
Quantity, incl millwork	15.824	6.325	
Direct increase, excl millwork	\$3,298	\$628	\$3,926
Direct increase, incl millwork	\$3,560	\$633	\$4,193
OTHER COST INCREASES:			
	RATE		
Sales Tax	0.04	\$142	\$25
Financing Cost	0.03	\$111	\$20
Co-op Brokers Fee	0.03	\$114	\$20
			\$168
			\$131
			\$135
TOTAL COST INCREASE	\$3,928	\$698	\$4,626

Sources: Random Lengths, Eugene, OR
 Robert G. Anderson and David B. McKeever,
 Wood Used in Residential Construction in the United States

Figure 1

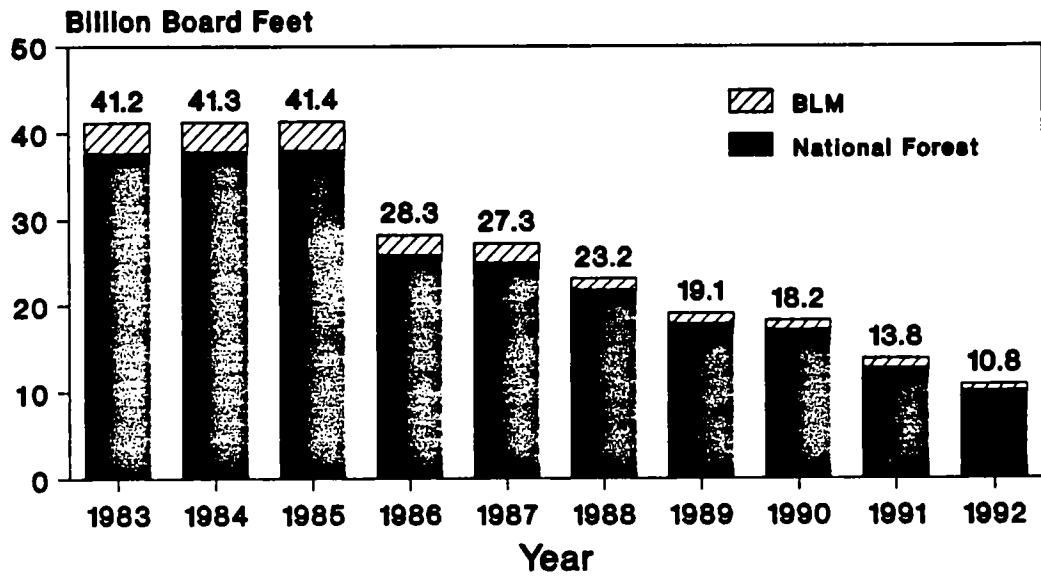
Random Lengths Composite Price of Softwood Lumber and Structural Panels



Source: Random Lengths

Figure 2

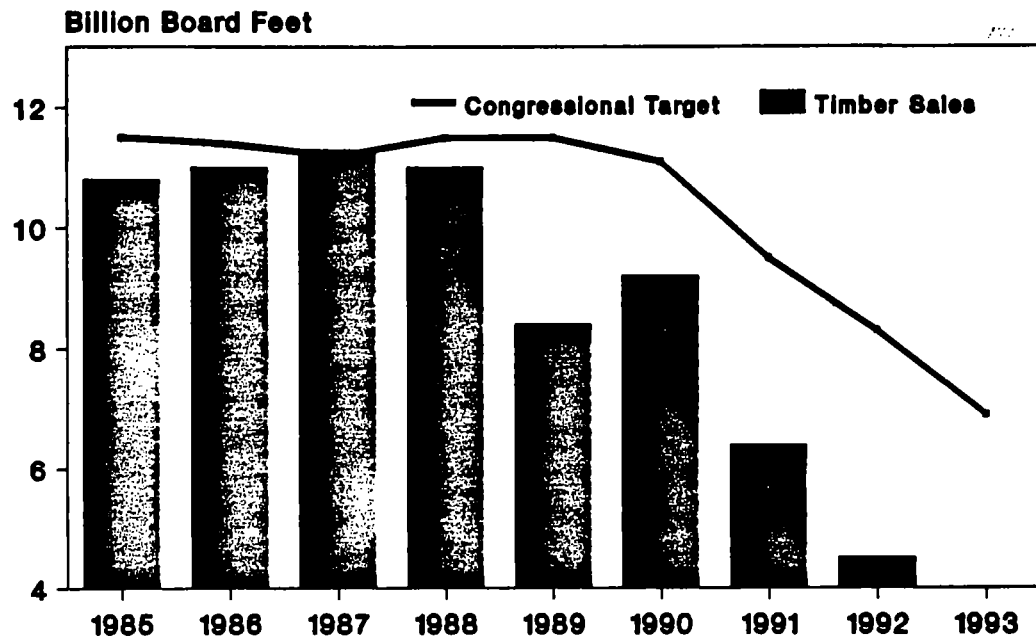
Federal Timber Volume Under Contract to Purchasers Awaiting Harvest



Source: USDA, Forest Service; BLM

Figure 3

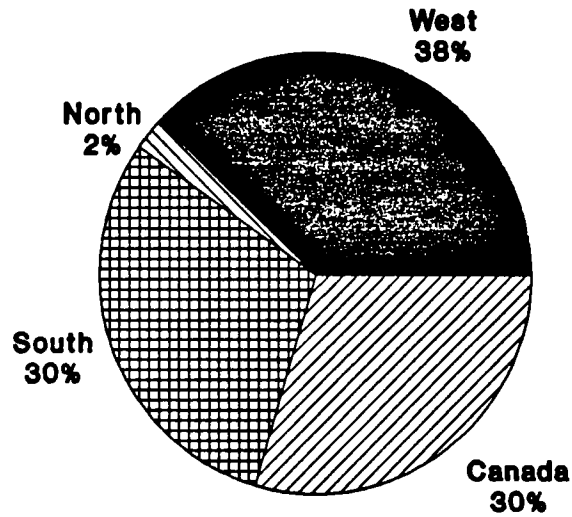
Congressional Timber Sale Targets vs. Actual F.S. Timber Sales



Sources: F.S. budget explanatory notes; U.S. Forest Service

Figure 4

Where U.S. Softwood Lumber Comes From



1992 Supply = 45.3 Billion Board Feet

Source: U.S. Forest Service; AFPA

APPENDIX A

CHRONOLOGY OF A DEEPENING CRISIS

1989 - 1992

- September 1989** Congress approves the Hatfield-Adams amendment to the Interior Appropriations Bill (Section 318) that provides for a 3.85 billion board foot harvest in the Pacific Northwest and declares the measure meets relevant environmental statutes.
- April 1990** Jack Ward Thomas Report issued calling for the set-aside of 8.4 million acres (Washington, Oregon and Northern California) to protect the northern spotted owl. The report does not consider economics or sociology.
- July 1990** The northern spotted owl is listed as threatened by the US Fish and Wildlife Service. Economical or sociological considerations are precluded from consideration in the listing process by the Endangered Species Act.
- September 1990** The Ninth Circuit Court of Appeals overturns the judicial review section of Section 31, paving the way for special interest lawsuits against federal timber sales. The case is on appeal before the US Supreme Court.
- October 1990** Congress rejects effort to cut \$100 million out of the US Forest Service road building budget, and it defeats an amendment calling for the convening of a cabinet level committee to weigh economic considerations resulting from the listing of the owl.
- February 1991** US District Court Judge Thomas Zilly orders the Fish and Wildlife Service to designate critical habitat for the northern spotted owl.
- May 1991** The US Fish and Wildlife Service proposes 11.6 million acres of Washington, Oregon, Northern California forestland as critical habitat for the northern spotted owl. The agency fails to adequately consider economic or sociological factors.
- May 1991** US District Court Judge William Owyer enjoins 80 percent of the US Forest Service's timber sale program.
- July 1991** Four federal scientists ("Gang of Four") provide 34 recommendations to three congressional committees, the majority calling for the setting aside of millions of acres to protect the northern spotted owl. No consideration of economic and sociological consequences.
- August 1991** The US Fish and Wildlife Service revises its proposed designation of critical habitat for the northern spotted owl, calling for 8.2 million acres to meet the owl's needs. A cursory economic analysis places the potential job loss figure at 2,400 as a result of designating the equivalent of Massachusetts, Connecticut and Rhode Island combined for the nocturnal creature.

January 1992	"God Squad" proceedings begin to determine the fate of 44 Bureau of Land Management timber sales in Southern Oregon. The US Fish and Wildlife Service earlier issued jeopardy opinions against the sales even though no owls exist on the 4,600 acres in question. The God Squad is a cabinet-level committee charged with balancing economic and environmental considerations.
January 1992	The US Fish and Wildlife Service issues its final designation of critical habitat, identifying 6.9 million acres in California, Oregon and Washington. The acreage is greater than either the State of Massachusetts or Maryland. The agency places the associated job losses at 33,000.
February 1992	US District Court Judge Helen Frye issues a temporary injunction against the Bureau of Land Management's timber sale program, further exacerbating the timber availability crisis and negatively impacting wood prices.
March 1992	The United States Supreme Court unanimously upholds Section 318 of the 1989 Interior Appropriations bill, permitting Congress to establish reasonable judicial restraints on special interest litigators. The ruling overturns the 1990 Ninth Circuit Court of Appeals judgment on the same issue.
May 1992	God Squad exempts 13 Southern Oregon BLM timber sales from the provisions of the Endangered Species Act. The Interior Department releases the 5.4 million-acre draft recovery plan potentially costing 32,100 jobs, and the 2.8 million-acre owl preservation plan jeopardizing 14,990 positions.
May 1992	Judge William Dwyer rules against the adequacy of the Jack Ward Thomas report as the Forest Service's environmental impact statement. The judge issues a preliminary injunction and orders a June 22 hearing on a proposed remedy.
June 1992	Judge Helen Frye issues an injunction against the Bureau of Land Management timber sale program ordering the preparation of an environmental impact study on the northern spotted owl.
July 1992	Judge William Dwyer issues a permanent injunction against approximately 80 percent of the U.S. Forest Service timber sale program in California, Oregon and Washington. The Forest Service is ordered to update its environmental impact study to consider the impacts of 13 God Squad approved timber sales (all enjoined), and the needs of 32 old-growth species (none listed).
July 1992	The Western Council of Industrial Workers, the United Brotherhood of Carpenters and Joiners of America and the International Woodworkers of America propose the convening of a 1993 timber summit to Arkansas Governor Bill Clinton.
August 1992	Governor Bill Clinton pledges in a letter to union leaders that if elected president he would convene a timber summit to solve the ongoing timber availability crisis.
September 1992	Clinton proposes a "no net job loss" policy on the timber issue during a trip to Oregon, while President Bush calls for economic considerations to be added to the Endangered Species Act.

THE ENVIRONMENTAL SPECIAL INTEREST LAWSUITS

(Follows Sept. 1990 Ninth Circuit decision overturning
Section 318 of the 1989 Interior Appropriations Bill.)

Plaintiff: Seattle Audubon
Petitioner: Sierra Club Legal Defense Fund
Judge: Thomas Zilly
Decision: The US Fish and Wildlife Service must designate critical habitat for the northern spotted owl. The current proposal: 6.9 million acres throughout the three-state region.

Plaintiff: Seattle Audubon
Petitioner: Sierra Club Legal Defense Fund
Judge: William Dwyer
Decision: Eighty percent of the 1991 US Forest Service timber sale program in the three states was enjoined. Injunction lifted, but timber not sold.

Plaintiff: Seattle Audubon
Petitioner: Sierra Club Legal Defense Fund
Judge: William Dwyer
Decision: The Jack Ward Thomas report is deficient in protecting the northern spotted owl. Injunction against 80 percent of the US Forest Service timber sale program in California, Oregon and Washington is issued.

Plaintiff: Seattle Audubon
Petitioner: Sierra Club Legal Defense Fund
Court: Ninth Circuit Court of Appeals
Decision: The environmental special interests may contest 1990 US Forest Service timber sales. Decision overturned in March of 1992 by the United States Supreme Court by a 9-0 decision.

Plaintiff: Portland Audubon
Petitioner: Sierra Club Legal Defense Fund
Judge: Helen Frye
Decision: Permanent injunction against Bureau of Land Management timber sale program. Agency preparing environmental impact study.

THE MESS

Four separate federal
agencies

Department of Interior
US Forest Service
US Fish and Wildlife Service
The Bureau of Land Management

Five separate northern
spotted owl management
programs

Forest Service - Jack Ward Thomas Plan
Fish and Wildlife - Designation of Critical Habitat
Bureau of Land Management - Jamison Plan
Interior Department - Draft Recovery Plan and Owl Preservation Plan.

Three separate states
with
three separate owl
protection programs

Washington
Oregon
California

Six major court decisions

United States Supreme Court
Dwyer I
Ninth Circuit

Zilly
Dwyer II
Frye

Eight prominent old
growth related bills
pending in Congress

HR 842 The Ancient Forest Protection Act (Jontz)
HR 2463 The Forests and Families Protection Act (Huckaby-Swift)
HR 2807 The Forest and Community Survival Act (AuCoin)
HR 3263 The Northwest Forest Protection and Community Stability Act
(Morrison-AuCoin)
HR 4899 The Ancient Forest Act (Miller-Vento)
HR 4899 The Forests Forever Act (DeFazio substitute)
HR 4988 The Northwest Forest Management, Planning, Productivity,
Improvement and Protection Act (Vollmer)
S 2895 The Rural Development and Ancient Forest Ecosystem
Conservation Act of 1992 (Adams-Leahy)

And a cast of thousands: scientists, sociologists, economists, biometricians, bureaucrats, lobbyists,
attorneys, publicists, staffers etc.

POSSIBLE SOLUTIONS

The 1993 Timber Summit chaired by the Clinton administration including the congressional delegations and governors from California, Oregon and Washington.

The details will be announced at a later date. NOTE: A timber summit was held in 1989, leading to congressional adoption of Section 318 of the Interior Appropriations Bill.

The summit proposal was submitted to Clinton by representatives of organized labor in July, 1992.

HR 2463/S 1156 - THE FOREST AND FAMILIES PROTECTION ACT

Support: Forest Products Industry, Organized Labor, bipartisan sponsorship from all regions of the country.

Movement: Bill has been heard in both houses.

- The elements:
- a) Congress provides direction to the administration in designating ecologically significant old growth.
 - b) Provisions of the Endangered Species Act are met in protecting threatened wildlife.
 - c) Mandates that minimum timber sale levels for federal agencies to ensure that forest families and communities are protected.

- d) Provides up to \$300 million during a six-year period for worker
lance and retraining.

The measure mandates standing requirements for litigation and expedites judicial review. It
applies to federal forestland nationwide.

1/93

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(503) 222-7456

PHOTOCOPY
PRESERVATION



Katie McGinty

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ROBERT A. CHLOPAK
PARTNER

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MEMORANDUM

TO: Katie McGinty

RE: White House Political and Communications Strategy
for the Pacific Northwest Forest Summit

DATE: March 10, 1993

We understand that the White House is close to announcing its first decisions on the structure and timing of the forest summit. As an admirer of the success you've enjoyed thus far in marketing the Administration's economic package, I hope that you will develop a parallel political and communications strategy to "sell" your approach to the summit and policy recommendations. In the event that you are still developing your plan, we have some ideas.

There are obviously more ideas included here than you could execute, but I wanted to give you a good feel for the political objectives and potential scope of actions as we see them. If you'd like more information or if there is any way that we can help, please let me know.

The strategy has five primary elements:

- Define the problems in the ancient forests as you want them seen
- Frame the parameters for the summit and policy prescriptions
- Address the jobs/labor problem without sacrificing the environment
- Neutralize the public and private influence of the Northwest delegation
- Break clearly with policies and practices of the past

The Need

The need for a political strategy is apparent from several recent developments. The Northwest delegation, which habitually postures on forest issues but has consistently failed to devise a credible solution, has begun complaining about the summit both in public and private. Their complaints center on the summit timing (i.e., too slow for some), exclusion from the summit planning or fear of exclusion from the summit itself, and even petty competitiveness over the location of the summit. None of these complaints alone presents a serious problem. But when they generate regular media

coverage and speculation, as they have, they begin to raise public doubts in the Northwest about President Clinton's own commitment to the problem. The White House needs a proactive strategy to contain the negative impact of the political posturing by Northwestern politicians and to sustain public confidence.

Along these same lines, Rep. Norm Dicks and other Northwest public officials have begun to try to define the parameters for the summit. For instance, in a meeting of the Northwest delegation last week, Rep. Dicks suggested that an interim solution should be put in place while the summit devises a long term plan. He proposed that the interim solution consist of the flawed spotted owl recovery plan which even the Bush Administration would not release. While Rep. Dick's specific suggestions have little credibility -- few believe that the Bush recovery plan can pass legal or scientific muster -- they do raise expectations that the White House may propose a quick fix while it deliberates on a longer term plan. The problem with separating the short and long term decisions is that it removes much of the pressure for a long term solution on the part of labor, the timber industry and many Northwestern members of Congress.

At the same time, the vacuum left by inaction on forest issues in both the executive and administrative branches has allowed the timber industry and its allies to foster perceptions of a lumber price crisis which they claim is the result of court injunctions limiting the supply from the Northwest National Forests. One of the results of this propaganda effort is that labor unions which had begun to put some distance between themselves and the timber companies have once again picked up the industry's battle cry.

The fact is that there was more than 3.9 billion board feet of timber under contract on public lands in the Northwest as of December 31, 1992, not subject to court injunctions. If the industry believes there is a supply problem on public lands, they should first explain why so much of the timber already under contract has not been cut. So far, only the environmental community has challenged the timber industry's deception campaign. It requires White House or at least Departmental attention.

As we understand it, the White House may soon announce the first stage of the summit process that would gather input from interested parties. We also understand that there may be a further announcement of the summit process including a task force structure to address the various economic, scientific, trade and community development issues. The Administration should consider following up these announcement closely with a number of actions steps described below each of which is aimed at achieving key political objectives.

1. Define the problem. The Administration should use the period before the summit to establish clearly its view of the problems in the Northwest's public forests. The problem is not the spotted owl or environmental extremism. It's the deliberate lawlessness of the Reagan and Bush Administrations. It's years of cutting more timber than the law allowed and raising false hopes for workers,

communities, etc. As Forest Service Biologist Barry Noon testified last year, it's the "unraveling" of an entire ecosystem.

Action Steps: Given the tendency of the Northwest media to speculate repeatedly about the summit, taking one or two of the following steps each week will likely dominate a full week's worth of coverage and generate a number of complimentary columns and editorials as well.

- Release the Scientific Advisory Team report (also known as the technical report) as quickly as possible and give it as much visibility as possible. One way to do this could be to invite its chief author, Jack Ward Thomas, to D.C. to brief the President, Vice-President, cabinet and/or staff, and structure a press availability around the briefing. The report apparently shows that significant numbers of species in the ancient forests may be threatened by years of overcutting. Its release would clearly establish that the problem is not the owl or the Endangered Species Act. It is the near destruction of an entire, fragile ecosystem.

We've heard that some interested parties have argued for holding up this report until after the first summit meeting in order to protect the Administration from having to defend it. The logic of this argument escapes us. This report more than any other document appears to put the blame for forest problems squarely on the Bush and Reagan Administrations. The President need not defend the report; he should simply cite it as another example of how past Administrations created the problem. This is another example of having to play the hand we're dealt.

- Issue an order overturning the Forest Service gag rule as a means of showing that this Administration intends to follow the law, not silence dissenters.
- Hold a well publicized meeting at Agriculture or Interior with a number of prominent dissenters from land management agencies who quit or were fired under the Bush and Reagan Administrations. The mere convening of such a meeting will help shift focus to the lawlessness of the prior administrations. It would parallel the Administration's successful effort to blame our current economic problems on the supply-side, deficit-busting economic policies of past administrations.
- Have the Vice-President, Secretary Babbitt and/or Espy take a tour of the forests accompanied by media. The visit should include an air (to see clearcuts) and ground tour (to see charred stumps and failed restoration) and conversations with salmon fishermen. It could also include a stop at one of the major loading docks where logs are exported to Japan and other countries. Note that during the campaign candidate Clinton met with

displaced loggers but did not visit with fishermen whose livelihoods are adversely affected by excessive logging.

- Criticize timber companies for speculating on timber, needlessly driving up timber prices to take advantage of the economic recovery and falsely blaming the problem on supply while they leave nearly 4 bb ft uncut and export more than 2 bb ft of their own timber overseas. Depending on the timing of such a statement, there may also be new numbers available on the volume of raw logs exported last year. Such a statement helps shift the blame from the spotted owl to the greed of the timber companies.

2. Set Key Parameters for the Summit and the Clinton/Gore solution. The Administration should use the pre-summit period, the summit announcement and its initial summit meeting to set key parameters for the summit. These should include a commitment to using the best available science; a promise of a serious economic transition/community assistance package; inclusion of the entire ancient forest ecosystem, not just the owl forests in western Washington and Oregon; the need for permanent protection; enforcement of all existing laws and court injunctions; and the need to deal with long and short term problems in one package.

Action Steps:

- Following the initial summit announcement, the President or Vice-President could conduct an interview in the White House with Northwest regional press during which he would make the above points. The tone and content of such remarks would be intended to communicate the Administration's view that a real solution must address these elements.
- Key cabinet secretaries could also make themselves available to the major television anchors in the Northwest for live interviews during which they would make these points.
- The President could also telephone the governors of Oregon and Washington and express his desires for the summit letting it be known that he would like his views made public.
- Each of the above parameters should also be key message points for the Administration at the summit. The opening statements and initial presentations can be used to frame these parameters, rather than using these slots simply to represent the major constituencies to the controversy. For example, the opening sessions might include:
 - Jack Ward Thomas reporting on the new technical study and setting forth the need for comprehensive, eco-system protection.

- An economist setting out forward-looking opportunities for sustainable employment through restoration, restrictions on log exports, scientifically-justifiable timber harvests, retooling mills for second growth, and so on.
- A botanist or biologist addressing the significance of the ancient forests in the context of biodiversity and preservation of some of the world's greatest remaining temperate forests.
- In addition, the President and other Administration spokespeople could reinforce these points in responding to presentations by other participants. They could respond to every scientific presentation by restating that they want to use the best available science in forging a solution. They can address the inclusion of the entire landscape by raising questions about the corresponding impact on eastern forests if we only protect the forests west of the Cascades. They can reinforce the need to develop one package of solutions by reminding participants that we've tried the quick fixes in the past and everyone suffered. They can challenge timber companies to keep jobs and American lumber in the U.S. and reaffirm his commitment to diversification, job retraining and so on.

3. *Demonstrate That You Can Address Labor Concerns Without Sacrificing the Environment.* Labor concerns need to be addressed, but not at the expense of the environment as they have been in the past. Budget proposals, for example, already include some funds for restoration work and more is expected to be included in the fiscal 1994 budget. We also commend the Pacific Rivers Council comprehensive watershed restoration proposal to your attention. It has the potential to provide tens of thousands of sustainable family wage jobs in many of the same rural communities where jobs have been lost.

Most important of all, however, is the issue of raw log exports. In past years based on an average of roughly 3 bb ft of raw log exports annually from the Northwest, the country loses about 18,000 jobs. Imposing some restrictions on, or disincentives for these exports would have several advantages: it provides labor with some additional jobs; it lessens pressure for logging in the ancient forests by keeping more American logs in American markets; and, it weakens the industry-labor coalition opposing protection for the ancient forests.

Short of formulating a new export policy, there are several immediate step that the Administration can take to send strong signals and divide labor and industry.

Action Steps: (Note: section 1 also includes export actions)

- Ask the Commerce Secretary to investigate whether any of the old growth species should be declared in short supply and subject to monitoring or other provisions of the Export Administration Act.
 - Direct the Treasury Department to prepare and release a study on the "taxpayer subsidy" associated with raw log exports under the Foreign Sales Corporation provision of the tax code.
 - Have the Vice-President, Secretary Espy or Babbitt, or USTR Mickey Kantor address a group of Northwest mill owners, traditionally strong opponents of log exports, and ask for their help in keeping American logs in the U.S.
4. *Don't allow the Northwestern delegation and its governors to make the ancient forests just a Northwest issue.* The Northwest delegation continues to posture, claiming ownership of the ancient forest issue but refusing to take responsibility for solving it. Last year provided the most telling example of this when two Northwest Members helped to block House legislation claiming that it didn't have the unanimous support of the delegation. (In fact, no proposal has had or will ever have the delegation's unanimous support.)

As the Northwest delegation is far more likely to block a credible solution than help enact one, the Administration needs to prevent them from claiming effective ownership of the issue. In other words, the Administration needs to make it clear that these are America's forests, thereby providing a rationale and demand for the involvement of the White House and national policymakers in solving the problem.

Action Steps:

- Whether or not the Northwest delegation has a seat at the summit table, it is important to involve the leaders of key authorizing committees like Rep. George Miller and Kika de la Garza, as well as Senator Pat Leahy in both the initial public input session and in subsequent meetings and consultations. These committee leaders should be invited to the White House for their own briefing and should be encouraged to tell the press that the President sees this as a national problem in which they will be actively involved.
- Invite international observers to the summit to make it clear that the stakes go beyond even the nation's boundaries.
- To reinforce that the nation's natural heritage is at stake, use the national parks and the Park Service to solicit public input nationwide on the

disposition of the ancient forests. Rangers could distribute a post card encouraging citizens to send their views to the summit office.

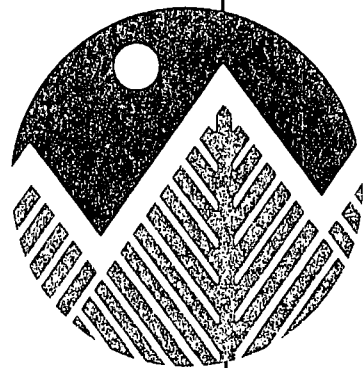
- Another way of reinforcing the heritage issue would be to organize a Presidential satellite town meeting with school children in select cities across the country. The idea would be to let children talk to the President about the forests and their futures.
- To increase understanding of the global importance of biodiversity, have the First Lady speak to a health care forum on the importance of preserving sources of life-saving medicines like the cancer drug taxol (made from the Pacific Yew found in the ancient forests).

5. *Break with the Past.* For the past several years forest policy in the Northwest has been marked by disregard for the laws and courts, attempts to suppress or revise scientific findings, and repeated efforts to silence dissent. Timber supply has been the driving force behind policy and the environment consistently has been the casualty. Short term fixes, like the disastrous section 318 appropriations rider in 1989 (mandated timber supply, overrode court injunctions and environmental laws) have been the preferred approach and scientifically-based long term solutions have not been considered.

While most of these policies and practices are associated with the Bush Administration, many in the Northwest delegation have been willing partners. And, many in the delegation are finding it difficult today to break old habits.

The Administration needs to send a clear signal that it wants change and that it will not entertain the quick fix, disregard for laws, suppression of science approaches of the past. Instead, it should make science the centerpiece of its policy. It should resist pressures to develop a quick fix and work for a long term solution. It should stand unequivocally for enforcement of all environmental laws and court orders.

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NEWS

THE WILDERNESS SOCIETY

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FORESTS, LUMBER, AND HOUSING FACTS

- The price of lumber, adjusted for inflation, is lower today than in 1975.
- Lumber and plywood represent between 5 and 7 percent of the cost of a new home.
- Labor and land costs account for nearly 60 percent of the price of a new home.
- The average 30-year fixed rate mortgage was 7.52 percent on March 4, 1993, the lowest in 20 years.
- The National Association of Home Builders political action committee (PAC) is among the Top 20 donors to candidates for federal office.
- America has 730 million acres of forested land and more trees than 70 years ago, according to advertisements by the American Forest Council.
- In January 1993, an average of 1,668 lumber options were traded daily. The average in January 1992 was 581.
- The composite price for plywood rose 35 percent in the weeks after Hurricane Andrew, reaching \$345 per thousand board feet in the week of August 28, 1992. The price was 44 percent higher than the same week in 1991.
- A 15 percent rise in lumber prices would result in an estimated \$5.00 per month increase in the average monthly mortgage payment on a typical \$100,000 new home.
- In the past five years, more than 17 billion board feet of raw logs have been exported from the Pacific Northwest -- enough to build more than 1 million homes.



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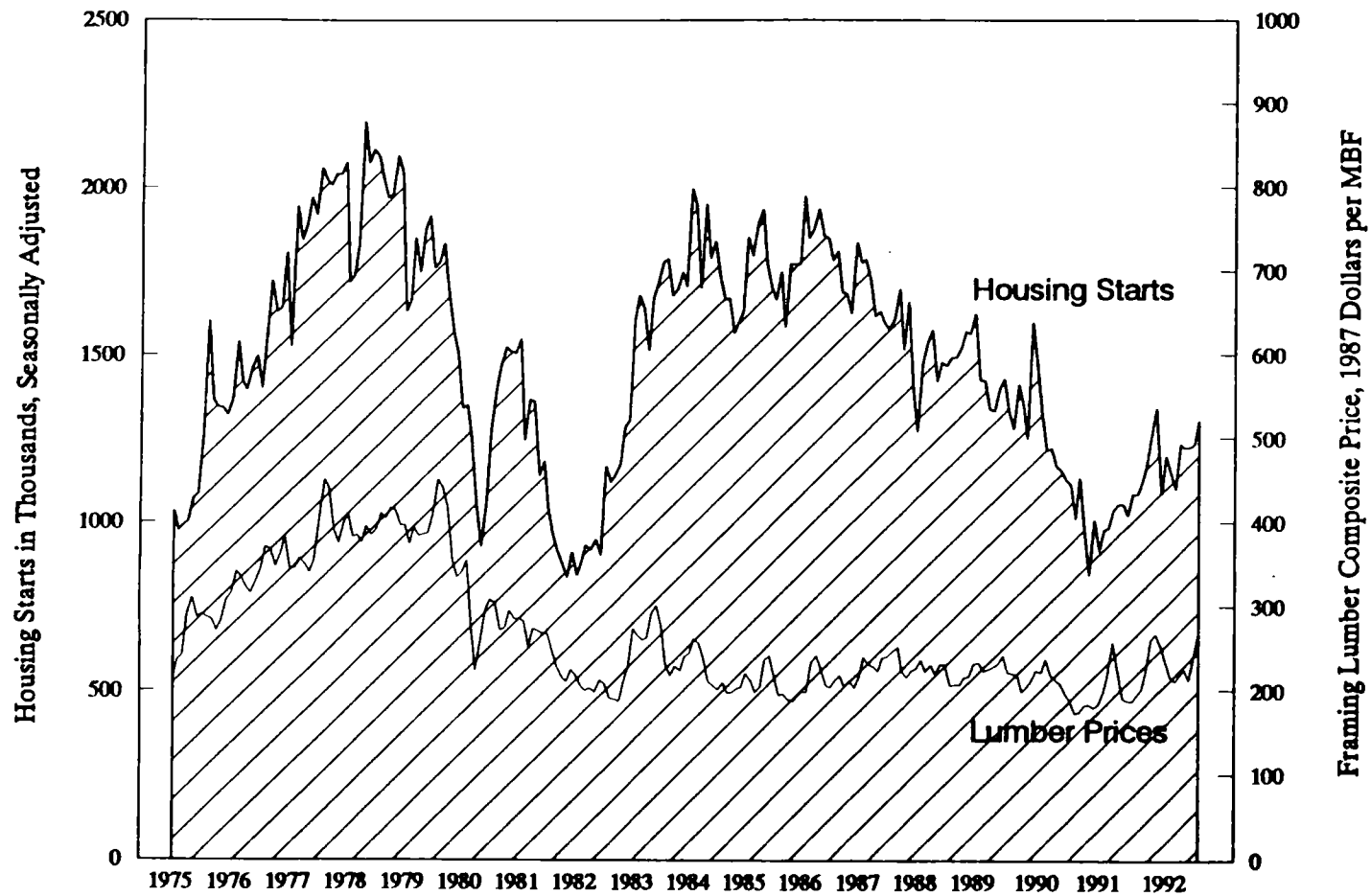
THE OTHER SIDE OF THE STORY:

WHAT THE INDUSTRY GROUPS WON'T TELL YOU

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Chart 1: Lumber Prices and Housing Starts, 1975 through 1992.



Sources: Random Lengths, Inc., Eugene, Oregon; U.S. Census Bureau, Washington, D.C.

Chart 2

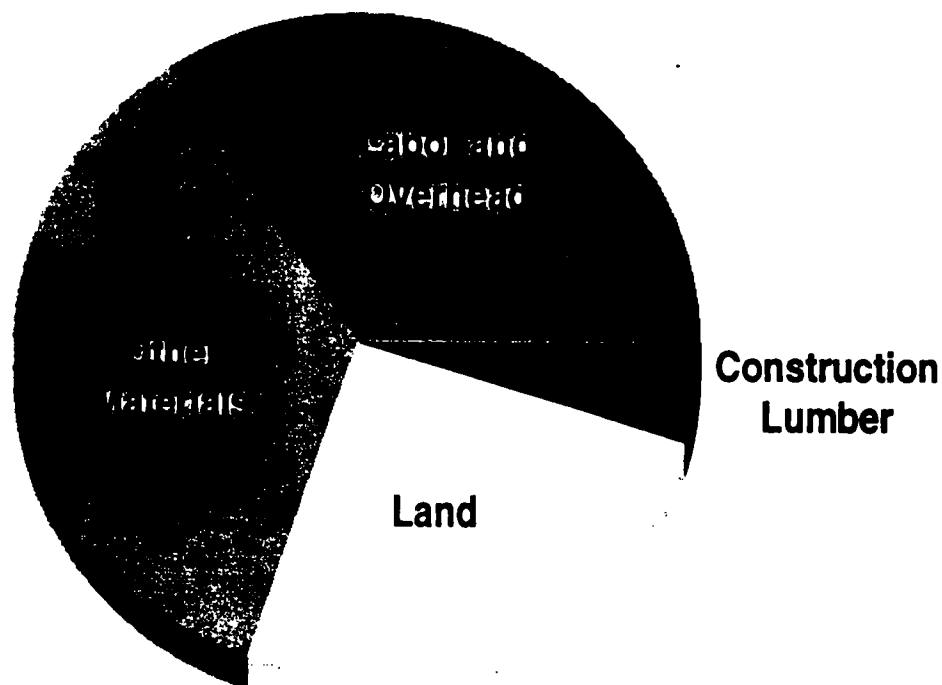
Most money spent on building a new home does not buy construction lumber. It goes for other materials, labor and overhead, and land. In fact, lumber costs account for only about five percent of all costs in building the average new home. The median price of a new home in 1991 is \$98,500. Construction cost break down as follows:

Construction Costs¹

Lumber and plywood	4.9%
Other materials	35.5%
Labor and overhead	34.3%
Land	25.3%

Consider the price impact resulting from a 40% decrease in the federal timber supply:

Add \$724 increase in the cost of a new home (at median \$98,500 in 1991)—less than three-fourths of one percent of the total cost.



¹ Means Residential Cost Data, 1991 10th Annual Edition. 1991. R.S. Means & Company, Kingston, MA.

Chart 3

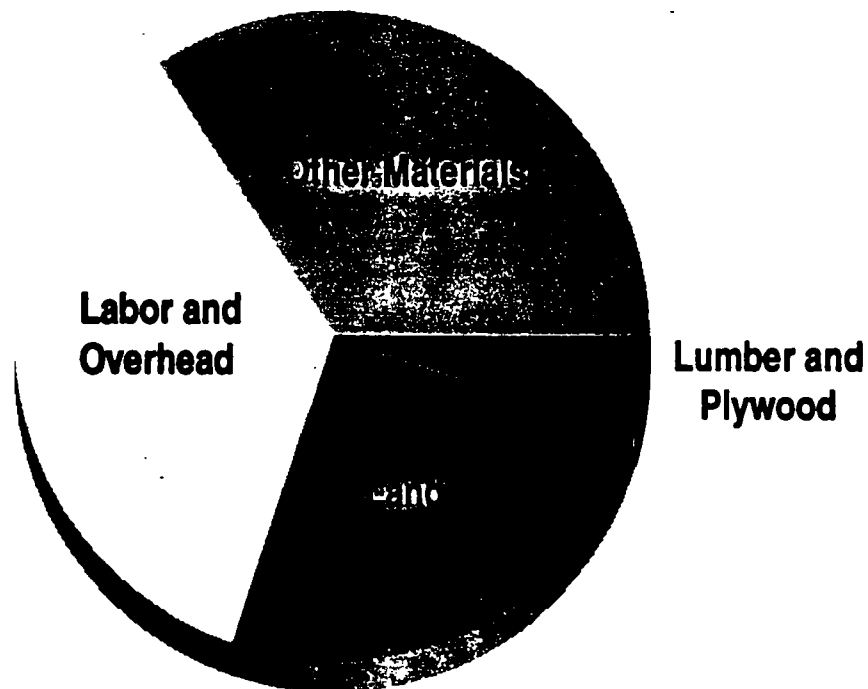
According to the National Association of Realtors, the average monthly mortgage payment for a new home in 1991 is \$650.00. Home building costs in relation to the monthly mortgage break down as follows:

Mortgage Costs²

Lumber and plywood	4.9%
Other materials	35.5%
Labor and overhead	34.3%
Land	25.3%

Consider the price impact resulting from a 40% decrease in the federal timber supply:

Add \$4.80 increase per month (at average \$650.00 in 1991)—less than three-fourths of one percent.



² The Wilderness Society. 1991. Washington, D.C.

Chart 4

Protecting ancient forests in the Pacific Northwest (and the important wildlife habitat they contain) and eliminating subsidized timber sales on all national forests will have an almost negligible impact on the price of new homes. Data from the National Association of Realtors also reveals that:

Mortgage rates are at their lowest level in ten years.

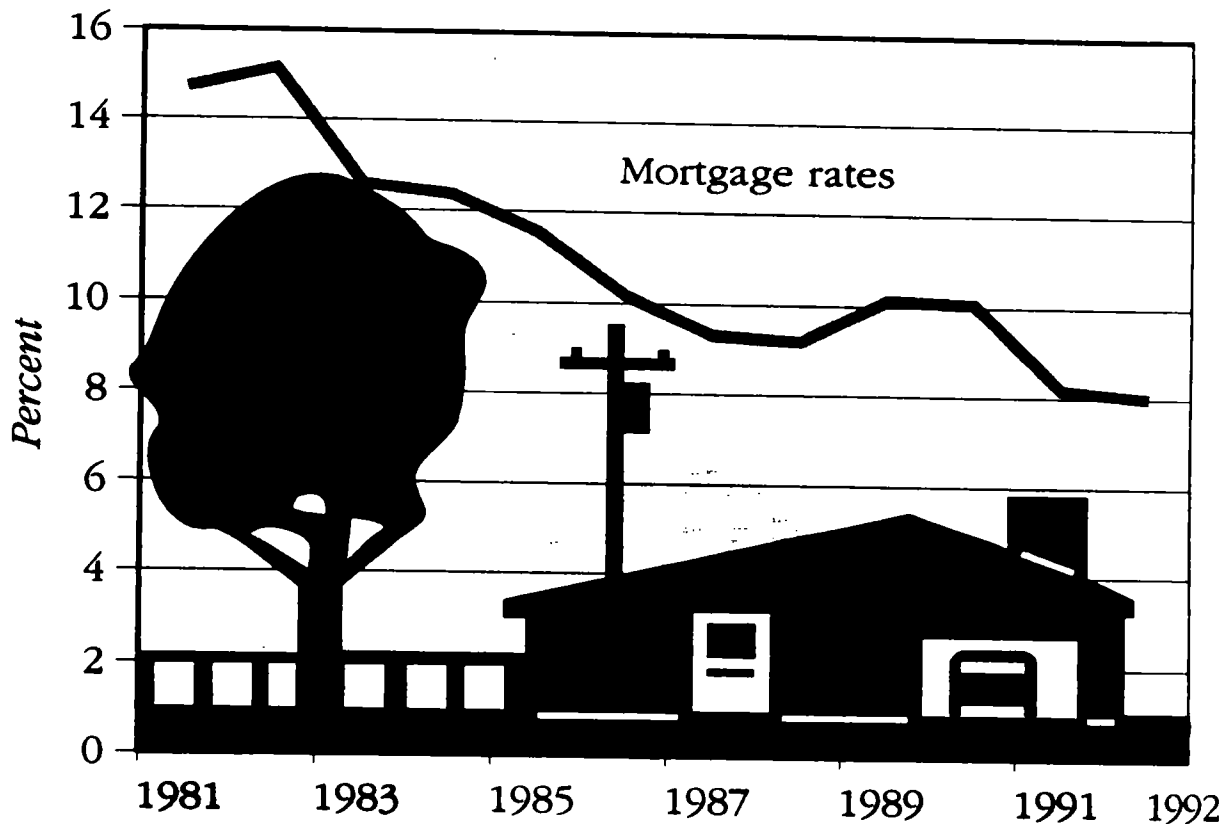
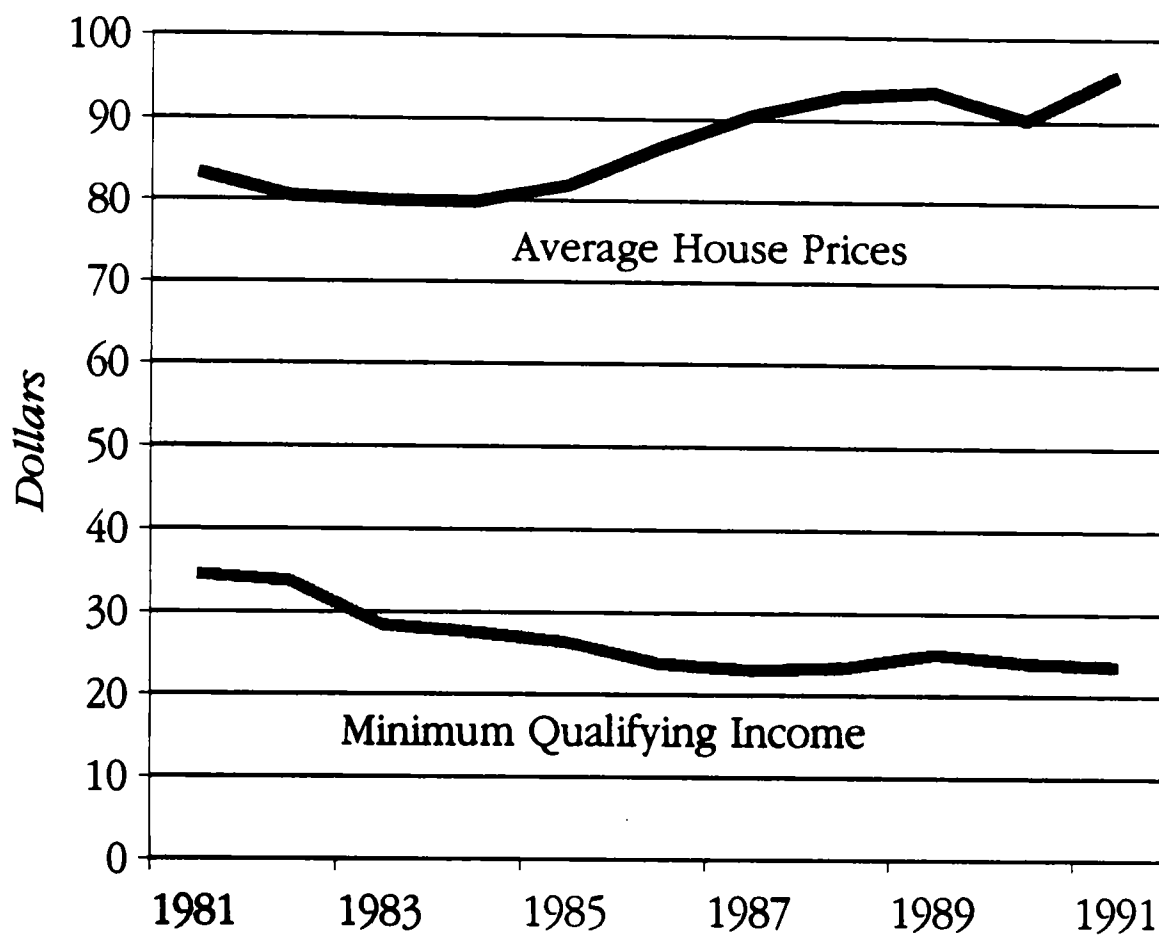


Chart 5

The minimum qualifying income needed to purchase a home has declined since 1981.





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FOR IMMEDIATE RELEASE
March 9, 1993

Contact: Jeffrey Olson (202) 429-8441

FEDERAL, CONGRESSIONAL PROBES URGED OF TIMBER, HOUSING TRADE GROUPS FOR LUMBER PRICE HIKE

WASHINGTON, D.C. (March 9) -- Federal regulators and Congress should investigate whether the current anti-spotted owl campaign by national housing, lumber, and timber trade groups is apparently driving up lumber prices on the Chicago Mercantile Exchange, The Wilderness Society said today.

"We are today urging the Commodity Futures Trading Commission (CFTC) and appropriate congressional consumer and other oversight committees to consider probing whether housing and trade groups have panicked the lumber options market with false claims about a timber shortage," charged Karin Sheldon, acting president of The Wilderness Society.

Despite the Clinton Administration's promise to address the full range of environmental and economic issues surrounding ancient forests, "these groups seem unable to stop practicing the politics of blame," Sheldon said.

For the third year in a row, timber, lumber, and housing trade groups are sending shock waves through the lumber markets with unsubstantiated charges that court injunctions barring logging in Pacific Northwest spotted owl habitat are responsible for seasonal increases in lumber prices. "These groups never tire of a chance to haul out

their latest doom-and-gloom scenario," charged Jeffrey T. Olson, chief economist at The Wilderness Society. "You have to be skeptical about the timber industry's charges when they directly benefit from higher lumber prices," he added.

Lumber prices earlier this year increased the daily legal limit on the Chicago Mercantile Exchange for more than four weeks, according to various newspaper reports. Lumber and housing officials have attempted to blame rising lumber prices on environmental protection. "There is simply no evidence to support that charge," said Olson.

"We expect some seasonal increase in lumber prices every year at this time. The recent rise, however, is likely to have been exaggerated by the hysteria that industry trade groups have tried to create," said Olson.

Commodity markets tend to be extremely susceptible to negative news, which often triggers panic buying by traders.

One measure of the impact of speculative buying is the number of lumber options traded on any given day. According to a February 3, story in The Wall Street Journal article, an average of 1,668 lumber options changed hands during January. The average for January, 1992, was 581. The previous daily record was 1,220.

Lumber prices also are directly affected by the rise and fall of housing starts. Over the past 20 years, as housing starts increased, lumber prices followed. Slightly higher increases occur during the early portion of economic recovery. As home building fell off, lumber prices dropped.

According to Random Lengths, a timber industry price newsletter, housing starts in 1992 rose 18.5 percent over 1991. Some economists estimate housing starts in 1993 could be 1.4 million units.

Overall, lumber prices have remained fairly constant when adjusted for inflation, according to timber industry experts. In a September 2, 1992, story by the Spokane (WA) Spokesman Review, Fred Reseburg, economic services director for the Western Wood Products Association said: "The public really has been getting a bargain on lumber. With the exception of a brief price increase last February, lumber this year has sold at or below 1970s price levels."

A recent analysis by the Congressional Research Service confirms that lumber prices, when adjusted for inflation, are lower today than 20 years ago.

According to the 1991 Means Residential Cost Data report, lumber and plywood represent as little as five percent of the cost of an average new home. Labor and land account for nearly 60 percent of construction costs on a new home.

As for whether there is a shortage of timber, recent advertisements in national publications sponsored by the American Forest Council, a timber-industry front group, strongly suggests otherwise. One ad in the May, 1990, edition of Smithsonian stated, "Today, America has over 20% *more* [their emphasis] than it had just 20 years ago."

Another similar ad in the June, 1990, National Geographic declared "...America now has 730 million forested acres of land. And more trees than 70 years ago."

"Clearly the timber industry can't make up its mind whether there are too many or too few trees to log," said Sheldon. "It is curious how the timber industry expects to play a credible role in the upcoming ancient forest summit when it is so extremely comfortable talking out of both sides of its mouth. Right now, it is trying to stampede the Clinton administration into needlessly upending federal environmental law to facilitate some kind of timber-housing industry bailout that is entirely unjustified," she added.

"The timber industry is comfortable blaming everyone but itself for every problem it faces, big or small," said Olson. "It has ducked responsibility for overcutting, worker wage cuts, employment losses, and for systematically abandoning the Pacific Northwest, where capital investment by the largest timber companies has dropped 60 percent in the past 30 years. Now it's trying to hide behind the threatened northern spotted owl when it comes to profiteering on lumber prices."

The Society is sending letters to the chairman to the CFTC and the appropriate House and Senate committee chairman urging an investigation of housing and timber trade groups.

The Wilderness Society is the only national, non-profit conservation organization that specializes in issues affecting national forests, national parks, national wildlife refuges, and other non-military public lands. Founded in 1935, The Wilderness Society has approximately 300,000 members and 15 offices.



THE WILDERNESS SOCIETY

LUMBER PRICES, HOUSING AND THE AMERICAN CONSUMER:

THE INDUSTRY'S BIG LIE CAMPAIGN

AND

THE THREE-YEAR RECORD OF DECEPTION

900 SEVENTEENTH STREET, N.W., WASHINGTON, D.C. 20006-2596
(202) 833-2300

Prices for Lumber Rise On Spotted Owl Issue

Increase Adds Up to \$3,000 to Cost of Home

By H. Jane Lehman
Special to The Washington Post

A sharp rise in lumber prices blamed on recent actions to protect an endangered owl species in the Northwest are showing up in the cost of new homes, builder and lumber industry officials said this week.

Some environmentalists, however, contend that concern over the Northern spotted owl is giving lumber suppliers an excuse to increase prices while prices remain unchanged for unprocessed timber.

Although wood products account for about 8 percent of the purchase price of a new home, the increase in lumber costs will probably add \$2,000 to \$3,000 to the cost of a \$200,000 new home in the Washington area, said Tom Eckert, president of Pulte Home Corp. of Virginia.

The increase in lumber prices should not reach most new-home buyers for 90 to 120 days, Eckert said.

Meanwhile, builders likely will absorb the higher costs. Unlike past years when homes were built speculatively, most builders now begin construction only with a signed purchase contract, which means a home will not sit unsold and locks in the price of the house. Because of a crackdown by federal regulators on bank lending practices, construction money from lenders has largely dried up except for homes built on a presold basis.

Kent W. Colton, executive vice president of the National Association of Home Builders, said that until now the spotted owl "has been an abstraction." Now, he said, "it means something," particularly to buyers stretching to buy their first homes.

Environmentalists claim logging the virgin forests of Washington state and Oregon threatens the survival of the rare owl, the number of which has dwindled to about 1,500 breeding pairs, by destroying the trees that it inhabits.

However, Mark Rey, executive director of the American Forest Resource Alliance, said there is scientific information suggesting the owl "not only tolerates but prospers in a fairly wide range of habitat type," including stands of replanted timber.

On May 23, U.S. District Judge William Dwyer halted timber sales and harvesting of 66,000 acres of

forest land in Washington state and Oregon until the federal government prepares a plan to protect the spotted owl and its habitat.

Since then the composite price of framing lumber has jumped a "startling" 13 percent to a record \$303 per 1,000 board feet, said Burrle Elmore, editor of the industry journal *Random Lengths*. A board foot refers to a piece of lumber one inch thick and 12 inches square.

Framing lumber prices have climbed 54 percent in the three months since Feb. 1, the year's low point, Elmore said, adding that much of the increase came in anticipation of decisions that would be adverse to the lumber industry.

Besides the Dwyer ruling, the U.S. Fish and Wildlife Service issued a proposal in April to declare 11.6 million acres of public and private land in the Northwest as critical owl habitat, which could bring the total protected area to 14.8 million acres.

Some of the increase, Elmore said, is because of bad weather that prevented harvesting of Southeastern timber and a move to replenish lumber inventories reduced as construction fell in the face of the Persian Gulf War.

Rey said he expects another pending court ruling to also go in favor of the owl, which would push lumber prices higher. If an injunction is granted to prevent harvesting of more acreage, then the protected owl habitat will cover an area equivalent to Vermont, Connecticut, Massachusetts and Rhode Island, he said.

Andy Stahl, a Seattle-based staff forester for the Sierra Club Legal Defense Fund, said he believes lumber producers are raising prices now because they are cashing in on fears of future timber shortages.

The price of timber before it is milled into lumber and transported to retail markets has remained unchanged, Stahl said. "If I wanted to

maximize my mill receipts, then the owls are a wonderful excuse because no one understands" the pricing issue, he said.

Timber Data Co., which follows timber prices, said the price of timber under contract for harvesting has been lower in the first three months of this year than in the previous six months. Although this quarter's composite price will not be known for another month, company analyst Mark Rasmussen said his guess is it will show an increase.

The price increase is expected to drive up remodeling costs, said Alberto Goetzl, chief economist for the National Forest Products Association. The consumption of lumber for residential remodeling and repairs, which accounts for 35 percent of the softwood lumber supply, has outstripped housing construction demand of 33 percent for the first time, he said.

Thomas Gilday, president of Gilday Design & Remodeling Co. in Silver Spring, said an increase of 10 percent in lumber prices would only add \$500 to a \$100,000 room addition, but the cost of a wood deck would rise much more dramatically.

FOREST PRODUCTS

Housing crisis blamed on owl

From Register-Guard
and news service reports

WASHINGTON — Anticipated timber shortages are driving lumber prices to record levels and jeopardizing the nation's economic recovery, housing and timber industry leaders said Thursday.

The government should increase logging on national forests, especially in the Pacific Northwest, to help boost the wood supply, said a new report by the National Association of Home Builders, the National Forest Products Association and the National Lumber and Building Materials Dealers Association.

"The Bush administration and Congress can make a significant difference, and prevent a second recessionary dip by making changes in federal forest management," NFPA President Barry Cullen said at a news conference.

Environmentalists, however, cited economic reports by the U.S. Forest Service and others showing that only 5 percent of a new home's cost is the wood that's used to build it.

Only 9 percent of all dimensional lumber used to build new homes comes from national forests, conservationists added.

"The link is non-existent between home building, home buying and ancient forest protection," said Richard Hoppe, a spokesman for The Wilderness Society.

The industry groups' report singled out the government's protection of the threatened northern spotted owl as a primary cause of the problem. The U.S. Forest Service has begun implementing a plan that restricts logging across 5.9 million acres of national forests in Oregon, Washington and Northern California to protect the owl.

"The restrictions on timber harvests are pushing up timber prices rapidly," said Kent Colton, vice president of the home builders.

"If housing construction is to lead us out of the recession — as it has in every other post-war recession — then

we can't be putting roadblocks in the way of construction," he said.

Environmentalists contended the projected shortage is artificial, created by industry speculators who bought standing timber and are waiting until prices go even higher before they cut it.

Hoppe pointed to a number of other economic forces, including U.S. log exports to more lucrative Pacific Rim markets and a pending U.S. tariff on Canadian lumber imports.

About one in four logs cut in the Northwest is shipped overseas unprocessed, and the United States imports more than one-fourth of its softwood lumber from Canada.

"There's plenty of timber out there. There is somewhere between two and three years' supply of sold and standing timber on Forest Service and Bureau of Land Management lands," Hoppe said.

"They are being smart businessmen and waiting for the price to go up further," he said, adding, "To suggest a 14-inch bird is ripping away the prospect of the American dream of owning a home is false."

Donnelly conceded the median-priced, single-family home costing \$120,000 uses only about \$10,000 worth of lumber and wood materials. But he said those costs have increased 30 percent so far this year.

The industry groups' report said lumber prices reached a record \$322 per thousand board feet last week, up from \$235 on Dec. 27. The previous record of \$311 was set last June.

Lumber demand is projected to increase from 42.7 billion board feet in 1991 to 48 billion board feet this year and 53 billion board feet in 1993, the report said.

However, Random Lengths, the Eugene-based wood-products market reporting service that calculated the \$322 composite lumber price, this week cited a recently imposed duty against Canadian imports and poor weather in the Southeast as primary reasons for the recent price runup.

Builders, timber industry push for logging increase

WASHINGTON (AP) — Anticipated timber shortages are driving lumber prices to record levels and jeopardizing the nation's economic recovery, housing and timber industry leaders said Thursday.

The government should increase logging on national forests, especially in the Pacific Northwest, to help boost the wood supply, said a new report by the National Association of Home Builders, the National Forest Products Association and the National Lumber and Building Materials Dealers Association.

"The Bush administration and Congress can make a significant difference, and prevent a second recessionary dip by making changes in federal forest management," NFPA President Barry Cullen said at a news conference.

The industry report singled out protection of the threatened northern spotted owl as a primary cause of the problem.

"The restrictions on timber harvests are pushing up timber prices rapidly," said Kent Colton, vice president of the home builders. "If housing construction is to lead us out of the recession — as it has in every other post-war recession — then we can't be putting roadblocks in the way of construction."

"Affordable housing remains an elusive dream for most Americans," added Gary Don-

nelly of the 10,000-member lumber-dealers group.

Environmentalists contend the projected shortage is artificial, created by industry speculators who bought standing timber and are waiting to cut it until prices go even higher.

And they say logging restrictions in the Northwest have little to do with supply or demand.

"The link is non-existent between home building, home buying and ancient forest protection," said Richard Hoppe of The Wilderness Society.

He pointed to a number of other economic forces, including U.S. log exports to more lucrative Pacific Rim markets and a pending U.S. tariff on Canadian lumber imports.

About one in four logs cut in the Northwest is shipped overseas unprocessed, and the United States imports more than one-fourth of its softwood lumber from Canada.

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September 2, 1992

Rebuilding spree raises demand for NW lumber

By Steve Massey
Staff writer

Inland Northwest lumber and plywood producers are reaping short-term price benefits from a Southern states rebuilding spree in the wake of Hurricane Andrew.

Prices for some plywood products skyrocketed last week as South Florida and parts of Louisiana began rebuilding.

"Because of Hurricane Andrew we've had a big jump in demand," said Mike Sullivan, a spokesman for Potlatch Corp., a San Francisco-based lumber producer with several mills in North Idaho. "Our order files have been extended and price pressures have been upward."

That's an understatement.

Prices for plywood products averaged \$345 per thousand board feet

Insured loss may top \$7 billion. - A10

at the end of last week, according to a composite index compiled by Random Lengths Publications Inc. That's up nearly 44 percent from the same week a year ago. Prices for dimension lumber products edged up 5 percent during the last nine weeks and again rose when the hurricane struck a week ago.

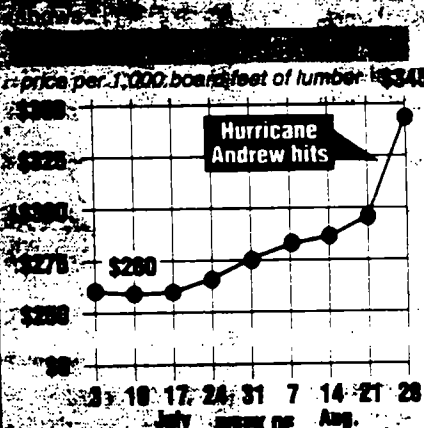
Although lumber prices did not increase nearly as much as plywood, producers are relieved at any upward movement. Markets for dimension lumber products have stagnated since March, mirroring the sluggish pace of housing starts nationwide. When the number of new homes built throughout the country drops, so do lumber prices.

"The public really has been getting a bargain on lumber," said Fred Reseburg, economic services director for the Western Wood Products Association of Portland. With the exception of a brief price increase last February, lumber this year has sold at or below 1970s price levels, he said.

The wood products association is skeptical that construction stemming from the hurricane will bring long-term price changes that could help Northwest lumber companies. Lumber production in the Western states is down slightly compared to last year, Reseburg said, while the Southern states and Canada both are producing substantially more lumber this year. That means most of the demand for lumber in the South will likely be

Plywood prices rise after Andrew

Plywood prices rose dramatically after Hurricane Andrew roared through South Florida and parts of Louisiana, as the chart shows.



SOURCE: Random Lengths Publications Inc.
Staff graphic

met by producers in that region, or in Canada.

Although orders for Western states lumber this year are less than 70 percent of normal, low demand has hurt coastal mills more than those in Eastern Washington, North Idaho and Western Montana.

Product inventories in the Inland Northwest rapidly are being depleted as orders from the South swell. Also, Hurricane Andrew aside, major builders typically place their last big orders of the year around Labor Day, the psychological end to the summer building season.

"The Inland area is in pretty good shape, because the (lumber) supply is shrinking faster than demand," said Marc Brinkmeyer, of Riley Creek Lumber Co. in Laclede, Idaho. "Even though prices have been down somewhat from last March, we've got a little bump because of the hurricane."

Lumber Prices Continue to Increase; Federal Curbs on Cutting Timber Cited

BY SHARON MASSEY

Staff Reporter of THE WALL STREET JOURNAL

Severe weather in the Pacific Northwest resulted in a drop in plywood prices last week, after a monthlong rise. But that break is expected to be temporary and overall lumber prices to go on rising as the government continues its restraints on timber-cutting.

Timber inventories have plunged to their lowest levels in 20 years, and government logging restraints aren't expected to ease under the Clinton administration. Meanwhile, some lumber companies are profiting from the higher prices.

Last week, a yearlong rise in plywood prices saw a "furious momentum stop," says Sam Sherrill, executive editor of C.C. Crow Publications, which tracks lumber costs. Plywood prices fell 2% last week to \$365 per 1,000 board foot from the previous week's \$372, which was a record. But even with last week's decline, plywood prices remained more than 5% higher than a month ago and 39% higher than a year ago.

Waiting for Sunshine

"The weather is creating a temporary buying window" because purchases fell off as builders waited out winter storms, Mr. Sherrill says. "When we get sunshine back, the buying pattern will come in again."

Prices for spruce, pine and fir two-inch by four-inch random length boards were \$305 per 1,000 board feet last week, up 16% from \$264 three weeks earlier and 41% higher than they were a year ago.

Prices are rising because of a shortage of available timber, analysts say. Futures prices for lumber rose by the daily limit of \$5 per 1,000 board feet on the Chicago Mercantile Exchange every day this week, in anticipation of further supply shortages.

The key reasons for the shortage are environmental constraints on cutting in the Pacific Northwest, says Dave Seiders, chief economist of the National Association of Home Builders. "We're getting all kinds of calls from builders who think the mills in their local markets are gouging them on two-by-fours," he says.

Getting More 'Spectacular'

"Every month there are more mills shut down for lack of a supply of logs," says Daniel L. Goldy, an economist for the Western Forest Industries Association, whose members include local lumber and plywood producers. As the demand for the scarce wood increases, "the price run-up is getting more and more spectacular," he says.

According to preliminary figures for the 53 weeks ended Jan. 2 from the Western Wood Products Association, a lumber trade group, production at mills in the Northwest was 18.71 billion board feet, down from 19.17 billion in the year-earlier period.

The shortages of lumber supplies, coupled with higher prices, will become more apparent to consumers as they begin building, remodeling or repairing homes, according to the National Association of Home Builders. The association expects housing starts to increase 10% this year to 1.3 million, which would still be down from a high of 1.810,000 reached in the mid-1980s.

Potlatch Corp., a lumber products concern that owns 1.5 million acres of prime timber property, calls the situation an "artificial shortage." Penn Siegel, group vice president of pulp and paperboard at Potlatch, predicts restrictions on logging in the Northwest will cost consumers \$10 billion to \$15 billion this year and says that's "a direct result" of the spotted owl habitat controversy.

"It isn't that we've run out of trees," he says. "It's a change in desire of how the government wants to use those trees that are on federal land." He predicts the Clinton administration "will be more favorable to the environment" than past administrations have been. The federal government, he says, is "heading rapidly to the cessation of timber-cutting from public lands."

Ed Whitelaw, professor of economics at the University of Oregon, disputes the claim that protecting the habitat of the owl will cost consumers that much. He says those who blame the owl are assuming that no other wood products are available as substitutes for Douglas fir, which is the main habitat area of the spotted owl. He says non-wood substitutes are also available.

Nonetheless, Potlatch and others are benefiting from the shortage of logs. In a sharp turnaround, for example, Weyerhaeuser Co. reported fourth-quarter 1992 earnings of \$175 million in its timberlands and wood products segment, compared with a loss of \$67 million in the segment a year earlier. Potlatch's wood products division reported a 39% gain in sales to \$109.4 million in the fourth quarter from the year-earlier quarter. Pope & Talbot Inc., another forest products concern, reported that fourth-quarter revenue for its wood products division rose to \$62 million from \$40.2 million a year earlier.

Some analysts and experts play down

the timber shortage issue, arguing that the federal government supply makes up only a small percentage of the national timber cut and that there are many other sources of logs.

Government restraints may cause overcutting problems elsewhere, some argue. "The West has always produced more wood than the South, but now with the shortages here (in the West), the South is overcutting to compensate," says Mr. Sherrill of the Crow newsletter. He explains that, "because the land in the South is 90% privately owned, the laws that govern the West don't affect the South."

All eyes in the timber industry are focusing on the Clinton administration's "timber summit," expected this spring. Some expect the meeting to eliminate a lot of the uncertainty about federal timber supplies. Others hope the summit will end some of the speculation and panic buying that have exacerbated price increases.

"There's no short-term solution," says Mr. Sherrill. "The only real long-term solution must be federal policies on resources that take into account the value of timber to balance ecology with economy."

THE WHITE HOUSE
WASHINGTON

April 23, 1993

MEMORANDUM TO THE PRESIDENT

FROM: KATIE MCGINTY THROUGH JOHN PODESTA
SUBJECT: FOREST SERVICE APPEALS REGULATIONS

The attached memorandum is in response to your note to me regarding the 4/16/93 Washington Post story (attached) concerning the reaction of the environmental community to the Forest Service's proposed regulations on comments and appeals.

Please note that we have subsequently directed the Forest Service to extend the comment period on the draft regulations an additional 30 days, until June 1, in order to provide all interested parties with an adequate opportunity for input.

04/27/93 04:14 PM FROM: JIM LYONS TO: KATIE
April 21, 1993

MEMORANDUM

TO: KATIE

FROM: JIM LYONS

SUBJ: FOREST SERVICE APPEALS REG'S

Please keep the following in mind with regard to the issuance of the draft reg's late last week:

1. These rules were drafted by the previous Administration late last year in response to legislative direction included in the FY 1993 Interior Appropriations bill.

2. Influential Members on the Hill (particularly staff to the Speaker) felt it important to get this information out for review and comment, in light of the fact that the substance was in response to legislative direction of 6 months ago.

3. The substance of the reg's, unfortunately, reflects both legislative intent and some carryover of "ideas" that were part of the Bush Administration's proposed reg's of a year ago -- which essentially would have done away with the appeals process as we know it.

4. These problems can be fixed.

5. By issuing the reg's and then (see attached) extending the comment period, we can be seen as responsive to the Hill and also responsive to the enviro's by granting them more time.

6. Both sides indicated a willingness (industry and enviro's) to sit down and work out differences -- to be consistent with the legislative intent -- to have a final rule in place in July.

7. This has been run by all key players in the legislative compromise -- and key Committee staff. Only minimal grumbling has been heard.

8. I believe we can safely distance ourselves from the substance of this draft and offer a reasoned and reasonable compromise by July.

Administration Proposals on Forests Vex Environmentalists

By Tom Kenworthy
Washington Post Staff Writer

Just two weeks after the White House sparked a fight with its allies in the environmental community over fees for use of federal lands, the Clinton administration has compounded its problems by proposing new restrictions on challenges to timber sales from U.S. national forests.

According to environmentalists, the proposed new rules published Wednesday will sharply restrict the ability of citizens to learn about and appeal proposed sales in national forests, grant the U.S. Forest Service broad authority to duck appeals altogether by declaring emergencies, and violate the intent of Congress.

"Last year the Forest Service tried to cut the public out completely and Congress stopped them," said Kevin P. Kirchner, an attorney with the Sierra Club Legal Defense Fund. "Once again the agency is ignoring Congress . . . and trying to cut the public out of the process."

On March 30, the White House abandoned a proposal to eliminate or reduce subsidies enjoyed by cat-

tle, mining and timber interests that use federal lands. At the urging of western Democratic senators, the administration dropped the resource fee provisions from its budget plan, while promising to push for separate legislative and administrative measures to accomplish the same goals.

Stung by the reaction of major environmental groups to that action, the administration moved swiftly yesterday to distance itself from the new timber sale appeal rules. The rules, proposed by the Forest Service, an agency of the Agriculture Department, were cleared by the president's Office of Management and Budget.

"These regulations were crafted under the Bush administration and we put them out there because we want the review process to start," said Marla Romash, spokeswoman for Vice President Gore and the White House's Office on Environmental Policy. Romash said the proposals "don't necessarily reflect our views" and could be changed after public comments are received.

The review of the procedures governing administrative appeals of timber sales was prompted by a Forest Service proposal last year to eliminate the right of appeal. Senior

Forest Service officials and the timber industry have long maintained that the government's ability to meet its production targets is increasingly hampered by a flood of appeals by environmental groups challenging sales they believe violate forest management and other environmental laws.

Congress blocked the Forest Service proposal to eliminate appeals,

*"Once again the
[Forest Service] is
ignoring Congress."*

—Kevin P. Kirchner,
an attorney with the Sierra Club
Legal Defense Fund

but in an appropriations bill directed the agency to streamline the process. The proposed rules published Wednesday in the Federal Register are the result of that congressional directive.

Environmentalists have expressed a number of concerns about the proposed rules, including:

- The short, 15-day period allowed for public comment on the plan. Ro-

mash said yesterday that deadline will be extended.

- A provision under which the Forest Service can block public comment and appeals entirely in "emergency" situations, such as when trees must be harvested quickly because of insect or disease damage, fires, or windstorms. "That directly contradicts the intent of Congress," said David L. Crandall, executive director of the Spokane-based Inland Empire Public Lands Council. "It's so wide open that anything is an emergency."

- A failure to meet congressional directives for notice of impending timber sales to interested individuals.

The timber industry, which President Clinton generally supported as governor of Arkansas, has endorsed the proposed changes. Anne Heisenbittel, director of forest planning and policy for the American Forest and Paper Association, said her organization is "very supportive" of the proposals and hopes "the Forest Service will get the final rule out and implement this new direction as soon as possible."

The incident underscores the difficulty the White House faces in meeting Clinton's expressed goal of

presenting a coherent, unified forest policy.

So far, other than Agriculture Secretary Mike Espy, the administration has put no new political appointees into positions with authority over the Forest Service. As a result, policy is still heavily influenced by leftover Republican appointees who the environmental community and some Democrats in Congress feel are too favorable to the timber industry.

"It sounds like some of these proposals are holdovers from the previous administration that I'm hopeful will be corrected in the final regulations," said Sen. Patrick J. Leahy (D-Vt.), chairman of the Senate Agriculture, Nutrition and Forestry Committee.

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March 5, 1993

Kathleen McGinty, Director
Office on Environmental Policy
The White House
Washington, D. C. 20500

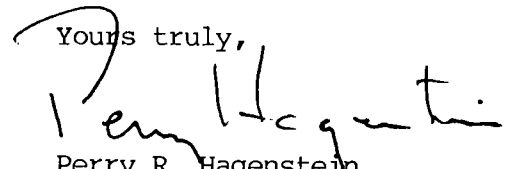
Dear Ms. McGinty:

Two copies of the "Duluth Manifesto" are enclosed. The Manifesto is a statement of principles to guide policy decisions affecting forests. Signers include a former chief of the U.S. Forest Service, some past presidents of American Forests and the Society of American Foresters, leading educators in forestry and environmental studies, and other broad-gauged national forestry leaders.

The principles recognize the importance of both economic and environmental concerns. They also recognize that international concerns must be weighed in decisions affecting forests in the United States.

We believe this statement will be helpful to you in addressing the many forest-related issues that will face your office. Copies have also been sent Secretary Espy and Secretary Babbitt in anticipation of the planned "forest summit," which is to resolve the spotted owl issue in the Pacific Northwest.

Yours truly,



Perry R. Hagenstein
President



United States
Department of
Agriculture

Forest Service

National
Forest
System

January 1992



Final Environmental Impact Statement

on Management for
the Northern Spotted Owl
in the National Forests

Volume 1



Table 3&4 – 26 First Decade Timber Program

Estimated average annual allowable sale quantity (ASQ) and percent change from Alternative A. (million board feet)

	Alternative A ASQ	Alternative B ASQ (%chg)	Alternative C ASQ (%chg)	Alternative D ASQ (%chg)	Alternative E ASQ (%chg)
Olympic	111	20 (-82%)	15 (-86%)	14 (-87%)	112 (+01%)
Mt. Baker-Snoqualmie	108	32 (-70%)	27 (-75%)	20 (-81%)	68 (-37%)
Gifford Pinchot	334	166 (-50%)	131 (-61%)	34 (-90%)	221 (-34%)
Okanogan	63	56 (-11%)	56 (-11%)	56 (-11%)	63 0
Wenatchee	136	54 (-60%)	50 (-63%)	26 (-81%)	100 (-26%)
WA Subtotal	752	328 (-56%)	279 (-63%)	150 (-80%)	564 (-25%)
Siuslaw	335	172 (-49%)	115 (-66%)	58 (-83%)	236 (-30%)
Mt. Hood	189	138 (-27%)	84 (-56%)	85 (-55%)	122 (-35%)
Willamette	491	275 (-44%)	213 (-57%)	105 (-79%)	370 (-25%)
Umpqua	334	263 (-21%)	230 (-31%)	31 (-91%)	290 (-13%)
Deschutes	100	73 (-27%)	72 (-28%)	59 (-41%)	98 (-02%)
Winema	117	117 0	114 (-03%)	100 (-15%)	116 (-01%)
Rogue River	120	50 (-58%)	45 (-63%)	22 (-82%)	73 (-39%)
Siskiyou	160	126 (-21%)	109 (-32%)	10 (-94%)	144 (-10%)
OR Subtotal	1846	1214 (-34%)	982 (-47%)	470 (-75%)	1449 (-22%)
OR & WA Subtotal	2598	1542 (-41%)	1261 (-51%)	620 (-76%)	2013 (-23%)
Shasta-Trinity	224	85 (-62%)	78 (-65%)	66 (-71%)	116 (-48%)
Klamath	142	103 (-27%)	96 (-32%)	65 (-54%)	145 (+02%)
Mendocino	84	25 (-70%)	23 (-73%)	17 (-80%)	70 (-17%)
Six Rivers	150	68 (-55%)	67 (-55%)	41 (-73%)	113 (-25%)
CA Subtotal	600	281 (-53%)	264 (-56%)	189 (-69%)	444 (-26%)
Total All Forests	3198	1823 (-43%)	1525 (-52%)	809 (-75%)	2457 (-23%)

Alternative A ASQ from each National Forest's Land and Resource Management Plan (see California Alternative A Models in Appendix B).

Alternatives B through E ASQ based on analysis done for this document, generally using individual Forest FORPLAN models.

Alternative E ASQ could be overstated by 10 percent because of changes to the strategy.

Alternative D

ISC Conservation Strategy Plus All Spotted Owl Nesting, Roosting, and Foraging Habitat

Introduction

This alternative would apply the Conservation Strategy presented by the Interagency Scientific Committee in their 1990 report: "A Conservation Strategy for the Northern Spotted Owl," to National Forests within the range of the northern spotted owl. The standards and guidelines for Habitat Conservation Areas (HCAs) would apply to HCAs and to all nesting, roosting, and foraging habitat.

Designated Areas Managed Primarily for Owl Habitat:

**Habitat Conservation Areas (HCAs)
Plus All Spotted Owl
Nesting, Roosting,
and Foraging Habitat**

Lands Outside Designated Areas Managed Primarily for Owl Habitat:

**For Dispersal Habitat,
50-11-40¹ Rule Applies to
Lands Suited for Timber Production¹**

¹ For definition of the 50-11-40 rule see "Elements Common to Alternatives B, C, and D" in this Chapter.

The Alternatives

Standards and Guidelines

The standards and guidelines for Habitat Conservation Areas and the Forest Matrix which were presented in the section "Elements Common to Alternatives B, C, and D" apply to Alternative D.

In Alternative D the portion of the designated areas managed primarily for spotted owl habitat that is outside of the Habitat Conservation Areas contributes to meeting the 50-11-40 rule.

Adjustment Process

The adjustment process for Alternative D consists of the procedures outlined in the earlier section "Elements Common to Alternatives B, C, and D."

Implementation

Alternative D will be implemented as indicated in the earlier section, "Elements Common to Alternatives B, C, and D."

Critical Habitat

Critical Habitat will be managed as indicated in the section "Critical Habitat" at the beginning of this chapter.

TIMBER UNDER CONTRACT ON PUBLIC LANDS
AND AVAILABLE FOR CURRENT HARVEST
IN WESTERN WASHINGTON AND OREGON
AND NORTHERN CALIFORNIA
(mmbf)

	<u>12/31/92</u>	<u>9/30/92</u>
USFS R-6 ¹	2,001	2,014
BLM ²	<u>685</u>	<u>800</u>
SUBTOTAL	2,686	2,814
State of Oregon ³	238	230
State of Washington ⁴	<u>445</u>	<u>431</u>
SUBTOTAL WA/OR	3,369	3,465
USFS R-5 ⁵	<u>583</u>	<u>620</u>
TOTAL	3,952	4,085

SOURCE: Timber Data Co. (Eugene, Oregon)

¹ Includes only the 13 spotted owl forests: Deschutes, Mt Hood, Rogue River, Siskiyou, Umpqua, Willamette, and Winema in Oregon; and Gifford Pinchot, Mt Baker-Snoqualamie, Okanagon, Olympic, and Wenatchee in Washington.

² Includes the 5 spotted owl Districts in Western Oregon: Coos Bay, Eugene, Medford, Roseburg, and Salem.

³ Includes Willamette, Northwest Oregon and Southern Oregon Areas.

⁴ Includes Northwest, Olympic, South Puget Sound, and Southwest Areas.

⁵ Includes the 4 spotted owl forests in Northwestern California: Klamath, Mendocino, Six Rivers, and Shasta-Trinity.



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The Law Firm for the Environmental Movement

A LITTLE BIT OF ANCIENT (FOREST) HISTORY

1. When the Reagan Administration took office in January, 1981, the new National Forest Management Act (NFMA) regulations were barely 15 months old. The product of nearly two years of toil by a special committee of scientists, those original regulations were a significant step forward in forest management. They were intended to put an end to what Hubert Humphrey had called "the days when the forest [was] viewed only as trees and the trees only as timber."

But the new Administration had different ideas. Within a few months, a new task force had been created: The Task Force on Regulatory Relief. It was chaired by then-Vice President George Bush. One of its very first tasks was to propose rewriting the NFMA regulations to get back to those good old days that Senator Humphrey thought had ended when the NFMA was enacted. [NOTE: the Bush Task Force lives on today as Vice-President Quayle's Council on Competitiveness.]

The Bush Task Force-driven regulations – the same ones the Bush Administration now complains so loudly about – were adopted in 1984. The two-plus years it took to review and revise the regulations substantially delayed completion of the first round of forest plans. More importantly, it changed the focus of forest management from what was intended by NFMA – multiple use and sustainability, to management primarily for timber and other commodities.

2. While the Bush Task Force was working to undermine the NFMA regulations, the new Assistant Secretary of Agriculture for Natural Resources, John Crowell, former General Counsel at Louisiana Pacific, proclaimed that the National Forests should be logged as extensively as possible and suggested that timber output could be doubled to 20 billion board feet per year – and more if the forests were managed intensively. He said the higher levels could be maintained forever. He also instructed forest supervisors to re-examine their ongoing planning processes to focus more on timber outputs. That philosophy characterized forest planning and management throughout the 1980s.

3. **The timber industry explains the real problems with the industry:**

"The [timber] industry has changed in fundamental and permanent ways....[Despite record demand for wood products] scores of mills remain closed and thousands of workers remain unemployed in the Pacific Northwest forest products industry....The reason is that the industry has changed on the inside. [There has been] a fundamental reorganization of both production and marketing. The result is...excess capacity...[which] has continued to depress prices and thereby created an environment in which only those producers able to reduce their costs are able to succeed, or indeed, survive."

"Newer mills are highly automated, and many older ones have also installed new technologies in order to compete. Thus, production per man-hour has increased significantly....In addition, many closed mills have been reopened by employee cooperatives and small independent companies which [pay lower wages and provide fewer benefits]." (Emphasis added).

—George H. Weyerhaeuser, President and CEO
Weyerhaeuser Company
February 20, 1986

Mr. Weyerhaeuser then told his employees in Springfield, Oregon and Longview, Washington that he would demand significant wage and benefit reductions in order to compete more profitably in this new, highly automated, lower wage industry.

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POSSIBLE SCENARIO FOR

FOREST SUMMIT

March 1, 1993

OVERVIEW

PRE-SUMMIT

Presidential announcement; staffing; steps taken to determine agenda, participants, involve local and regional representatives, and pull together relevant information.

SUMMIT

Site visits to inform Cabinet members re issues, followed by one day of public testimony and presentations presided over by President Clinton and Vice President Gore.

CONCLUSION OF SUMMIT

Presidential announcement of action plan and guiding principles.

POST-SUMMIT

Continuation of outreach efforts; intensive efforts to gather information and analyze approaches to resolving key issues associated with the old growth debate, leading to development of coordinated Administration proposal.

POSSIBLE SOLUTION

Completion of a package of administrative and legislative proposals, designed to clear litigation hurdles and move forward.

OBJECTIVES

PRE-SUMMIT

Launch process leading to comprehensive, coordinated resolution of northwest forest management issues involving federal lands.

Personally involve President Clinton.

Reach out: include public and interest groups; involve all affected states.

Provide open channels of communication.

Raise visibility for the conference and the issue (as first step in creating national and regional will to solve the problem).

Take steps now that will permit quick action following summit; begin information gathering process.

Shape the debate.

SUMMIT

Day One (Site Visits):

If possible, visit all three states.

Demonstrate desire to be educated.

Address biological, sociological, and economic issues.

Demonstrate interest in human as well as resource concerns.

Day Two (Conference):

Arrange maximum breadth of participation.

Inform President, Cabinet, national and regional audience.

Make clear that President is there to listen, not to expound.

Demonstrate there is no preconceived answer.

Show desire to give fair hearing.

Devote part of time to education as to where we are and how we got there.

CONCLUSION OF SUMMIT

Establish channel for further solicitation of views of interested parties.

Establish vehicle for input by representatives of interested groups.

Explain decision-making process and guiding principles.

Again demonstrate no preconceived solution.

Indicate solution will be based on sound science.

Show determination to rise above previous interagency bickering and come up with solution that entire Administration can support.

Indicate urgency, desire for prompt action.

POST-SUMMIT

Continue outreach and consultation.

Obtain input on factual issues.

Provide coordinated effort by relevant agencies to achieve consensus.

Make crash effort to resolve quickly.

Provide opportunities to continue momentum and public interest.

POSSIBLE SOLUTION

[The Administration's proposed solution cannot and should not be determined until after the summit.]

Develop a broad forest management strategy that complies with existing laws.

Include proposals to deal with economic impact on individuals and communities.

Maximize actions that can be done administratively.

Structure legislative proposals to make it easy for Congress to sign on.

Consider interim legislative action to allow progress while administrative plan proceeds to finality.

Try to obtain Congressional action before August recess.

POSSIBLE SCENARIO
FOREST SUMMIT

PRE-SUMMIT

Presidential Announcement. Within the next few days, President Clinton announces a summit to take place in the Pacific Northwest in the near future.¹ In doing so, he fulfills a campaign promise -- to bring all the participants together to focus on the problem. Shortly before the announcement, the Administration consults with key Members of Congress and with Governors from the Northwest.

In his announcement, the President talks about the complexity of the issues, the importance of resolving them, and demonstrates that importance by saying that he and the relevant Cabinet members will be there to hear the testimony and that he will personally be involved in the resolution. He says that he wants to hear all points of view and that he will be contacting all interested parties to recommend possible participants.

The President indicates that the summit is the first step in a process intended to develop the information necessary to develop a single, coordinated strategy for dealing with the issues. He indicates that the effort will be directed out of the White House by the Office on Environmental Policy.

The President designates the Secretaries of Interior, Agriculture, and Labor to lead a working group to develop the summit and coordinate development of the Administration's plan for addressing the issues. He emphasizes that he does not know the answers.

Outreach to Elected Officials. Because of the impact that this process could have on elected officials from the northwest, extensive discussions are had with federal and state officials both prior to and following the announcement, including discussions about the role that state officials would play in the summit process. Key Members of Congress are invited to attend as part of the official delegation (but not to speak at the conference).

¹A question that must be resolved at the outset is whether the summit will address west-side forests only or whether east-side forests will be included. We presume the summit will be limited to west-side forests, since east-side forests present somewhat different issues and different constituents (e.g., Idaho).

Outreach to Interest Groups (industry, labor, environmental organizations, and county/community groups) would continue both before and after the announcement. Immediately after the announcement interest groups are invited to suggest names of possible speakers and to make any other recommendations they wish about the summit. Follow-up contacts are made as appropriate.

Agency Action. The Secretaries of Interior and Agriculture, in conjunction with the White House Office on Environmental Policy, tell their agencies that the time for finger-pointing is over, that they are to work together to resolve their differences, and that the ultimate objective, following the input from the summit, is a single Administration plan. They are to begin work now -- not to have an answer before the summit but to do the necessary spadework. Input is requested from Commerce and EPA. The Department of Labor, with assistance from Agriculture and the Economic Development Administration, starts developing information on the economic issues involved and possible forms of worker and community assistance and job retraining.

Summit Planning. (An interagency coordinating committee (including representatives of the White House Office on Environmental Policy, Interior, Agriculture, Labor, Commerce, EPA, OMB, and the Council of Economic Advisors) is formed to oversee summit planning, and working groups are established to deal with specific areas. (Within a week, the Office on Environmental Policy would issue comprehensive timelines and organizational materials concerning the summit planning process.)

Pre-Summit Press Coverage. Following the Presidential announcement, press releases and briefings would be focused on the following:

- possible stories that raise awareness of (1) the quality of scientific evidence that already exists and (2) the greatly accelerated cut rates of the 1980s that turned this problem into a crisis situation;
- possible actions that would indicate, especially to timber and labor interests, that the playing field will be level -- such as noting items in the economic package that directly affect the northwest (rural community development banks, investment tax credits, reforestation projects, job retraining, rural enterprise zones);
- another possibility for leveling the playing field would be to have the Vice President meet with economically distressed timber families who are coming to Washington in March;
- possible visits to the Northwest by Cabinet members prior to the summit;

- small -- but real -- stories so that the press will not spend its energies guessing about what is going on;

- continued emphasis of the overall objective -- development of a sensible forest (and watershed) management plan that provides for conservation needs while also making timber available now; and

- background papers distributed close in time to the event.

In terms of tactics: use could be made of satellite time to bring Cabinet members to Pacific northwest news programs; we can work with editorial boards, place op-eds, make Secretarial trips to the region, hold briefings for DC-based western reporters, etc. Some written materials should be developed by the time the summit is announced.

SUMMIT

Day One. The relevant Cabinet members (Interior, Agriculture, and Labor), plus the Vice President, are divided into three teams that make site visits. (Possibly the President might also wish to be involved in one or more site visits.) One team goes to Washington, one to Oregon, and one to northern California. Each includes at least one environmental event, one industry/labor event, and a community (i.e., people) event -- for example:

- old growth forest visit, talk with private economists, visit to a timber community, and visit to the home of a family adversely affected by reduced timber harvests;

- visit to salmon recovery site, flyover of forests in various stages of development, visit to timber mill, and visit to classrooms at local elementary school;

- visits to site that is using new forestry techniques and to reforestation project, conversations with union representatives, visits to job retraining program and informal conversations with people at local coffee shop.

Purpose: to demonstrate the complexity of the issues, intent to see the situation first-hand, and to hear all points of view.

Day Two. Summit conference in Portland, Oregon, possibly with satellite hook-up to sites in Washington and California, with some presenters (and possibly a Cabinet member) at each location. President Clinton presides and asks questions. Key Members of Congress attend as special guests. (A range of alternatives will be examined to determine the most appropriate format for the presentations.)

In all likelihood, part of the time would be devoted to education -- background information on the history of forest management in the area, technology changes, mill operations, employment, the economies of the area, the economic impact on communities of reduced cut rates, development of industrial base outside of timber, recreation, tourism, and other uses of old growth areas. Because most facts related to these issues are controversial, some presenters might be academics, or more than one spokesman might address the same facts.

The majority of the time would be spent listening to a broad range of witnesses -- industry (timber companies and mills), environmental groups, unions, individual workers, county representatives, state elected officials, members of Congress (if they desire to participate), job retraining spokesperson, tribal representative, midwestern manufacturer dependent on timber for its products, representative of southern timber industry, etc. Speakers would reflect geographic diversity (i.e., all relevant parts of the Northwest) and diversity in terms of national, regional and local interests.

It is likely that approximately 25 to 30 presenters could be accommodated (average 10 minutes each, including questions). The presenters could rotate up to the table in groups. In addition to the presenters, there could be official "observers" (representatives of groups who are invited to watch only) and "special guests" (politicians and others who rotate to the table), as well as an audience.

The President, Vice President, and Cabinet members would be there to listen and to ask questions -- questions that would demonstrate their openmindedness and their interest in all aspects of the debate.

Thought will have to be given to the fact that demonstrations and rallies are likely to take place around the summit.

CONCLUSION OF SUMMIT

At the conclusion, the President would:

- summarize what is at stake,
- re-cap meeting highlights,
- reaffirm that this is the beginning of a process and not the end,
- establish a vehicle for further input from the public and from interested groups,

- announce that the hearing record will be kept open for two weeks and that written comments are welcome,
- announce that further steps will be taken to obtain input from the public and from interest groups,
- announce a plan of action, and
- announce a timetable for implementation of the action plan.

The President would make clear that the Administration intends to base its decisions on the best available scientific and other information. Sources will not be limited to those at the agencies. A vehicle would be established for doing this (possibly task forces), as well as a tight deadline (30 days).

The President would announce that based on the information already collected and that submitted through the 30-day process, the Administration would put together a coordinated plan for dealing with the issues. The plan is to be completed within 90 days of the conclusion of the summit.

As part of the plan, the Secretaries of Interior and Agriculture will coordinate development of a proposal for managing the northwest forests. The proposal will include short-term and long-term components, and it will address both administrative actions and any related proposed legislation. The proposal would comply with existing environmental laws to preserve species and habitat; it would also bring timber back into production at sustainable levels.

The Administration's proposed package would also cover labor assistance, rural development, and economic diversification. The Secretary of Labor, in conjunction with the Secretary of Agriculture and the Economic Development Administration, would develop appropriate worker and community assistance programs.

As part of the outreach effort, the President could name an ombudsperson (preferably from the region) to act as a conduit for further input from interested parties.

POST-SUMMIT

Outreach. Continuing input should be received from interested parties and follow-up actions should be taken with respect to the different constituencies to retain support and credibility.

The task forces or other entities established for fact gathering would work intensively during the month following the summit.

-- Are administrative measures available
that would allow logging on Federal
lands soon?
while comprehensive pgm being developed?

One option that should be explored is whether working groups (either industry/environmental groups or groups of scientific experts) operating under short time deadlines (30-45 days) might be able to narrow the range of controversy in specific areas. Possible topics could include:

- Is there any recent scientific data that is not already being considered by Interior and Agriculture in connection with the northern spotted owl?
- If some form of interim protection is to be given to marbled murrelet nesting habitat while additional study is done, can any agreement be reached on how to go about that?
- What kinds of economic assistance would be needed and available for northwest timber communities?

The Interagency Process. The agencies would have 90 days to collect information and develop a plan -- administrative and legislative -- with Interior and Agriculture taking the lead on biological aspects and land-use planning aspects, and with Labor, Agriculture and the Economic Development Administration responsible for analyzing the economic impact and making recommendations on job retraining, worker assistance, community assistance, and rural development. The plan should be designed to comply with existing statutory requirements, but the door could be left open to recommending statutory changes if that is considered desirable.

An interagency effort would be needed, both at the highest policy level and at the senior career staff level. With respect to the forest management plan (as distinguished from the economic assistance components), representatives of the Secretaries of Interior and Agriculture would establish and direct the team effort. Early comparisons of alternatives would be done. Once rough alternatives are selected, they would be thoroughly defined, in terms of interim resource protection (to be sure they include the latest science such as the FS/SAT) and in terms of possible timber volume to be made available.

Planning should include agreed-upon (internal) milestones and there will need to be regular working group meetings to anticipate major milestones and assess progress.

Post-Summit Press Activity. Planning should take into account possibilities for additional announcements. There should be a fairly continuous flow of items designed to sustain interest in the subject and to indicate that movement is occurring. One example is that at the conclusion of the conference or afterward, the President could announce the release of some section 318 sales that were being held up -- indicating the availability of timber this year.

POSSIBLE SOLUTION

Forest Management Program. The current conflict in the Pacific northwest (Washington, Oregon and northern California) is primarily a result of the past failure of federal land management agencies to properly follow the environmental laws. Exacerbating the problem is the lack of coordination among the land management agencies. The new Administration has a unique opportunity to change past practices and to put in place a forest management program that is environmentally sound, economically sensitive, and allows the land management agencies to work together instead of apart.

The precise content of that program -- and answers to questions such as what changes in forest management are needed, how much land might be set aside, and how much timber will be offered for sale -- are matters that should not be determined until after the summit.

Economic Assistance. In addition to the forest management proposal prepared by Interior and Agriculture, an important part of the Administration package would be assistance to individuals and communities (possibly including diversification assistance) adversely affected by timber harvest reductions. It is expected that development of this part of the package would be coordinated by the Secretaries of Labor and Agriculture and by the Economic Development Administrator at Commerce.

environmental, health, and safety protection. The Bush NAFTA also completely fails to address several important concerns. Therefore, the topics listed below are areas where a NAFTA protocol must rectify present NAFTA omissions or ambiguities.

A. CLEAN-UP NEEDS:

Despite the fact that the several border agreements between the NAFTA parties have been considered separate from the present NAFTA, we do not believe that NAFTA should go forward until enforceable commitments have been made to clean up the border regions. -- Estimates for the U.S.-Mexico border clean-up range from \$ 5 to 15 billion. The U.S.-Canada border also suffers from trade induced problems.

B. FUNDING:

Throughout the three countries, a secure source of funding for proper infrastructure development, environmental enforcement, increased investigation, and clean-up is vital. Because national appropriations processes do not provide a secure source of funding, we believe that designated funding sources, based on fairness and the "polluter pays" principle, must be developed as a prerequisite to implementation of NAFTA.

Ideas that deserve attention include: a) "snap-back" tariffs applied to sectors with lax enforcement of existing standards, b) a small transaction fee on all goods and services that could be phased out over a specified number of years, c) a directed "green" fee, d) an environmental countervailing duty on economic activity that is environmentally unsustainably or below standard, e) "earmarked" tariffs, which could be phased out during the first 10-15 years of NAFTA, and f) development of a "green investment bank," which could utilize established trust funds to leverage additional money through bond proposals. Regardless of which funding scheme(s) is eventually utilized, we believe it is imperative to channel such funds back into environmental infrastructure improvements, enforcement, worker transition programs, and funding of the NACE itself.

C. INTERNATIONAL AND DOMESTIC PRODUCTION/PROCESS (PPM) STANDARDS:

Trade law must recognize that how a product is produced is just as important as the quality of the product itself. Although Article XX of the General Agreement on Tariffs and Trade (GATT), provides for health and natural resource conservation exceptions, these provisions have been clouded by recent GATT panel decisions. In addition, Article 14 of the GATT Standards Code permits dispute settlement whenever technical requirements are

stated in terms of production processes or methods. Without explicit clarification, NAFTA will repeat the mistake of GATT panels and the Dunkel draft by incorporating unacceptable provisions or interpretations of GATT (e.g., Article 103, NAFTA). The NACE Commission could also provide a schedule for periodic reviews of production methods, sector by sector.

Ironically, Mexico was the country that brought the GATT complaint against the U.S. and the Marine Mammal Protection Act (MMPA). During Congressional consideration of the International Dolphin Conservation Act in 1992, the Mexican government agreed to join the U.S. in enacting a global moratorium on the setting of nets on dolphins by tuna fishermen by March 1, 1994. Although the bill was signed in November 1992, the Mexican government has thus far failed to honor its side of agreement. Mexico's action is merely reinforcing skepticism about their government's commitment to environmental improvement. See IDCA, P.L. 102-523. In fact, we believe that the NAFTA protocol should require binding enforceable commitments to enact the global moratorium from acceding countries.

D. U.S. STANDARDS GENERALLY

As is implied by various other sections of this letter, U.S. environmental, health, or safety standards should in no way be weakened by NAFTA or any other trade agreement. The Waxman-Gephardt H.R. Resolution 246, passed unanimously by the House on August 6, 1992, states that "Congress will not approve legislation to implement any trade agreement (including the Uruguay Round of GATT and NAFTA) if such agreement jeopardizes U.S. health, safety, labor, and environmental standards." 102d Cong. 2d Session, 138 CONG. REC. H7698. See also Trade Act of 1974, as amended, 19 U.S.C. Section 2504 ("No provision of any trade agreement approved by Congress nor the application of any such provision to any person or circumstance, which is conflict with any statute of the U.S. shall be given effect under the laws of the U.S").

E. MEXICAN AND CANADIAN STANDARDS:

A formal trading relationship between countries with significantly different environmental standards possesses predictable tensions. On the one hand, a country with high standards does not want its environmental quality or economic competitiveness to suffer as a result of weak (or non-existent) standards elsewhere. On the other hand, a country with lower standards does not want its sovereignty infringed upon by other countries. All standards should presumptively rise to the highest tri-national standard, unless compelling reasons exist otherwise. "Upward harmonization" could occur through NACE or through the standards committees established by NAFTA Articles 764 and 913. If the latter option was selected, these standards committees could be directly

linked to NACE enforcement mechanisms.

F. INVESTMENT:

Although Article 1114 of the existing NAFTA recognizes "that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures," it does nothing to actually prevent such an occurrence. In plain terms, Mexico must not become a "pollution haven" for unscrupulous investors. While we recognize that Mexico is concerned about sovereignty infringement, we note that Mexican officials have publicly stated that only "clean" technology will be utilized for new capital investments inside their country; thus, Mexico should be open to safeguards on this issue. Furthermore, Congress and the President frequently apply limitations to investment in countries for important national security reasons. In short, we want to make "polluters pay" so that U.S. economic interests subject to tough U.S. environmental standards are not injured by dirty, and hence subsidized, foreign investment.

G. INTERNATIONAL AGREEMENTS:

At present, only three international environmental agreements clearly "prevail" if there is a conflict with NAFTA: CITES, the Montreal Protocol, and the Basel Convention. The Bush Administration's defense to this limit was that only these three agreements possess direct trade implications. Not only is this assertion false, but the logic behind the argument is also needlessly narrow. We strongly believe that the U.S. must possess the ability to implement and enforce any international agreement by imposing trade restrictions, if such restrictions are the only way to effectuate complete compliance with the agreement in question. Therefore, we believe all international agreements should be referenced in the protocol and added to Article 104, as soon as all three parties are signatories to such an agreement. In addition, a protocol must secure the right for any NAFTA party to appropriately enforce and implement any international agreement to which it is a signatory.

Furthermore, we propose that the 1942 Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere be revitalized and specifically linked to NAFTA so that acceding countries to NAFTA make specific accommodations to habitat protection within their borders. The U.S., with its present system of public land protection, already satisfies the provisions of this Convention.

H. ENERGY:

We are concerned about Chapter 6's energy and basic petrochemicals provisions. Article 601.2 states that one of the goals

of NAFTA is to "strengthen the important role that trade in energy and basic petrochemical goods play." Furthermore, Chapter 6 allows continuation of existing or future subsidies for oil and gas exploration. While these subsidies may be a way to lessen extra-continental dependence upon petroleum products, the NAFTA must address efforts to reduce the continent's dependence upon fossil fuels, and allow for government sponsored programs to research and encourage the use of renewable energy sources. One solution might be for the U.S. to aggressively seek a protocol to UNCED's global climate change convention, with timetables for reduction of greenhouse emissions.

I. AGRICULTURE:

Without adequate monitoring and infrastructure assistance, NAFTA could threaten many farm programs on this continent and jeopardize the movement toward sustainable agriculture. The dismantlement of import restrictions, as well as pressure upon legitimate food-safety standards, should not be a catalyst for centralized agriculture, based exclusively on agricultural exports and without regard to the relationship between producer and consumer.

J. IMPACT ON STATE AND LOCAL LAWS:

Because states and localities are not parties to NAFTA, they cannot directly defend their standards under Chapter 7 or 9. Although the federal government is allowed to set standards it deems "appropriate," states and localities do not explicitly possess this right, and are thus dependent upon the federal government for defense. Furthermore, NAFTA Article 105 states "All parties shall ensure that all necessary measures are taken in order to give effect to the provisions of this agreement ... by state and local governments." This situation might present a problem for a state like California, which often has standards more stringent than the federal government. Although we would like the sub-federal problem to be addressed in the protocol, U.S. implementing legislation could also prohibit the federal government from lowering state or local standards.

K. THE "NECESSARY" TEST AND OTHER PROBLEMATIC NAFTA LANGUAGE:

Like many other NAFTA provisions, Chapter 21's environmental "exceptions" incorporate GATT terminology and jurisprudence. Unfortunately, recent GATT panel decisions have interpreted the term "necessary to protect human, animal or plant life or health" as requiring "necessary" measures to be "least-GATT" or "least-trade" restrictive. Under this standard, many present federal and state trade measures could be found to be NAFTA-illegal, from bans on the trade in elephant ivory to state recycling mandates.

In addition, such standards have had a chilling effect on new legislation that attempts to incorporate appropriate trade restrictions as an enforcement mechanism.

The environmental exceptions in NAFTA, therefore, need to be both clarified and strengthened by incorporating the "precautionary principle" found in the Biodiversity Convention, as well as the listing provisions of CITES that directs the parties to err on the side of caution when what is "necessary" from an environmental perspective is unclear. See also NAFTA Article 754.1.

Also potentially problematic is NAFTA Article 903, which could be read to incorporate GATT provisions and jurisprudence in a way that diminishes this country's ability to protect environmental resources. Furthermore, Annex 2004's allowance to seek dispute settlement if a party feels "any benefit it could reasonably have expected to accrue it ... is being nullified or impaired" practically invites attack upon U.S. environmental standards. Similarly, the "based on" language of Articles 754, 755, 757, and 905 could needlessly threatens U.S. laws like the Delaney anti-cancer clause in the federal Food, Drug and Cosmetic Act, which bans the addition of any amount of cancer inducing substances; a clarifying standard should be adopted in the protocol that protects all U.S. environmental and health standards, so long as they are not arbitrary or disguised trade barriers.

L. SUSTAINABLE DEVELOPMENT:

While we laud the goal of "sustainable development" in the Preamble, we would like to see the promotion of sustainable development binding, and appear in Article 102's Objectives. The question of whether practices are sustainable, as well consistent with current standards, should also be raised and answered in NACE reports. If determinations of non-sustainability are made by NACE, alternative programs should be suggested to the violating party. By truly integrating the concept of sustainability into the NAFTA environmental protocol, the NAFTA parties will not only acknowledge that trade has profound impacts upon the environment, but also that these impacts need not and should not be negative.

III. THE NORTH AMERICAN COMMISSION ON THE ENVIRONMENT (NACE):

We support a NACE that will possess investigative, monitoring, and enforcement powers for all present and future parties of NAFTA, as well as a mechanism for meaningful public participation. A vibrant NACE would not only seize the tremendous opportunity to bring significant environmental and health bene-

fits to this continent, but would also identify and address degrading activities that create unfair competitive advantages or result in trade distortions. All activities of the NACE described will be public, except where stated otherwise.

STRUCTURE OF THE NACE:

1. NACE Commission:

The Commission will be ultimately responsible for all functions of the NACE. Each NAFTA party will select a NACE Commissioner who will possess authority to effectively implement NACE policies and perform NACE functions. In order to prevent a break-down in NACE's decision making process, a majority rather than consensus will be the operative voting norm. The U.S. NACE Commissioner, equipped with a staff, should be selected by the President with Senate confirmation.

2. NACE Secretariat:

A permanent Secretariat must also be created in order to realize NACE's substantial mandate. Thus, we recommend establishing a head of the Secretariat (Secretary General). The Secretary General, with staff, should possess responsibility for implementing NAFTA's environmental, health and safety provisions of the NAFTA package, though national courts would retain concurrent jurisdiction to enforce appropriate standards in their own courts. The Secretariat should also be responsible for submitting an annual public report to the parties on its various duties.

3. Roster of Dispute Panelists:

The Commission will establish a roster of environmental, health, and safety experts with appropriate trade background for dispute resolution under NACE.

4. NACE Public Advisory Committee:

A Public Advisory Committee will be formed, made up of four representatives from each country and one representative selected by the Secretariat. The four U.S. representatives should be picked by the President, and must include at least two individuals from non-profit environmental, health, and safety groups with appropriate trade expertise.

FUNCTIONS OF THE NACE:

1. Dispute settlement:

Disputes may be brought by NAFTA parties or the public

involving environmental, health, or safety issues before the Commission. The Commission shall determine which cases shall be directly referred to a NACE dispute panel. In cases where the Commission declines a matter, the Public Advisory Committee will possess authority to compel the dispute resolution under NACE.

The NACE dispute settlement procedure will be the mechanism for NAFTA environmental, health, and safety enforcement. NACE will only enforce a party's own standards. If a dispute panel verifies a complaint by a party or individual, then that party or individual will be entitled to pursue the "snap-back" tariff provisions of NAFTA's Chapter 8 through the complainant's domestic trade agency. If a dispute panel determines that a party or individual has suffered an environmental, health, or safety injury as a result of lax enforcement in another country, yet no trade injury exists, then NACE will possess the authority to levy a fine upon the violating entity. Mechanisms should be developed to enable monies collected through the dispute process to be used for environmental compliance.

The Public Advisory Committee will also possess authority to bring complaints to NACE directly. Implementing legislation must also specifically acknowledge the right of U.S. citizens and groups to sue in federal court to invoke trade measures or other appropriate sanctions for violation of U.S. standards.

2. Investigation:

The NACE must possess authority to investigate environmental, health, and safety matters in all NAFTA countries. The NACE can commence an investigation on its own or the Public Advisory Committee.

3. Monitoring:

The Secretariat, in cooperation with the NACE Commissioners, will also possess authority to monitor the condition of the NAFTA parties' general environment. Consequently, the Secretariat will possess the authority to obtain information from the NAFTA parties' government and the general public.

4. NAFTA Amendments and Accession:

Because of the significant impacts that either NAFTA amendments or accession would have upon the environment, the NACE Commission should make recommendations to the parties on these matters. Any new party to the NAFTA must accede to the whole NAFTA package and must submit a report to the NACE on its environmental, health, and safety protection schemes, as well as the enforcement of those protections.

5. Cooperative efforts:

The NACE will promote cooperative efforts among NAFTA parties relating to trade and its environment, health, and safety implications for technology transfer, technical assistance, training, and education programs.

We appreciate the opportunity to brief you on these matters and look forward to working with you over the coming months and years. We hope that the protocol outlined in this letter is merely the beginning of a larger process to incorporate sound environmental oversight into the NAFTA process. Please do not hesitate to contact us if you have any questions.

Sincerely

cc: The Honorable Bill Clinton
The Honorable Al Gore
The Honorable Bruce Babbitt
The Honorable Carol Browner
The Honorable Mike Espy
The Honorable Ron Brown
The Honorable Warren Christopher
The Honorable Tim Wirth
The Honorable George Mitchell
The Honorable Max Baucus
The Honorable Daniel Moynihan
The Honorable Sam Gibbons
The Honorable Gerry Studds
The Honorable Richard Gephardt
The Honorable Dan Rostenkowski
The Honorable Ron Wyden
The Honorable Henry Waxman

E (KIKI) DE LA GARZA, TEXAS,
CHAIRMAN

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GARY CONNIT, CALIFORNIA
COLLIN C. PETERSON, MINNESOTA
CALVIN M. DUGLEY, CALIFORNIA
MICHAEL J. KOPETEK, OREGON

U.S. House of Representatives Committee on Agriculture

Room 1301, Longworth House Office Building

Washington, DC 20515-6001

Date: 4/13

TELEFAX TO:

Katie / Monday

FROM:

Tim C.

Committee on Agriculture
U.S. House of Representatives
1301 Longworth House Office Building
Washington, D.C. 20515

Telephone: (202) 225-1495 Fax: (202) 225-4369

This transmission, including this cover sheet, totals
_____ pages. If you have difficulty with this transmission,
please call us at once.

NOTES:

Dwyer
Deer?

copy for Mark.
Done 4/14

TOM COLEMAN, MISSOURI,
RANKING MINORITY MEMBER

RON MARLENE, MONTANA
LARRY J. ROY, KENTUCKY
PAT ROBERTS, KANSAS
BILL EMERSON, MISSOURI
SID MORRISON, WASHINGTON
STEVE SANDERSON, WISCONSIN
TOM LEWIS, FLORIDA
ROBERT F. (BOB) SMITH, OREGON
LARRY COMBEST, TEXAS
WALLY HERBERT, OLAHOMA
JAMES T. WALSH, NEW YORK
DAVE CAMP, MICHIGAN
WAYNE ALLARD, COLORADO
BILL BARNETT, NEBRASKA
JIM NUSSLE, IOWA
JOHN A. ROEMER, OHIO
THOMAS W. EWING, ILLINOIS

DIANNE POWELL
STAFF DIRECTOR
VERNIE HUBERT,
CHIEF COUNSEL AND
LEGISLATIVE DIRECTOR
DENNIS E. LAMBERT
MINORITY STAFF DIRECTOR

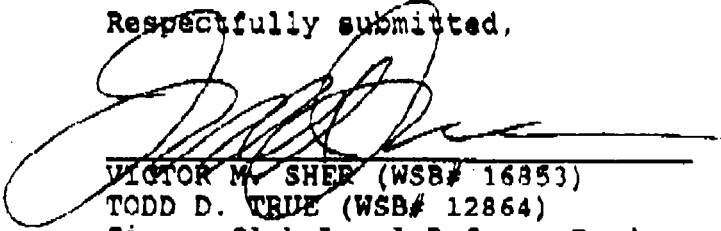
TELEFAX NO.
(202) 225-6010

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13 DATED this 8th day of April, 1993.

14 Respectfully submitted,

15 
16 VICTOR M. SHER (WSB# 16853)
17 TODD D. TRUE (WSB# 12864)
18 Sierra Club Legal Defense Fund
19 705 Second Avenue, Suite 203
20 Seattle, WA 98104-1711
21 (206) 343-7340

22 Attorneys for Plaintiffs

23 417EXPED.REP
24
25
26
27

SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

April 13, 1993

MEMORANDUM

TO: KATIE/MARLA

FROM: JIM LYONS

SUBJ: JUDGE DWYER RULING RE: SPOTTED OWL CASE

According to Kevin Kirchner of the Sierra Club Legal Defense Fund, the plaintiffs in the Dwyer case, Judge Dwyer issued an order last night stating that the Forest Service must request an extension by April 22 if they desire one. In addition, to receive the extension, the agency must provide documents requested by the plaintiffs regarding what has been done to date (the last 8 months) to demonstrate that they have been attempting to respond to Dwyer. The plaintiffs concern is that the agency is up to "business as usual" and simply trying to increase the likelihood of another "train wreck".

The reason for this action, according to Kirchner, was that the plaintiffs were disturbed with the Forest Service's response to Dwyer in March -- i.e., we need more time -- was interpreted to mean business as usual.

A copy of the court order is attached.

On an unrelated note, the Forest Service will issue a proposed rule tomorrow to implement reg's for a new appeals process. This has been a contentious issue for years. The enviro's are unhappy with several elements of the reg, including the fact that the comment period has been limited to 15 days. We can fix that -- extend the period for comment -- but the enviros will likely take this as another insult from their "friends".

Attachment

FAX COVER SHEET

Sierra Club Legal Defense Fund
1531 P Street, N.W.
Suite 200
Washington, D.C. 20005
202-667-4500
202-667-2356 (FAX)

TO: Jim Lyons

FROM: Kevin Kirohner

FAX #: 225-4369

OF PAGES: 10

DATE: April 13, 1993

If there are any problems with this FAX, please contact Kevin, Susan or Chris at 202-667-4500.

CONTENTS:

Here is Judge Dwyer's order issued last night regarding the Forest Service's cryptic indication that they want more time to put a new plan together. I've also included our notion asking to find out what the FS has and hasn't been doing for the last 6 months.

APR-13-'93 20:23 ID: S C L D F D C

TEL NO: 14156276740PPP

#753 P02

APR-12-'93 16:04 ID: SIERRA CLUB LEGAL NW TEL NO: 12063437340

#382 P02

APR 12 1993

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APR 12 1993

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE AUDUBON SOCIETY, et al.,

Plaintiffs,

v.

JAMES R. MOSELEY, et al.,

Defendants.

and

WASHINGTON CONTRACT LOGGERS
ASSOCIATION, et al.,Defendants
Intervenors.

NO. C92-479WD

ORDER ON SEATTLE
AUDUBON SOCIETY'S MOTION
FOR LEAVE TO CONDUCT
EXPEDITED DISCOVERY

Plaintiff Seattle Audubon Society ("SAS") has moved for leave to take limited discovery in response to a statement in the March 19, 1993, injunction compliance report filed by defendants James R. Moseley, et al. ("Forest Service"). The statement (Dkt. # 227) is to the effect that the Forest Service believes it will not be able to comply with the injunction requiring it to have a northern spotted owl management plan in place, in compliance with

ORD ON SAS'S MTN FOR LV TO
CONDUCT EXPEDITED DISCOVERY - 1

NO 72
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TEL NO:14156276740PPP

#753 P03
#382 P03

APR-12-'93 16:08 ID:SIERRA CLUB LEGAL NW

TEL NO:12063437340

1 the applicable laws, by August 20, 1993. See Seattle Audubon
2 Society v. Mosaley, 798 F. Supp. 1494 (W.D. Wash. 1992). The
3 proposed discovery consists of two requests for production of
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5 Hutchins, officials of the Forest Service.

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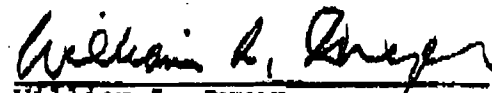
19 The Forest Service's statement that it cannot comply with the
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May 6, 1993. The motion will be noted for May 7, 1993. Ruling is
deferred on SAS's motion for deposition discovery.

APR-13-93 20:25 ID: 6 C L D F D C TEL NO: 14156276742888
FAX: 1-2-55 18:03 PLS STERNE CLUB LEWEL NW TEL NO: 12063437348#753 P04
#352 P04

1 The clerk is directed to send copies of this order to all
2 counsel of record.

3 Dated: April 12, 1993.

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5 
6 William L. Dwyer
7 United States District Judge
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AO 72
(Rev. 8/82)ORD ON SAS'S MTN FOR LV TO
CONDUCT EXPEDITED DISCOVERY - 3

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APR-08-'93 12:09 IF:1301A CLUB LEGAL NO

TEL NO:1206343734A

#357 P02

VICTOR M. SNER (WSB# 16853)
 TODD D. TRUE (WSB# 12864)
 Sierra Club Legal Defense Fund, Inc.
 705 Second Avenue, Suite 203
 Seattle, WA 98104-1711
 (206) 343-7340

Judge Dwyer

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

SEATTLE AUDUBON SOCIETY, et al.,

Civ. No. C92-479-WD

Plaintiffs,

SAS' REPLY IN SUPPORT OF
MOTION FOR LEAVE TO CONDUCT
EXPEDITED DISCOVERY

v.

JAMES R. MOSELEY, et al.,

Defendants.

More than seven months have passed since the Court ordered the Forest Service to prepare an adequate EIS in this case. The government has said it intends to do so. But, so far, the Forest Service has not published a draft EIS or otherwise completed any of the tasks required by NEPA, despite its publication on October 22, 1992, of a Federal Register notice in which the agency both stated that it would omit the NEPA scoping process (thereby saving time), 57 Fed. Reg. 48200-01 (Oct. 22, 1992), and stated:

A Draft Supplemental Environmental Impact Statement is expected to be available for agency and public review by February 1993 and a Final Supplemental Environmental Impact Statement should be available by July 1993.

Id.

It is now April. Rather than follow its own Federal Register notice, the agency apparently has spent the last seven

SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
 CONDUCT EXPEDITED DISCOVERY

- 1 -

APR-13-'93 20:26 ID:5 C L D F D C

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APR-08-'93 12:10 ID:91ERRA CLUB LEGAL NW

TEL NO:12063437340

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1 months writing a "confidential" "in-house" review of the Court's
2 orders in this case -- the recently released Scientific Analysis
3 Team ("SAT") report, see SAT Report at 97 -- which the Chief of
4 the Forest Service has explicitly said does not represent the
5 agency's position or policy, see Exh. A to Stahl Reply
6 Declaration (filed herewith), and which the October Federal
7 Register notice never even mentions. Once again, "without
8 notice, hearing, . . . or other rule-making procedures," SAS v.
9 Evans, 771 F.Supp. 1081, 1086 (W.D. Wa. 1991), the Forest Service
10 appears to have abandoned its legal and Court-ordered duties in
11 favor of charting its own unauthorized course.

12 In short, the Forest Service today is no closer to complying
13 with the law than it was seven months or even seven years ago.
14 SAS and the Court are entitled to know why the agency has done so
15 little. Accordingly, SAS seeks, by its motion for leave to
16 conduct expedited discovery, answers to the following questions,
17 among others:

- 18 1) Why did the Forest Service choose to prepare the SAT
19 report instead of the EIS required by the Court's
20 orders?
- 21 2) What was the Forest Service EIS team (which the agency
22 says it has formed) doing while the SAT report was
23 being prepared?
- 24 3) Was there any reason the authors of the SAT report,
25 with or without the EIS team's assistance, could not
26 have concurrently prepared a draft EIS?

27
SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

- 2 -

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- 4) Why did the Forest Service even write the SAT report, which was not required by any statute or court order?
- 5) Why couldn't a draft EIS have set forth exactly the analysis the SAT report contains?
- 6) Does the Forest Service intend to offer additional timber outside of spotted owl habitat if, as a result of its delays, the volume of timber under contract is depleted?
- 7) Is the Forest Service itself seeking changes to the environmental laws in order to avoid complying with the Court's orders?
- 8) What resources will it take to get the Forest Service to meet the Court's schedule?

Fundamentally, SAS and the Court are entitled to know now -- and in detail -- what steps required by NEPA the Forest Service has taken to comply with the Court's orders. To date, the agency has produced only its SAT report -- a non-NEPA document^{1/} that was not subject to any public or open scientific review. In fact, the SAT report is not even available to most of the public.^{2/} SAS is at a loss to understand why the Forest Service

1/ As the Chief of the Forest Service explained in a memorandum to the SAT, the SAT "is not the start of a NEPA process, but rather an in-house review of the Judge's order in regards to the adopted conservation strategy." SAT report at 27.

2/ To date, the only means of obtaining the SAT report that SAS is aware of is by purchasing a copy from a Seattle-area printer, a fact that has not been publicly announced. NEPA documents, by contrast, must be made available to the public, generally without charge. See 40 C.F.R. § 1505.6.

SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

- 3 -

APR-13-'93 20:27 ID: SCLDF D C

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APR-08-'93 12:11 ID: SIERRA CLUB LEGAL NW

TEL NO: 12063437348

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1 chose to prepare a document not required by the Court in lieu of
2 the legally required EIS.² Only expedited discovery now can
3 provide timely answers to these and other questions.

4 Rather than respond to SAS' discovery requests and provide
5 answers to SAS, the Court, and the public, the Forest Service
6 asserts that any inquiry into its compliance with the Court's
7 injunction and scheduling orders constitutes "an outrageous
8 intrusion into the executive process." FS Brief at 3. In some
9 far different setting a note of indignation might be appropriate,
10 but under the circumstances and history of this case, the Forest
11 Service is in a very poor position to defend an executive process
12 that has taken every possible wrong turn year after year.

13 Contrary to the Service's claims, SAS does not assert that
14 the President's involvement in issues of forest management "will
15 serve to delay the resolution of this controversy" FS
16 Brief at 3. Representatives of the plaintiffs and counsel
17 attended the Forest Conference, discussed the government's
18 actions with the President, and heard the President's remarks
19 regarding his commitment to the environmental laws. See Exh. B
20 to Stahl Reply Dec. (filed herewith). Based on these comments,
21 SAS is confident that the President wants both a quick and a
22

23 2/ Whatever the nature or status of the SAT Report, SAS stands
24 by its earlier statement that discovery will show this report was
25 completed on the schedule initially set by the Forest Service.
26 See FS Brief at 2-3 (attacking SAS' statements regarding the
27 completion of the SAT Report). Accordingly, any alleged delay in
the Report did not occur because of the SAT team's work and hence
can provide no excuse for an extension of the Court's compliance
schedule.

SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

- 4 -

1 legal resolution of the issues in this case. That's precisely
2 what the Court's schedule now requires.

3 However, SAS is not so confident that the Forest Service
4 shares the President's commitment. The Forest Service enjoys a
5 long tradition of independence from the White House.⁴ Nor is
6 the Service a disinterested bystander in the outcome of this case
7 -- it has a real, financial stake. See generally, O'Toole, R.,
8 1988, Reforming the Forest Service (Island Press 1988)
9 (bureaucratic budget maximization best explanation for Forest
10 service behavior); see also Exh. C to Stahl Decl. (article
11 reporting budget cuts on Siuslaw National Forest due to reduced
12 timber sales). To the extent the "initiatives" the Forest
13 Service is anticipating, FS Brief at 3, would relieve it from
14 protecting viable populations of wildlife on the lands it
15 manages, the service would "profit" by being able to sell more
16 timber. *Id.*

17 Moreover, the Forest Service still refuses to state even
18 when it will ask for a modified schedule. All we know is that
19 the agency intends "to examine factors relevant to the extra time
20 that will be needed in light of what transpires at the Forest
21 Conference and initiatives that arise out of the conference . .
22 ." FS Brief at 4. However, nothing happened at the Forest
23

24 4/ See, e.g., Robinson, G.O., 1975, The Forest Service, A Study
25 in Public Land Management, John Hopkins University Press
26 ("Although the Forest Service is formally responsible to the
27 secretary and the assistant secretary of agriculture, in practice
the service has traditionally functioned as a largely autonomous,
independent agency." at 21).

SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

APR-13-'93 20:28 ID:SCLD E D C

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APR-28-'93 12:12 ID:SIERRA CLUB LEGAL NW

TEL NO:12063437340

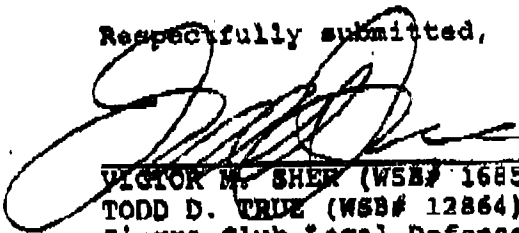
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22 Attorneys for Plaintiffs

23 417EXPED.REP

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- 6 -

FAX COVER SHEET

**Sierra Club Legal Defense Fund
1531 P Street, N.W.
Suite 200
Washington, D.C. 20005
202-667-4500
202-667-2356 (FAX)**

TO: Katie McGinty, David Cottingham

FROM: Kevin Kirchner

FAX #: 456-2710

OF PAGES: 10

DATE: April 13, 1993

If there are any problems with this FAX, please contact Kevin, Susan or Chris at 202-667-4500.

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SIERRA CLUB
LEGAL DEFENSE FUND

APR 12 1993

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APR 12 1993

 AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON
 BY _____ DEPUTY

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 AT SEATTLE

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 ORD ON SAS'S MTN FOR LV TO
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237

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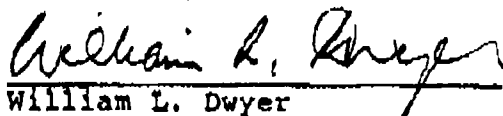
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The clerk is directed to send copies of this order to all
counsel of record.

Dated: April 12, 1993.



William L. Dwyer
United States District Judge

1 VICTOR M. SHER (WSB# 16853)
2 TODD D. TRUE (WSB# 12864)
3 Sierra Club Legal Defense Fund, Inc.
4 705 Second Avenue, Suite 203
5 Seattle, WA 98104-1711
6 (206) 343-7340

Judge Dwyer

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

7 SEATTLE AUDUBON SOCIETY, et al.,	)	Civ. No. C92-479-WD
8 Plaintiffs,	)	
9 v.	)	SAS' REPLY IN SUPPORT OF
10 JAMES R. MOSELEY, et al.,	)	MOTION FOR LEAVE TO CONDUCT
11 Defendants.	)	EXPEDITED DISCOVERY
12	)	

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20 stated that it would omit the NEPA scoping process (thereby
21 saving time), 57 Fed. Reg. 48200-01 (Oct. 22, 1992), and stated:

22 A Draft Supplemental Environmental Impact Statement is
23 expected to be available for agency and public review by
24 February 1993 and a Final Supplemental Environmental Impact
25 Statement should be available by July 1993.

26 Id.

27 It is now April. Rather than follow its own Federal
Register notice, the agency apparently has spent the last seven

SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

1 months writing a "confidential" "in-house" review of the Court's
2 orders in this case -- the recently released Scientific Analysis
3 Team ("SAT") report, see SAT Report at 97 -- which the Chief of
4 the Forest Service has explicitly said does not represent the
5 agency's position or policy, see Exh. A to Stahl Reply
6 Declaration (filed herewith), and which the October Federal
7 Register notice never even mentions. Once again, "without
8 notice, hearing, . . . or other rule-making procedures," SAS v.
9 Evans, 771 F.Supp. 1081, 1086 (W.D. Wa. 1991), the Forest Service
10 appears to have abandoned its legal and Court-ordered duties in
11 favor of charting its own unauthorized course.

12 In short, the Forest Service today is no closer to complying
13 with the law than it was seven months or even seven years ago.
14 SAS and the Court are entitled to know why the agency has done so
15 little. Accordingly, SAS seeks, by its motion for leave to
16 conduct expedited discovery, answers to the following questions,
17 among others:

- 18 1) Why did the Forest Service choose to prepare the SAT
19 report instead of the EIS required by the Court's
20 orders?
- 21 2) What was the Forest Service EIS team (which the agency
22 says it has formed) doing while the SAT report was
23 being prepared?
- 24 3) Was there any reason the authors of the SAT report,
25 with or without the EIS team's assistance, could not
26 have concurrently prepared a draft EIS?

27
SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

1 4) Why did the Forest Service even write the SAT report,
2 which was not required by any statute or court order?

3 5) Why couldn't a draft EIS have set forth exactly the
4 analysis the SAT report contains?

5 6) Does the Forest Service intend to offer additional
6 timber outside of spotted owl habitat if, as a result
7 of its delays, the volume of timber under contract is
8 depleted?

9 7) Is the Forest Service itself seeking changes to the
10 environmental laws in order to avoid complying with the
11 Court's orders?

12 8) What resources will it take to get the Forest Service
13 to meet the Court's schedule?

14 Fundamentally, SAS and the Court are entitled to know now --
15 and in detail -- what steps required by NEPA the Forest Service
16 has taken to comply with the Court's orders. To date, the agency
17 has produced only its SAT report -- a non-NEPA document^{1/} that
18 was not subject to any public or open scientific review. In
19 fact, the SAT report is not even available to most of the
20 public.^{2/} SAS is at a loss to understand why the Forest Service

21
22 1/ As the Chief of the Forest Service explained in a memorandum
23 to the SAT, the SAT "is not the start of a NEPA process, but
24 rather an in-house review of the Judge's order in regards to the
adopted conservation strategy." SAT Report at 97.

25 2/ To date, the only means of obtaining the SAT report that SAS
26 is aware of is by purchasing a copy from a Seattle-area printer,
27 a fact that has not been publicly announced. NEPA documents, by
contrast, must be made available to the public, generally without
charge. See 40 C.F.R. § 1506.6.

SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

1 chose to prepare a document not required by the Court in lieu of
2 the legally required EIS.^{1/} Only expedited discovery now can
3 provide timely answers to these and other questions.

4 Rather than respond to SAS' discovery requests and provide
5 answers to SAS, the Court, and the public, the Forest Service
6 asserts that any inquiry into its compliance with the Court's
7 injunction and scheduling orders constitutes "an outrageous
8 intrusion into the executive process." FS Brief at 3. In some
9 far different setting a note of indignation might be appropriate,
10 but under the circumstances and history of this case, the Forest
11 Service is in a very poor position to defend an executive process
12 that has taken every possible wrong turn year after year.

13 Contrary to the Service's claims, SAS does not assert that
14 the President's involvement in issues of forest management "will
15 serve to delay the resolution of this controversy" FS
16 Brief at 3. Representatives of the plaintiffs and counsel
17 attended the Forest Conference, discussed the government's
18 actions with the President, and heard the President's remarks
19 regarding his commitment to the environmental laws. See Exh. B
20 to Stahl Reply Dec. (filed herewith). Based on these comments,
21 SAS is confident that the President wants both a quick and a

22
23 1/ Whatever the nature or status of the SAT Report, SAS stands
24 by its earlier statement that discovery will show this Report was
25 completed on the schedule initially set by the Forest Service.
26 See FS Brief at 2-3 (attacking SAS' statements regarding the
27 completion of the SAT Report). Accordingly, any alleged delay in
the Report did not occur because of the SAT team's work and hence
can provide no excuse for an extension of the Court's compliance
schedule.

SAS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO
CONDUCT EXPEDITED DISCOVERY

1 legal resolution of the issues in this case. That's precisely
2 what the Court's schedule now requires.

3 However, SAS is not so confident that the Forest Service
4 shares the President's commitment. The Forest Service enjoys a
5 long tradition of independence from the White House.^{4/} Nor is
6 the Service a disinterested bystander in the outcome of this case
7 -- it has a real, financial stake. See generally, O'Toole, R.,
8 1988, Reforming the Forest Service (Island Press 1988)
9 (bureaucratic budget maximization best explanation for Forest
10 Service behavior); see also Exh. C to Stahl Decl. (article
11 reporting budget cuts on Siuslaw National Forest due to reduced
12 timber sales). To the extent the "initiatives" the Forest
13 Service is anticipating, FS Brief at 3, would relieve it from
14 protecting viable populations of wildlife on the lands it
15 manages, the Service would "profit" by being able to sell more
16 timber. Id.

17 Moreover, the Forest Service still refuses to state even
18 when it will ask for a modified schedule. All we know is that
19 the agency intends "to examine factors relevant to the extra time
20 that will be needed in light of what transpires at the Forest
21 Conference and initiatives that arise out of the conference . .
22 ." FS Brief at 4. However, nothing happened at the Forest
23

24 4/ See, e.g., Robinson, G.O., 1975, The Forest Service, A Study
25 in Public Land Management, John Hopkins University Press
26 ("Although the Forest Service is formally responsible to the
27 secretary and the assistant secretary of agriculture, in practice
the service has traditionally functioned as a largely autonomous,
independent agency." at 21).