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Collection/Record Group: Clinton Presidential Records

Subgroup/Office of Origin: Council on Environmental Quality

Series/Staff Member: Kathleen (Katie) McGinty

Subseries:

OA/ID Number: 4300

FolderID:

Folder Title:
Forest Conference-Lumber Prices

Stack:	Row:	Section:	Shelf:	Position:
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MEETING WITH TENNESSEE ASSOCIATION OF HOMEBUILDERS

Friday May 20, 1994 5:15 - 5:30 PM

EVENT

You will be meeting with James Fisher of the Tennessee Association of Homebuilders. He is interested in discussing the impact of federal forest policy on lumber prices and housing affordability.

POLITICS

The Homebuilders are engaged in what we suspect is a nationwide campaign of pinning the rise in lumber prices on the President's forest plan -- and thereby building opposition among contractors, homeowners and the industry generally to our efforts in the northwest. Their information is knowingly false insofar as they state that the primary reason for rising prices is the President's plan. You should be somewhat sharp with them about this, because they will probably be pitching the "let's cooperate" approach while waging a major effort against us on the outside.

The National Association of Home Builders has been eagerly seeking a meeting with you, and the Tennessee group may use their "home court advantage" to try to set up such a meeting for the future. The national group has already met with Katie McGinty, and she has no objection to your meeting with them.

BACKGROUND

The NAHB has been vocal about recent rises in the cost of lumber used in homebuilding. They have also been critical of the Administration's Northwest forest plan, and its reduction of timber harvests. They have asserted a correlation between these timber sale reductions and the increase in lumber prices. This conclusion is completely unjustified.

In mid-February of this year, the Congressional Research Service (CRS) released a study examining the impact of federal timber sales in the Northwest on lumber prices and homebuilding activity. It found that, in the short run, the injunction on federal timber sales in the Northwest imposed by Judge Dwyer has produced price increases, although their impact was deemed to be small when compared to the impact of rises in housing starts associated with economic growth. As the Administration has worked to lift the injunctions, controversy and uncertainty about future harvests have caused prices to increase over the short term: "Finally, the national attention to Federal timber in the Pacific Northwest exceeds its importance in US wood supplies, and also contributes to speculative behavior to alleviate anticipated wood shortages." (CRS, 1994: CRS-11)

The composite lumber price index[1] has fluctuated between $510 and $295 since October 1992. The week of February 21, the composite price index was $474, identical to one year prior, and as of May 6th, the composite was down to $389. One can expect prices to settle to lower levels once Judge Dwyer lifts the injunction, and may fall farther once timber starts moving and management in the region is stabilized (thus alleviating much of the uncertainty causing price speculation and increases). However, it is important to emphasize that prices will not change substantially, regardless of events in the Northwest. According to the CRS study, the

[1] The composite price index is an indicator of the price of framing lumber, maintained by Random Lengths, Inc. of Eugene, OR.

overwhelmingly dominant factor in the rise in lumber prices is economic growth, **not** federal timber management in the Northwest. Some portion of the price fluctuation is due to normal, seasonal variations in housing starts and lumber demand. A 1992 import tariff of 6.5 percent on Canadian lumber has also contributed to the price increases, although NAFTA implementation could be expected to effect the eventual elimination of the tariff. Nearly 30 percent of US lumber demand is satisfied by Canadian supply.

Extrapolation from the CRS study indicates that timber harvested on federal forests in the Northwest can account for, at most, 0.5% of the cost of a new home (based on NAHB estimates that construction wood costs account for less than 5% of the cost of a new house,[2] and considering that federal timber from the Northwest accounts for about 10% of total timber demand). Given this relation, one could expect that **restrictions on timber sales within the range of the spotted owl could account for, at most, an increase of $500 in the price of a $100,000 home.** This amounts to an additional $3 per month assuming a 30 year mortgage at a conservative 8% interest rate.

Lumber prices are indeed higher than in the recessionary year of 1992. One effect of higher lumber prices, as mentioned in the CRS report, is an increase in the use of alternative building materials. While materials such as steel are produced from non-renewable resources, other materials such as composite wood products present the attractive alternative of both using less of the forest resource and stimulating employment in processing. Internalizing the true costs of lumber make such value-added products more competitive, conserving the resource and employing displaced timber workers.

Secretary Cisneros, in a recent letter to Secretary Babbitt, expressed his concern about the impact of restrictions of timber harvests on federal forests on the Administration's affordable housing agenda. He was worried by the news that lumber prices had reached all-time high levels at the end of last year. While lumber prices did reach these high levels last year *in inflated terms*, prices in real terms have yet to reach those attained in the 1970s. Furthermore, as indicated by the Random Lengths index, lumber prices have fallen by as much as 18% since February, 24% since the $510 high of the last week of 1993. The Secretary may be concerned by statements of the NAHB and others, indicating that recent price increases of $4000 to $5000 on a median new home.[3] While this may be the case, the causes behind the increase seem to lie in economic growth and increased housing starts (the number of housing starts grew by 72% in 1993[4]).

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[2] NAHB, Public Affairs Division, *Housing Backgrounder*, Washington, DC: January 1989, p. 24-25, cited in CRS, 1993.

[3] Testimony of Mr. Thomas N. Thompson, President, NAHB, before the House Banking, Finance and Urban Affairs Committee -- Subcommittee on Housing and Community Development, March 23, 1994.

[4] Testimony of Mr. David Lereah, Chief Economist, Mortgage Bankers Association of America, Washington, D.C, before the House Banking, Finance and Urban Affairs Committee -- Subcommittee on Housing and Community Development, March 23, 1994.

Congressional Research Service
The Library of Congress

To: White House Office of
Environmental Protection

Attn: Matt Zinn

The attached information is forwarded in response to your inquiry.

Sincerely,

Joseph E. Ross
Director

Re: Request for a copy of the report on lumber prices by Ross Gorte, dated 3/10/93

The report you cite is actually a memo -- a copy is attached. Mr. Gorte indicated that he is in the process of revising and updating this memo and turning it into a CRS Report. If you are interested in getting a copy of this report, Mr. Gorte suggested checking with him, at 707-7266, in about a month to see if it is done yet.

From: Anne Gillis
Tel: 707-8984

5-156a (rev 4/89)

CRS Congressional Research Service • The Library of Congress • Washington, D.C. 20540

MEMORANDUM March 10, 1993

SUBJECT : Lumber Prices

FROM : Ross W. Gorte
Economist and Natural Resource Specialist
Environment and Natural Resources Policy Division

The recent rise in domestic lumber prices has attracted attention. News stories have discussed the price rise, and have cited various interest groups claiming the price rise is due to protection of the threatened northern spotted owl on the Federal lands of western Washington and Oregon and northwestern California. Other groups have argued that the incipient economic recovery is the cause of the recent price rise.

This memorandum describes the price rise, numerically and graphically, as well as in words, and then examines the possible explanations for the price rise. The economic recovery is probably the major cause of the lumber price rise, but seasonal factors, the countervailing duty on Canadian lumber, and spotted owl protection on Federal lands have also contributed. Although the lumber price rise is substantial, existing evidence suggests that it will not significantly slow housing starts or the economic recovery.

LUMBER PRICES

The attached tables and figures show monthly lumber prices from January 1975 through February 1993. The prices shown in table 1 and figure 1 are the monthly weighted average for a variety of framing lumber sizes, grades, and species, calculated weekly by Random Lengths, Inc. (a lumber price reporting organization located in Eugene, OR). Table 1 and figure 1 show that framing lumber prices have risen substantially over the past two months. The February 1993 composite price of $445 per thousand board feet (MBF) of lumber is a record high, nearly 24 percent above the previous record -- January 1993. The lumber price increase from January to February is the largest -- in dollars ($85) and in percent (24%) -- over the past 18 years.

This memorandum was prepared in the Environment and Natural Resources Policy Division for distribution to more than one client.

Current prices can be misleading for making historical comparisons, because inflation raises all prices. Adjusting prices to a common price level is a standard economic practice for examining changes in real (deflated) prices. Real, deflated lumber prices are shown in table 2 and figure 2; these prices are the Random Lengths' framing lumber composite prices adjusted with the Consumer Price Index (CPI) to 1982-1984 average prices.[1] Table 2 and figure 2 again show that the January-February 1993 price increase is the largest -- in real dollars ($60) and in percent (24%) -- over the past 18 years. However, in real dollars, the February 1993 price is still substantially below the peak real price of $402 per MBF in August 1977. In fact, from August 1976 through October 1979, real composite framing lumber prices were mostly higher than the February 1993 price.

Even if real lumber prices are below record high levels, they have risen substantially over the past few months. Why? What has caused lumber prices to rise by more than 70 percent since October 1992? Some have suggested that spotted owl protection is to blame, but other assert that it is a normal response to renewed economic growth.

SPOTTED OWL PROTECTION

Protection of the northern spotted owl has substantially reduced timber sales by the Forest Service and the Bureau of Land Management (BLM) in the Pacific Northwest over the past several years. For example, in May 1991, the Forest Service was enjoined from selling timber in much of the area inhabited by spotted owls (commonly called the "owl region") until it had prepared a management plan and environmental impact statement for the species. In February 1992, the BLM was similarly enjoined from selling timber because of its failure to prepare environmental impact statements. Contrary to conventional wisdom, the litigation and injunctions have generally not been based on protection under the Endangered Species Act (ESA), but rather on unfulfilled requirements of the National Forest Management Act of 1976 (NFMA), the National Environmental Policy Act of 1969 (NEPA), and other laws.

The impact of spotted owl protection on Federal timber sales is uncertain. Estimates following the designation of critical habitat by the U.S. Fish and Wildlife Service suggest that future Federal timber programs in the owl region are likely to be near 2 billion board feet (BBF).[2] This is down from the record 5 BBF harvested annually from these Federal lands in the late 1980s; however, about half of this decline (1.5 BBF) was proposed in new land and resource

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[1]The February 1993 CPI is not yet available; the February 1993 real price for lumber was calculated assuming no change in the price level from January 1993 (*i.e.*, no inflation or deflation for the month).

[2]See: U.S. Library of Congress, Congressional Research Service. *Economic Impacts of Protecting Spotted Owls: A Comparison and Analysis of Existing Studies*. [by Ross W. Gorte.] CRS Report for Congress No. 92-922 ENR. Washington, DC: Dec. 7, 1992.

management plans for the national forests required by NFMA. Some of the decline in the NFMA management plans is likely due to owl protection, but such protection is only one of many factors affecting future Forest Service timber sale levels. That portion of the decline is not a result of protecting the spotted owl under the ESA; owl or no owl, Federal timber harvests in the owl region were likely to decline, and that decline had been predicted for decades.[3]

Federal timber sales are currently less than is likely under the designated critical habitat and spotted owl recovery plan. Both the Forest Service and the BLM are under court injunctions severely restricting timber sales until they complete the environmental statements required by the National Environmental Policy Act of 1969 (NEPA). The Forest Service presented a management plan and environmental impact statement to the court in March 1992, but the judge rejected the effort, arguing that the agency had failed to consider new data, indicating substantially faster owl populations declines that had been assumed, and concurrent actions, such as the ESA exemption requested by and partially granted to the BLM. For the BLM, the partial exemption from ESA for certain FY1991 timber sales was granted, but prohibited the agency from further timber sales until it had completed a new 10-year sale plan that was consistent with the recovery plan, and had received public comment and departmental approval on the plan. In any case, BLM sales were already enjoined based on the failure to comply with NEPA requirements.

How important is the Federal timber in the owl region? The Forest Service and BLM historically have provided about a third of the timber harvested in the owl region, and the owl region produces about 30 percent of the lumber manufactured in the United States. Thus, Federal timber in the owl region historically has provided about 10 percent of total domestic timber supplies. If the designated critical habitat and spotted owl recovery plan reduce Federal timber sales in the owl region by about half from historic levels (with other factors accounting for some additional declines), then spotted owl protection is reducing historic supplies by about 5 percent. Because demand for lumber is relatively inelastic, a 5-percent decline in supplies could increase lumber prices by about 10 percent, other things being equal. In addition, because Federal timber sales currently are lower than is likely under the designated critical habitat and the spotted owl recovery plan, at least until the agencies complete adequate environmental statements, spotted owl protection may have increased current lumber prices by more than 10 percent.

ECONOMIC CONDITIONS

Changes in economic conditions can also affect lumber prices. One change is the annual cycle of lumber price changes. The lumber prices shown in table 1 are, on average, 10 percent higher in January and February than in October and November. Lumber prices typically decline in autumn, at the end of the

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[3]See: V. Alaric Sample and Dennis C. LeMaster. *Assessing the Employment Impacts of Proposed Measures to Protect the Northern Spotted Owl.* Washington, DC: American Forestry Assoc., Forest Policy Center, 1992. 65 pp.

building season, and then rise in winter, in preparation for the new building season. Prices may jump in the summer, if construction is stronger than anticipated, such as in 1977, 1983, and 1991; alternatively, prices may decline, if construction is weaker than expected, such as in 1984, 1985, and 1990. Nonetheless, the seasonal pattern of lumber prices accounts for some of the recent rise in lumber prices.

A more significant factor is the typical lumber price rise in the recovery following a recession. For example, lumber prices in the first quarter of 1976 were more than 50 percent higher than prices had been in the first quarter of 1975, and 1976 average lumber prices were 32 percent above the 1975 average. Similarly, lumber prices in the first half of 1983 were 40 percent higher than prices had been in the first half of 1982, and 1983 average lumber prices were 31 percent above the 1982 average. This suggests that lumber prices will rise by at least 30 percent in an economic recovery.

Although the recent rise in housing starts is relatively modest, indications show that an economic recovery has begun. Thus, a 30-percent lumber price rise should not be surprising. Lumber prices in December 1992 and in January 1993 were 35 percent above prices in the preceding year, and February 1993 prices were 45 percent above February 1992 prices. The February price rise probably understates the effective rise, because February 1992 prices were inflated by fears of a countervailing duty on Canadian lumber, as discussed below.

INTERNATIONAL TRADE

In May 1992, the United States imposed a 6.51-percent countervailing duty on imports of most Canadian softwood lumber. Since Canada supplies nearly 30 percent of the lumber used in the United States, the countervailing duty probably raises U.S. lumber prices by an unknown amount (but certainly less than 6.5 percent).

The pattern of lumber prices during the investigation by the Department of Commerce, International Trade Administration (ITA), into Canadian practices also illustrates the effect of speculation and concerns about future supplies on the price of lumber. The ITA announced its investigation of Canadian softwood lumber imports in October 1991. The preliminary finding of Canadian subsidies to their lumber manufacturers was released in March 1992; the preliminary estimate found subsidies of 14.48 percent of lumber prices, and therefore the countervailing duty was initially set at 14.48 percent. The final finding was then issued in May, and estimated subsidies of 6.51 percent, and therefore the final countervailing duty was set at 6.51 percent.

Between October 1991, when the ITA announced its investigation, and March 1992, when the preliminary finding was released, lumber prices rose 46 percent. Even discounting for the 10-percent seasonal price rise, lumber prices increased by more than double the preliminary countervailing duty, despite Canadian lumber accounting for less than a third of U.S. lumber use. Thus, it

appears that U.S. lumber prices react strongly to fears about possible changes in domestic lumber supplies.

Another factor that could be contributing to demands on U.S. lumber is the potential economic recovery in Japan. Changes in the Japanese economy often follow changes in the U.S. economy by several months, and Japan has been in a recession. While the Japanese economy has not yet shown signs of a recovery, some exporters may be beginning to acquire exportable logs and lumber in anticipation of a recovery, and thus may be adding to the pressures on U.S. lumber prices.

CONCLUSIONS AND IMPLICATIONS

Lumber prices have risen by 70 percent in the past few months. February 1993 prices reached historic highs, although after adjusting for inflation, the prices are still substantially below real lumber prices of the late 1970s. Many factors have contributed to the recent price rise, but the economic recovery is probably the most significant cause, because lumber prices rose by more than 30 percent in the previous two recoveries, in 1983 and in 1976. Seasonal lumber demand also contributes about a 10 percent rise in prices. The recent 6.51-percent countervailing duty on Canadian lumber and the possible Japanese economic recovery may also be contributing to the recent rises in U.S. lumber prices. Finally, spotted owl protection on Federal lands is likely to raise prices by about 10 percent; this price rise could be considerably more in the short run, until the Forest Service and BLM have completed land management plans and environmental impact statements that the courts determine have adequately reflected the threatened status of spotted owls.

Some interests have warned that substantial lumber price rises might choke off the U.S. economic recovery. They argue that homebuilding is typically a major factor in an economic recovery, and that price rises for homebuilding supplies could dampen the demand for housing, and thus cause a recovery to falter. However, examining this possibility from two different angles suggests that this result is unlikely. First, history suggests that rising lumber prices are unlikely to constrain housing starts. Lumber prices rose by 73 percent between 1975 and 1978, while housing starts rose by 74 percent (from 1.16 million starts in 1975 to 2.02 million in 1978). Similarly, lumber prices rose by 31 percent between 1982 and 1983, while housing starts rose by 60 percent (from 1.06 million starts in 1982 to 1.70 million in 1983). Thus, rising lumber appear not to have, historically, dampened homebuilding activity.

The second angle is the likely effect of rising lumber prices on housing prices. According to the National Association of Homebuilders, construction wood -- lumber, plywood, trusses, interior trim, etc. -- accounted for less than 5 percent of the price of a house.[4] Thus, doubling the price of lumber raises the price of a house by only 5 percent -- $5,000 on a $100,000 house. On a 30-year

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[4]National Association of Homebuilders, Public Affairs Division. *Housing Backgrounder*. Washington, DC: Jan. 1989. pp. 24-25.

mortgage for a $100,000 house with a fixed interest rate of 9 percent, doubling the price of lumber increases mortgage payments by less than $40 per month. This increase is less than the impact of a 1-percentage point increase in the interest rate; increasing the interest rate from 9 percent to 10 percent, in this example, would increase the mortgage payments by slightly more than $40 per month. Since small changes in mortgage rates have a greater effect on home buyers than doubling lumber prices, it seems unlikely that changes in lumber prices can have a significant effect on housing demand.

Table 1. Random Lengths' Framing Lumber Composite Price
(prices in current dollars per thousand board feet)

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1975	$104	$115	$118	$142	$151	$140	$142	$140	$139	$132	$137	$150
1976	$162	$175	$172	$166	$162	$169	$177	$190	$189	$178	$186	$196
1977	$188	$189	$195	$191	$186	$194	$221	$246	$241	$214	$205	$218
1978	$224	$225	$226	$221	$232	$226	$230	$241	$237	$245	$243	$233
1979	$233	$241	$254	$248	$249	$250	$266	$291	$285	$270	$229	$216
1980	$219	$228	$199	$159	$184	$210	$218	$215	$193	$195	$209	$202
1981	$202	$200	$198	$215	$213	$211	$211	$194	$180	$170	$166	$177
1982	$171	$162	$168	$170	$166	$178	$174	$160	$159	$157	$175	$192
1983	$229	$223	$227	$229	$254	$262	$240	$202	$189	$200	$194	$209
1984	$213	$228	$233	$215	$192	$188	$183	$190	$180	$180	$184	$186
1985	$200	$193	$187	$193	$223	$223	$205	$184	$185	$179	$177	$183
1986	$188	$187	$226	$234	$218	$200	$198	$206	$211	$198	$205	$197
1987	$209	$232	$231	$229	$223	$239	$240	$246	$252	$222	$216	$224
1988	$226	$236	$231	$239	$228	$240	$240	$214	$215	$215	$224	$225
1989	$241	$242	$242	$244	$247	$252	$262	$240	$239	$236	$215	$221
1990	$230	$243	$251	$268	$248	$241	$236	$222	$213	$196	$197	$206
1991	$208	$204	$217	$234	$259	$302	$262	$225	$222	$220	$230	$237
1992	$266	$306	$321	$304	$282	$260	$254	$264	$277	$255	$290	$320
1993	$360	$445										

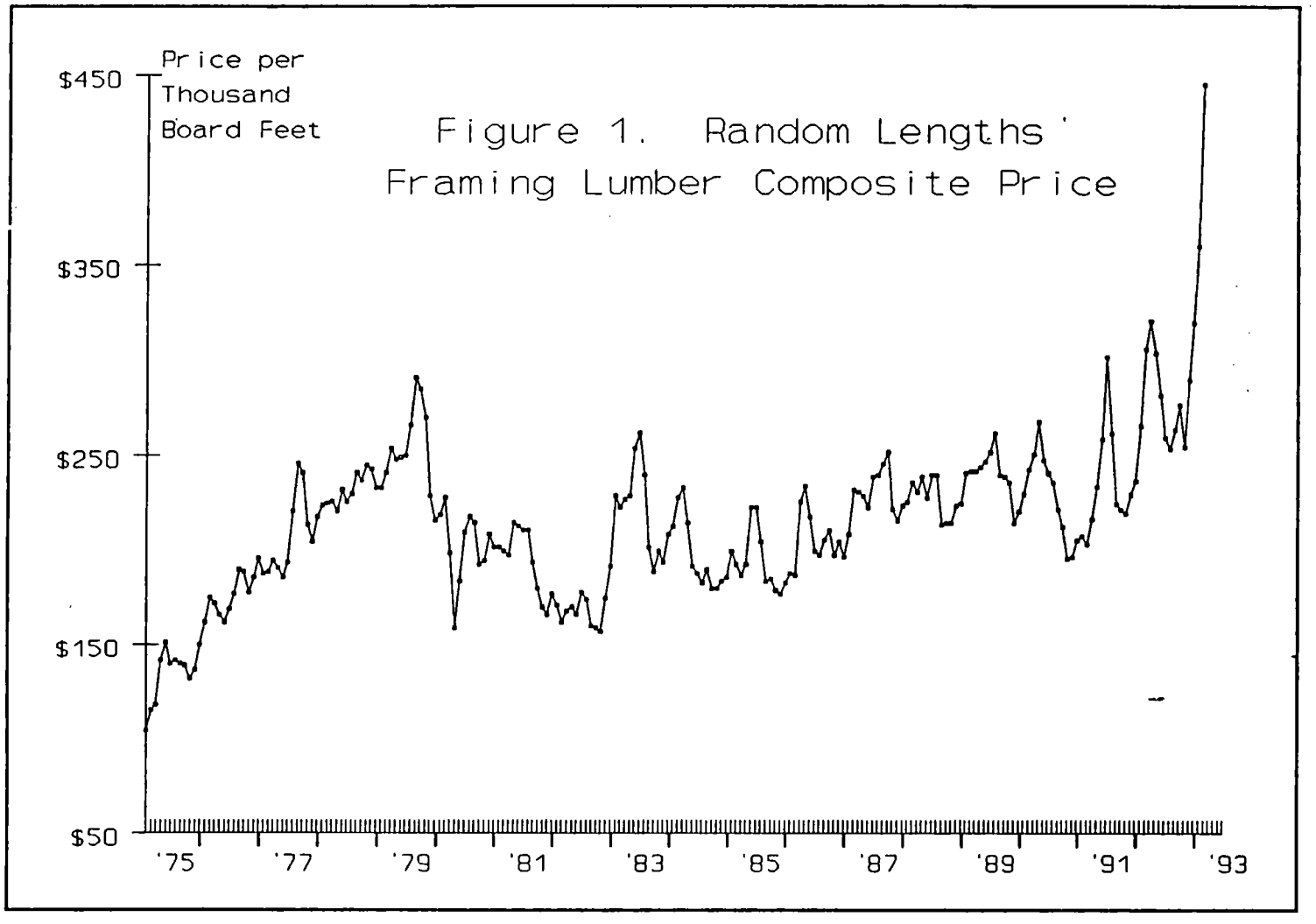

Figure 1. Random Lengths' Framing Lumber Composite Price

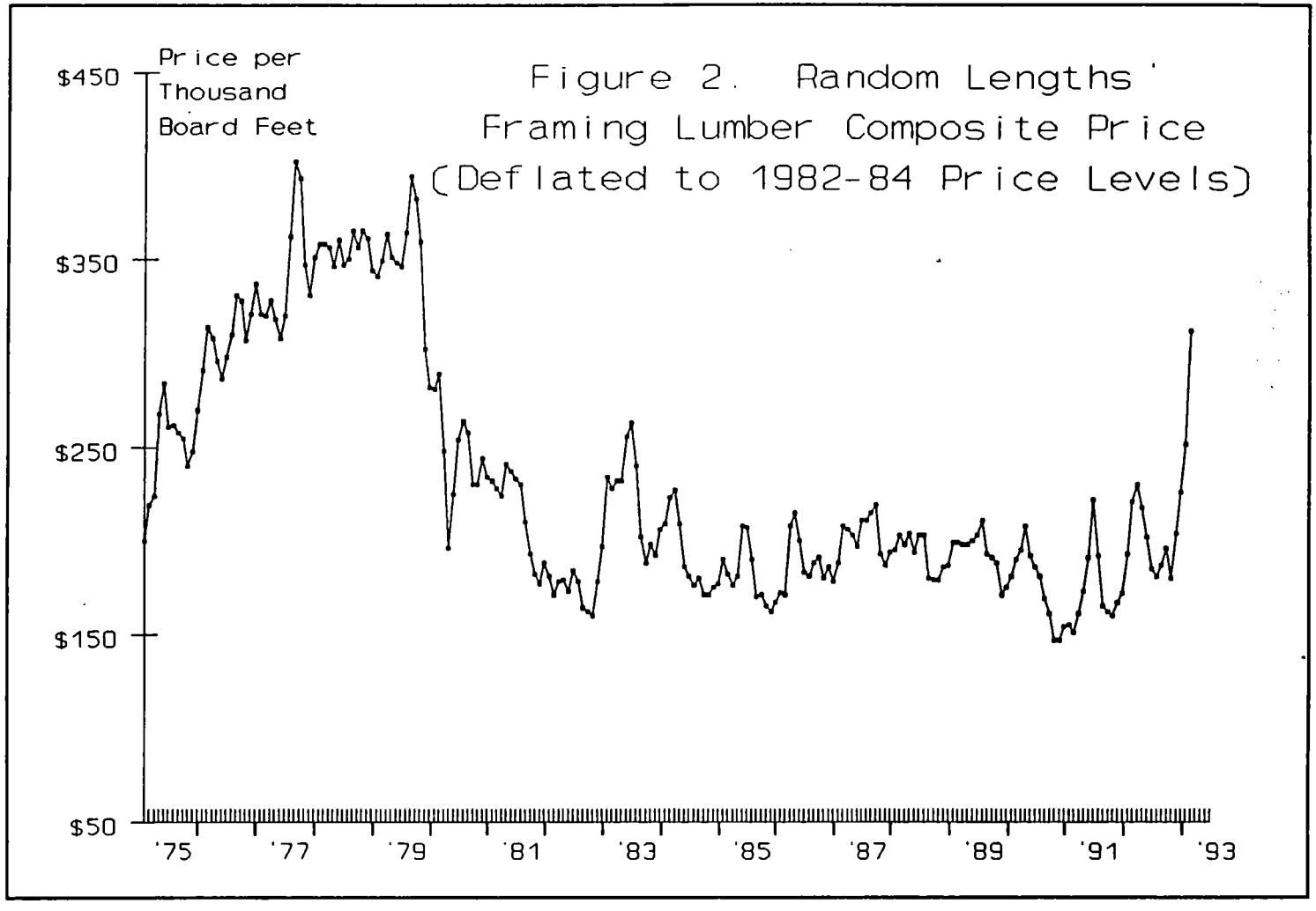
Figure 2. Random Lengths' Framing Lumber Composite Price (Deflated to 1982-84 Price Levels)
Price per Thousand Board Feet
$450
$350
$250
$150
$50
'75
'77
'79
'81
'83
'85
'87
'89
'91
'93

Table 2. Random Lengths' Framing Lumber Composite Price, Deflated
(prices in 1982-84 average dollars per thousand board feet)
(adjusted by the Consumer Price Index, 1982-1984=100)

	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1975	$200	$219	$224	$268	$284	$261	$262	$258	$255	$240	$248	$270
1976	$291	$314	$308	$296	$287	$298	$310	$331	$328	$307	$321	$337
1977	$321	$320	$328	$318	$308	$320	$362	$402	$393	$347	$331	$351
1978	$358	$358	$356	$346	$360	$347	$350	$365	$356	$365	$361	$344
1979	$341	$349	$363	$351	$348	$346	$364	$394	$382	$359	$302	$282
1980	$281	$289	$248	$196	$225	$254	$264	$258	$230	$230	$244	$234
1981	$232	$228	$224	$241	$237	$233	$230	$210	$193	$182	$177	$188
1982	$181	$171	$178	$179	$173	$184	$178	$164	$162	$160	$178	$197
1983	$234	$228	$232	$232	$256	$263	$240	$202	$188	$198	$192	$206
1984	$209	$223	$227	$209	$186	$181	$176	$180	$171	$171	$175	$177
1985	$190	$182	$176	$181	$208	$207	$190	$170	$171	$165	$162	$167
1986	$172	$171	$208	$215	$200	$183	$181	$188	$191	$180	$186	$178
1987	$188	$208	$206	$203	$197	$211	$211	$215	$219	$193	$187	$194
1988	$195	$203	$198	$204	$194	$203	$203	$180	$179	$179	$186	$187
1989	$199	$199	$198	$198	$200	$203	$211	$193	$191	$188	$171	$175
1990	$181	$190	$195	$208	$192	$186	$181	$169	$161	$147	$147	$154
1991	$155	$151	$161	$173	$191	$222	$192	$165	$162	$160	$167	$172
1992	$193	$221	$230	$218	$202	$185	$181	$187	$196	$180	$204	$226
1993	$252	$312										

MEMORANDUM TO WILL STELLE

FR: Matt Zinn

RE: Housebuilding Costs & Lumber Prices

DATE: 16 February, 1994

According to a study produced by Ross Gorte of the Congressional Research Service in March of 1993,[1] any conclusion indicating significant correlation of increased housing and lumber prices with lower harvest levels on federal forests in the owl range must be spurious. He found that at most, "spotted owl protection on Federal lands is likely to raise prices by about 10%." (Gorte, 1993: CRS-5) Economic recovery was found to have the greatest influence (>30%), followed by seasonal fluctuations (10%) and import tariffs on Canadian wood (<6.51%). As of February 1993, lumber prices in current dollars had reached a historical peak ($445/kbf),[2] although prices in real terms were still 22% below their historical high of 1977. The study did indicate that price increases might be more severe in the short term, given the injunction on harvests, which this administration is currently seeking to lift. Lumber prices were $449/kbf (also in current dollars) as of Friday, February 4, 1994, showing virtually no change from last year.

The study went further, dismissing claims that rises in lumber prices would affect housing starts, thus causing economic recovery to stall. Mr. Gorte found, based on National Association of Homebuilders (NAHB) figures,[3] that a doubling of lumber prices would increase the cost of a new house by less than five percent. Given this relation, one could expect that **restrictions on harvests in the range of the owl could account for, at most, an increase of 0.5% in the cost of a new house**, or $500 on a $100,000 home.[4] This figure directly contradicts the industry assertion that owl-caused increases in lumber prices have had large impacts on housing costs: "The lumber crisis is having a severe effect on housing affordability and on the whole economy..." (J. Roger Glunt, NAHB President, quoted in Nation's Building News, 12/20/93, p. 7). The CRS study compared rising lumber costs during economic recoveries to changes in housing starts, and found that housing starts had actually increased simultaneously with increases in lumber prices: "...rising lumber [prices] appear not to have, historically, dampened homebuilding activity." (Gorte, 1993: CRS-5)

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1 Ross Gorte, "Memorandum on Lumber Prices," Congressional Research Service, 2/10/93

2 This figure is a composite index of framing lumber costs, complied by Random Lengths, Inc. of Eugene, OR.

3 NAHB has indicated that lumber costs account for less than five percent of the total cost of a house. (NAHB, Housing Backgrounder, p. 24-25, cited in Gorte, 1993: CRS-5)

4 This amounts to an addition of just over $3 per month on a 30 year mortgage at a conservative 8% interest rate.

It is thus reasonable to conclude that:

1) reductions in timber harvests on owl forests will not significantly affect lumber prices following the lifting of the injunctions;

2) the minimal price increases attributable to owl protection measures have little effect on the costs of homebuilding, and therefore will not likely impact housing starts overall;

3) no significant impacts to overall economic recovery can be expected to follow from owl mitigation measures.

CQ's WASHINGTON ALERT 03/24/94

LUMBER PRICES & HOUSING AFFORDABILITY
(TESTIMONY 03/23/94; 1304 lines; House Banking, Finance and Urban Affairs Committee -- Subcommittee on Housing and Community Development) Item Key: 671

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LUMBER PRICES & HOUSING AFFORDABILITY House Banking, Finance and Urban Affairs Committee

Housing and Community Development Subcommittee (Chairman Gonzalez, D-Texas) held a hearing on lumber prices and how increases in lumber costs impact housing costs.

WITNESS LIST
HEARING ON
"Lumber Prices and Housing Affordability"
Wednesday, March 23, 1994
10:00 A.M. IN ROOM 128 RAYBURN HOUSE OFFICE BUILDING

Panel I:

Mr. Thomas N. Thompson, President, National Association of Home Builders, Washington, D.C.
Mr. David Lereah, Chief Economist, Mortgage Bankers Association of America, Washington, D.C.
Mr. Ted Swisher, Director, Sumter County Initiative, Habitat for Humanity International, Americus, Georgia

Panel II:

Professor Bruce R. Lippke, College of Forest Resources, University of Washington, Seattle, Washington
Mr. Alberto Goetzl, Consulting Forest Economist, American Forest and Paper Association, Washington, D.C.
Mr. Michael Fritz, President and CEO, Rugg Lumber Company, North Hampton, Massachusetts, on behalf of the National Lumber and Building Materials Dealers Association, Washington, D.C.

* * * * *

STATEMENT OF THE
NATIONAL ASSOCIATION OF HOME BUILDERS
BEFORE THE
SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
HEARING ON THE IMPACT OF LUMBER PRICES

APPENDIX--DATA ON WETLANDS

Wetlands data that are available are not well-suited to distinguishing the relative importance or functional values of various sites. If H.R. 1330 or any other legislation that calls for differentiating among wetlands is enacted, than there will be numerous practical questions over how to apply the legislative mandate on the ground. Potentially, there are many ways to differentiate the more valuable from the less.

The implementing agency will need to translate the legislative language into regulations, and the regulations will need to be further interpreted as practical guidelines that wetland delineators can apply on the ground. Problems over the past few years associated with delineating the exterior boundaries that separate wetlands from other lands have been well documented. Given these problems, it is hard to be optimistic that even the best experts will agree where lines should be drawn through or within wetlands to distinguish the more valuable portions from the less valuable. The possibility of compensation, should H.R. 1330 be enacted, will increase the pressure on the delineators. That pressure will demand that the rules be clear and precise.

Even if all parties have the best of intentions, several problems could be encountered. First, larger wetlands generally change by very fine degrees of gradation. Will the applicable variables be indicator plant species, depth and coverage of water, certain soil conditions, or some combination of two or even all of these factors? Once these factors have been articulated, how will they be determined at a site? Second, how will these factors be applied to the variety of wetlands, and to relative importance associated with specific functions because of location within a water system? For example, virtually identical wetlands at different locations in a single water system may have very different values because of the functions they perform for that system.

While there still would be difficulties in delineating within wetlands, the amount and quality of overall wetland data is improving rapidly. At the national level, the FWS is confident that the overall estimate of 104 million acres in the mid 1980s is accurate for the 48 coterminous States, citing a standard error of 3.3 percent.[9] Also, FWS's national mapping inventory continues and is now more than 70 percent complete (the entire survey is due in 1998). These data and mapping activities are based on the FWS wetlands definition as laid out in the 1979 *Classification of Wetlands and Deepwater Habitats of the United States*, not the regulatory definition under the section 404 program. Minimum size conventions and some variation between the definitions used in the two activities result in different acreage totals under the inventory and under the 404 program.

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[9] See table 3 in Status and Trends of Wetlands in the Coterminous United States, U.S. Department of the Interior, Fish and Wildlife Service, 1991, p. 9.

ON HOUSING AFFORDABILITY
MARCH 23,1994

Mr. Chairman, Members of the Subcommittee:

My name is Tommy Thompson, and I am a home builder from Owensboro, Kentucky. As this year's president of the 170,000 member firms of the National Association of Home Builders (NAHB), I sincerely appreciate the Subcommittee's interest in focusing on the impact that rising and fluctuating lumber prices are having on housing affordability, particularly as it impacts on low- and moderate-income families. Mr. Chairman, I want to thank you for calling this hearing. I would also like to recognize and personally thank Representative LaRocco for his efforts on this issue, and in helping schedule this important hearing.

Our statement today is about housing affordability -- the impact of lumber prices on young families seeking to purchase their first home. It is also about the impact of lumber prices on rents that low- and moderate-income families, many with single-head of households, face as the result of increased lumber prices. Finally, it is about the impact that these increased lumber prices have, or will have, on federal programs such as assistance to the homeless, the elderly, and those who are looking forward to increased homeownership opportunities -- indeed, even the National Homeownership Trust will assist fewer families as the result of increased lumber prices. While I would be pleased to respond to questions Members of the Subcommittee may have on the timber issue itself, our prepared statement does not focus on old-growth forests versus new growth forests. Neither does our statement focus on the Endangered Species Act or other federal policies that contribute to the drop in lumber supply. Instead, Mr. Chairman, I will limit my remarks to the affordability issue.

BACKGROUND

Housing is a critical component to the overall health of our nation's economy. This industry has led this nation out of every recession since World War II and is a leading component in this recovery. In fact, almost eighteen percent of the increase in Gross Domestic Product (GDP) over the last eight quarters is a result of renewed housing construction.

Overall, new home construction, remodeling, and repair of homes account for more than two-thirds of all lumber consumed in the United States each year. The cost of lumber and wood products account for one-third of the materials cost of a new home (the median new home is a two thousand square foot home costing $125,000). Given the fact that the typical new home contains 15,800 board feet of lumber and 6,300 square feet of structural panel, it is easy to see how volatility and price increases impact the market. Home builders depend on a steady and predictable supply of quality lumber at reasonable prices. When prices increase dramatically, or are unstable and unpredictable, our ability to provide affordable housing is hindered.

The volatility of wood product prices adds a unique dimension to the lumber price crisis that may result in even higher home prices. While the current price of lumber is $443 for 1000 board feet, at the end of 1993 prices had reached $510, setting an all-time high. Further increases are expected, and by late spring prices over the previous record are well within the realm of the possible. As does any commodity price fluctuation, this creates a speculative market condition. Builders being the middle

Attachment 2 to Testimony of John S. Banta, March 26, 1992

From the October 24, 1991 Statement of Langdon Marsh, Executive Deputy Commissioner of Environmental Conservation on behalf of the State of New York: Clean Water Act Reauthorization – Wetlands

5) Classification

Avoid establishing a simplistic national classification system for wetlands.

New York recognizes that regional grouping or categorization of wetlands can have some utility if it is properly linked to a regulatory program that maps and plans for managing wetlands in special areas. Grouping can link wetlands protection more clearly to wetlands functions and benefits and integrate wetlands into local land use planning. Local grouping or categorizations can consider site-specific or system-specific variables that contribute to wetlands values without loss of critical wetlands resources. National classification of wetlands cannot do that. Scientifically defensible classifications will require extensive evaluation and inventorying of federal wetlands. Thus, if nationwide classification is used as the basis for a federal regulatory program, it would exacerbate current complaints about delay, inefficiency and expense of the permitting process. The massive federal funding required to do nationwide classifications would be better spent improving the existing regulatory process. If the goal of classification is to exempt broad categories of wetlands nationwide, the result will be loss of critical wetlands resources. Exemptions for classes of so-called "lower quality" wetlands will fail to consider local needs and conditions, which translate into local wetlands benefits that, on a nationwide level, may not be significant.

6) Compensation

Do not provide public compensation at fair market value for regulation of certain wetlands.

Some legislative proposals require that compensation for a "taking" be automatically offered to owners whose property has received the highest classification of wetlands protection, whether or not the owner has been denied a permit for development. Establishing wetlands regulation as a de facto taking of private property requiring compensation to landowners overturns existing law, is not a legal necessity, and would likely result in loss of critical resources because it is unrealistic to expect the federal government or the states to pay acquisition costs in every case. Under federal and state case law, a taking does not occur unless it can be demonstrated that the landowner will enjoy less than a bare minimum of economic use of the land as a result of the regulation. Regulators may be unwilling to assign the highest classification to important sites if owner compensation is mandatory.

men, must anticipate their lumber costs, and quote prices for delivery without any price protection. This forces builders to price contracts at the highest recent lumber price in order to protect themselves from possible price fluctuations. Then, even if we can give the buyer the benefit of lower lumber prices at the time of delivery, the buyer must plan for finances, like qualifying for a mortgage and setting aside sufficient down payment, on the basis of the higher contract price.

Mr. Chairman today's price is 78% higher than it was in October of 1992, the point at which the market truly began to feel the impact of supply shortages, and prices began to increase substantially. It is 45% higher than it was on July 2, 1993, the day President Clinton released his Forest Plan. Most importantly, the increase in lumber prices since October of 1992 has caused the price of an average home to increase by between $4000 and $5000. This increase has been felt in every state of the Union, and while it is obviously higher in larger homes, it is in the smaller home market--the first time homebuyer market--where the housing consumer is more likely to be hurt. Indeed the impact of this phenomenon goes even farther, as increased costs will affect rental housing prices as well.

IMPACT ON HOME BUYERS

An increase of $4000 to $5000 in the purchase price of an average home forces 80,000 to 100,000 people out of the housing market. Those effected are not the move-up, middle- and upper-income home buyers. They are people who have built their savings to the point that they can afford a starter home in middle America. To these consumers, even the slightest price increase can mean the difference in realizing the dream of home ownership.

While the price increase in and of itself means a larger down payment requirement, and in some instances the resultant inability to qualify for financing, this crisis has created a novel situation. In many cases appraisers will not take increased lumber costs into account. This forces mortgage lenders to insist that the entire cost of the price increase be included in the down payment.

In essence then, the lumber price crisis has exaggerated both the down payment and financing qualification concerns that have long been the bane of first time home buyers. Furthermore, many families have price thresholds that they do not wish to exceed. Home buyers often do not approach the monthly debt burdens allowed by mortgage lenders because they want more disposable income for savings, for greater protection against unforeseen changes in income, or for other purchases. Households often choose not to deplete their cash reserves. Therefore, even if they pass a mortgage lender's requirements, the higher cost may exceed their personal limits thus removing them from the market.

It is important to note that the impact of the lumber price crisis is felt not just in the new home segment, but throughout the entire housing market. Indeed, a price increase for newly built homes influences some home buyers to purchase existing homes rather than new ones.

The increased demand puts upward pressure on the prices of existing housing. This results in higher prices for all homes and a consequent loss of sales. We estimate, based on the historical split of home sales, that of the anticipated 100,000 decline in sales, 75,000 will come from existing homes and 25,000 from new homes.

Table 2. State Wetland Data (1,000 acres)

State	Wetlands	20% of Total	Priority Acquisition List	# of Sites on List	List as % of State Total
Alabama	3,783.8	756.8	203.8	8 sites	5.4
Arizona	600.0	120.0	3.8	10 sites	.6
Arkansas	2,763.6	552.7	905.8	61 sites	32.8
California*	454.0	90.0	66.0	5 sites	14.5
Colorado	1,000.0	200.0	10.6	8 sites	1.1
Connecticut	172.5	35.0	9.3	21 sites	5.4
Delaware	223.0	44.6	18.6	16 sites	8.3
Florida*	11,038.3	2,207.7	623.9	48 sites	5.7
Georgia*	5,298.2	1,060.0	620.9	54 sites	11.7
Idaho*	385.7	71.7	7.0	4 sites	1.8
Illinois	1,254.5	250.9	76.9	12** sites	6.1
Indiana	750.6	150.1	28.8	4 sites	3.8
Iowa	421.9	84.4	13.6	5** sites	3.2
Kansas	435.4	87.1	7.0	7 sites	1.6
Kentucky*	300.0	60.0	60.8	7 sites	20.3
Louisiana	8,784.2	1,757.0	2,396.8	88 sites	27.3
Maine	5,199.2	1,039.8	114.8	71 sites	2.2
Maryland	440.0	88.1	44.9	46 sites	10.2
Massachusetts	588.5	117.7	44.8	26 sites	7.6
Michigan	5,583.4	1,116.7	7.0	3 sites	.1
Minnesota	8,700.0	1,740.0	59.5	6** sites	.7
Mississippi	4,067.0	813.4	299.3	72 sites	7.4
Missouri	643.0	128.6	77.1	11** sites	12.0
Montana	840.3	168.1	45.2	39 sites	5.4
Nebraska	1,905.5	381.1	181.8	6 sites	1.0
Nevada*	236.4	47.3	104.2	5 sites	44.1
New Hampshire	200.0	40.0	20.5	22 sites	10.3
New Jersey	916.0	183.2	110.4	34 sites	12.1

IMPACT ON RENTERS

Lumber and wood products constitute about 8 percent of the cost of producing a multifamily unit. Lumber is a slightly smaller component than in single family homes because multifamily units are smaller and have less exterior wall space. The same increases in the cost of lumber which would add $4000-$5000 to the cost of a single family home would add $1,600 to the cost of a multifamily unit. These increased production costs will naturally be offset by higher rent charges. We estimate that the $1600 in additional construction costs will ultimately increase monthly rents by $16 on the average apartment.

This estimated $16 per month increase will extend to all rental units, not just to new construction, as the cost of replacement and expansion of the rental stock drives up the value of the existing stock. A $16 increase in monthly rent means about 1 million more renters would be forced to pay more than the desirable 30 percent of their income for housing. Many renters are already stretching their limited budgets and even relatively small increases can have significant impacts on those with limited incomes.

IMPACT ON GOVERNMENT ASSISTED HOUSING

A corollary of the lumber price crisis is its impact on government assisted housing. The increased cost of producing rental housing will affect the number of units that can be subsidized through the Low Income Housing Tax Credit (LIHTC). Under the present per capita allocation system, NAHB estimates that the LIHTC is sufficient to produce about 50,000 new rental units and about the same number of rehabilitated units. As the cost of the unit increases, the number of units that can be assisted with a fixed amount of credit declines.

NAHB estimates that lumber price hikes experienced between October 1992 and now increase the cost of a LIHTC unit by $1,600. This cost increase means that the program would support about 4,000 fewer units.

The National Home Ownership Trust, which has a proposed FY 1995 appropriations of $560 million, could suffer even greater declines in activity than the Low Income Housing Tax Credit as home prices increase and more dollars are needed for every home buyer assisted. Under the Chairman's current funding proposal, the Trust could assist 140,000 first time home buyers with $4,000 in down-payment assistance. The lumber cost increases would completely eliminate the impact of the $4,000 assistance if the entire price impact were required in the down payment. If the home price increase could be entirely financed, then the home buyer's mortgage amount would increase by $4,000, and the home buyer would have to pay $28 per month more to support the increased mortgage amount. If an additional Trust grant were used to buy-down the interest rate to keep the mortgage payment the same as before the price increase, the cost of the buy down would add $2,500 or more to the cost of the grant. An increase of $2,500 in subsidy costs per home buyer would reduce the maximum number of Trust-assisted home purchases from 140,000 to 86,000.

ALTERNATIVES TO LUMBER

In the long term, NAHB believes that the continued rise in prices will lead to greater use of alternative materials. Indeed, NAHB, through its research center, is exploring alternative materials with a specific focus on the use of steel for framing. In fact, in our research park just outside of

APPENDIX--DATA ON WETLANDS

Wetlands data that are available are not well-suited to distinguishing the relative importance or functional values of various sites. If H.R. 1330 or any other legislation that calls for differentiating among wetlands is enacted, than there will be numerous practical questions over how to apply the legislative mandate on the ground. Potentially, there are many ways to differentiate the more valuable from the less.

The implementing agency will need to translate the legislative language into regulations, and the regulations will need to be further interpreted as practical guidelines that wetland delineators can apply on the ground. Problems over the past few years associated with delineating the exterior boundaries that separate wetlands from other lands have been well documented. Given these problems, it is hard to be optimistic that even the best experts will agree where lines should be drawn through or within wetlands to distinguish the more valuable portions from the less valuable. The possibility of compensation, should H.R. 1330 be enacted, will increase the pressure on the delineators. That pressure will demand that the rules be clear and precise.

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While there still would be difficulties in delineating within wetlands, the amount and quality of overall wetland data is improving rapidly. At the national level, the FWS is confident that the overall estimate of 104 million acres in the mid 1980s is accurate for the 48 coterminous States, citing a standard error of 3.3 percent.[9] Also, FWS's national mapping inventory continues and is now more than 70 percent complete (the entire survey is due in 1998). These data and mapping activities are based on the FWS wetlands definition as laid out in the 1979 *Classification of Wetlands and Deepwater Habitats of the United States*, not the regulatory definition under the section 404 program. Minimum size conventions and some variation between the definitions used in the two activities result in different acreage totals under the inventory and under the 404 program.

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[9] See table 3 in Status and Trends of Wetlands in the Coterminous United States, U.S. Department of the Interior, Fish and Wildlife Service, 1991, p. 9.

Washington we have constructed a home made entirely with steel studs. I would like to take this opportunity to invite you and any of your colleagues to visit this project.

However, in the short term, alternative materials are not a viable option. The capacity for a rapid transition to steel and other materials does not exist. At this time, alternative materials are simply not cost effective.

CONCLUSION

It is clear, Mr. Chairman, that the reverberations of this lumber price crisis are being felt throughout the housing industry. Indeed, our statement today is about its impact on young families and the elderly, on those with low incomes and those with moderate incomes. It is also about the ever-increasing regulatory barriers that continue to frustrate both the providers of affordable housing, and families seeking to gain access to it.

Thank you for the opportunity to appear before the Subcommittee today on this important issue, and I am pleased to respond to any questions you might have.

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STATEMENT OF David A. Lereah, PhD.
Chief Economist and Staff Vice President
of the MORTGAGE BANKERS ASSOCIATION OF AMERICA
before the
SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
of the COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
Hearings on
Lumber Prices and Housing Affordability
March 23, 1994

Mr. Chairman and Members of the Subcommittee, I am David Lereah, Chief Economist and Staff Vice President of the Mortgage Bankers Association of America (MBAA). Accompanying me today are Sharon Canavan, MBNs Deputy Legislative Counsel, and Burton C. Wood, MBA's Senior Staff Vice President.

MBA appreciates the opportunity to appear before you to testify with respect to the effect of lumber prices on housing affordability. I am here not as an expert on the lumber markets nor homebuilding, but as a spokesperson for an industry that is committed to extending the opportunities for homeownership as widely as possible. MBA is committed to developing and maintaining mortgage credit program that will enhance housing affordability for people at all points of the housing spectrum in this vein, MBA would like to express its views on the effects of recent erratic, upward movements in lumber prices on housing market activity and housing affordability.

Recent Lumber Market Conditions

intensive development, while more have relatively limited development potential, even if they are in a non-rural setting.[7]

The value of nonrural wetlands is affected by several factors. A wide variety of regulations and programs change development or use potential, and therefore value. The availability of Federal flood insurance, for example, may increase value, while State or local ordinances to protect wetlands, water quality, or other resources may decrease value. In a few locations, such as the Chesapeake Bay region where much of the surrounding land is classified as urban, the numerous programs to protect water quality and the Bay ecosystem have constrained opportunities for further modification of many wetland areas that bound the Bay and its tributaries.

For larger developments in which wetlands are a portion of the site, value may already have been transferred if the wetland serves as an open space or recreation portion of a larger project. In the Washington D.C. area, in planned communities like Columbia, MD. and in some of the more recent mega mixed-use projects, wetlands may be largely retained as a part of the larger project, while benefitting the greater watershed by reducing flood or nonpoint pollution.

Cost to the Federal Government

It is assumed that all land owners who have the opportunity to be compensated by the Federal Government would do so when offered this option.[8] For the landowner, there is virtually no down side to compensation, unless they believe that future growth will raise the value of the wetland. The operational

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[7] Data for the average value of an improved lot in urban areas is compiled by the Urban Land Institute using a sampling of selected cities. Based on past experience, the rule of thumb for estimating the value average of raw land in urban areas is 25 percent of the value of improved lots. Using these relationships, the estimated per acre value of raw land in urban areas ranges from a low of more than $10,000 to almost $55,000 for all but two States; in California the estimated value is $163,000 per acre (5 percent of the State is classified as urban), and in Massachusetts the estimated value is more than $98,000 (22.5 percent of the State is classified as urban). Some examples convey the magnitude of these values. In Connecticut, where 25 percent of the State is considered to be urban, the average estimated price for an unimproved acre of land within an urban area is $38,115. In Louisiana, where more than 3 percent of the State is classified as urban, the average value is almost $35,000.

[8] Acquisition under H.R. 1330 and from the priority list are alike in that transactions must involve a willing seller. This creates a problem, from a wetland protection standpoint, because sites that are ecologically most valuable or most threatened may not be made available by the owner. Further, if the landowner knows that the site is a high priority for Federal acquisition, he may conclude that he should be entitled to greater compensation, making negotiations more difficult.

According to most industry observers, current and impending supply restrictions are the primary factors impacting lumber price movements. After averaging about $200 per 1,000 board feet during the 1980s, the price of framing lumber, as measured by the Random Lengths composite, has exhibited erratic, upward movements. For example, lumber prices peaked at $506 on March 19, 1993; tumbled after the Timber Summit in April 1993; and then surged again after President Clinton announced his Forest plan.

Although the price of lumber, like any commodity, is determined by supply and demand, supply conditions appear to be dominating price movements in today's markets. There have been no meaningful changes (i.e., increases) in demand in recent years to substantiate recent sharp price movements. Although construction demand has been strengthening since the recession, lumber consumption, according to the American Forest and Paper Association, still has not approached 1987 levels.

MBA is the national association representing exclusively the real estate finance industry. Headquartered in Washington, D.C., the association works to ensure the continued strength of the Nation's residential and commercial real estate markets; to expand homeownership prospects through increased affordability; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters excellence and technical know- how among real estate finance professionals through a wide range of educational programs and technical publications. Its membership of over 2,800 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, life insurance companies and others in the mortgage lending field.

On the supply side, lumber production is generated from three areas--private timber land, lumber imports, and timber harvests from government land. Both private timber lands and imports exhibit numbers that would suggest slight downward pressure on prices. Private harvests have increased slightly during the past several years and imports (primarily from Canada) have increased since 1990. On the other hand, the supply of timber from Federal and state government lands has declined substantially during the past several years, exerting upward pressure on lumber prices. The harvest declines were primarily concentrated in the Northwest region of the United States where activities were restricted in an effort to protect the northern spotted owl. According to the U.S. Forest Service and the National Association of Home Builders (NAHB), mills are not operating at capacity and inventory levels of uncut timber are low. To make matters worse, because of court injunctions and other environmental constraints much of the timber still under contract cannot be harvested.

The upward, but erratic, price movements in lumber reflect not only the cutback in timber supply from federal and state lands, but from speculation about future supply due to the uncertainty surrounding federal court actions and other government policy changes. A prime example was when lumber prices climbed on President Clinton's announcement of his upcoming Forest Conference summit in March 1993, and then prices fell sharply after the Conference convened. Concern about future policy decisions have become disruptive to the markets, generating speculative bubbles in pricing that are inconsistent with the underlying forces of supply and demand for lumber. Eventually speculative bubbles burst, sending prices falling, only to come back up again.

State	Wetlands (1,000 acres)	Priority Acquisition List (1,000 acres)	Average Farmland Value ($1/acre)	Value of Rural Farmlands ($1,000)**	Value of Rural Wetlands ($1,000)***
New Jersey	916.0	110.4	3,805	420,072	315,054
New Mexico	482.0	15.3	175	2,678	2,009
New York	1,025.0	142.5	649	92,483	69,362
North Carolina	5,690.0	220.7	937	206,796	155,097
North Dakota	2,490.0	47.7	299	14,262	10,697
Ohio*	482.8	16.5	890	14,685	11,014
Oklahoma	947.7	174.4	400	69,760	52,320
Oregon	1,394.0	5.4	423	2,284	1,713
Pennsylvania	499.0	29.5	1,241	36,610	27,458
Rhode Island	65.2	8.2	3,771	30,922	23,192
South Carolina	4,659.0	315.2	687	216,542	162,407
South Dakota	1,780.0	83.7	276	23,101	17,326
Tennessee	787.0	104.3	718	74,887	56,165
Texas	7,612.4	639.5	422	269,869	202,402
Utah	558.0	558.9	314	175,495	131,620
Vermont	220.0	21.8	893	19,467	14,601
Virginia	1,074.6	273.8	1,082	296,252	222,189
Washington	938.0	19.2	616	11,827	8,870
West Virginia	102.0	18.8	425	7,990	5,993
Wisconsin*	5,311.4	23.6	511	12,060	9,045
Wyoming	1,250.0	94.1	126	11,857	8,893
Total of States	**104,374.3**	**8,975.7**			

Sources: Dahl, T.E. *Wetlands Losses in the United States: 1780s to 1980s*. U.S. Department of Interior, Fish and Wildlife Service. Washington 1990; *Agricultural Resources: Agricultural Land Values Markets Situation and Outlook Report*. U.S. Department of Agriculture, Economic Research Ser Washington 1991, AR-22, p.15.

*States listing sites with acreage unknown (Illinois: 5 sites, Iowa: 2 sites, Minnesota: 1 site, Miss 2 sites, Ohio: 1 site and Wisconsin: 4 sites). **January 1990. ***Rural wetlands are less valuable than ave farmland; therefore, the values derived are reduced by 25%.

Impact on Housing Activity

The dramatic rise in lumber prices during this past year has been disruptive for home builders. On a year-over-year basis, the price of lumber for both frame and structural panels rose by 54 percent and 8 percent, respectively. Frame prices surged to $492 per 1,000 board feet by year-end 1993 from a $320 price at year-end 1992, while structural panel prices rose to $374 in 1993 from a $345 price at the end of 1992. The annual price increases for 1993 translate into about $3,200 additional cost for an average new house.

In a competitive housing market, rising prices of new homes will eventually exert upward pressure on prices for existing homes. That is, as new home prices rise, the relative values of existing homes will increase, creating additional demand for existing homes which, in turn, raises existing home prices until the relative values of both existing and new homes are back in balance. Also the price of existing homes must be eventually affected by the cost of replacing those homes with new ones. However, because existing homes are not perfect substitutes for new homes in all cases, increases in existing home prices should be somewhat less than increases in new homes.

Did higher home prices due to higher lumber prices, noticeably impact housing market activity and the economy in 1993? During the year, falling interest rates probably more than offset the inhibitive impact of higher lumber prices on the housing sector. With 30 year mortgage rates falling to the lowest levels in over two decades, total housing starts grew by 72 percent in 1993, while existing and new home sales grew by 7.9 percent and 10.7 percent, respectively.

Going forward, a different story may unfold during 1994. Housing market activity is currently strong. The MBBA forecast calls for 10 percent growth in total housing starts for the year, while existing and new home sales are projected to register 7 percent and 8 percent growth rates, respectively. The projected pickup in residential construction activity could boost the demand for building materials including lumber during the year. Further, mortgage interest rates are climbing. According to MENs Weekly Application Survey, 30-year mortgage rates have risen by about three quarters of a percentage point (0.75 percent) since the beginning of the year and are currently hovering around 7.8 percent.

A projected boost in housing activity combined with rising mortgage rates is not a favorable backdrop for housing costs. In this environment, the effect of higher lumber prices on housing activity will no longer be shielded by the benefits of falling interest rates. Further, as the U.S. economy continues to post 3 to 3.5 percent GDP growth numbers and the unemployment rate dips below 6 percent, inflationary pressures may build, particularly towards the end of the year. In short, the impact of rising lumber prices on housing activity and the economy may end up being more harmful in 1994 than in 1993. Higher lumber prices would only serve to fuel the inflationary pressures that may build in the economy towards the end of the year. Further, with rising mortgage rates already increasing the cost of housing for potential home buyers, rising lumber prices are an unwelcome development.

Impact on Affordability

To reiterate an earlier point, MEBA is committed to seeking innovative solutions to ensure adequate supplies of affordable mortgage credit to homebuyers and the communities in which we live. It has been our experience that whenever there is an additional cost imposed on home building and/or

Acres of Eligible Wetlands

The priority acquisition list identifies 8.98 million acres. The priority list is probably smaller than the list of eligible lands because some portion of the potentially eligible lands will likely be added to the list, as suggested previously. But no more precise statement can be made until legislative language and supporting congressional intent statements are completed. Also, this inventory is not a precise fit with the criteria of H.R. 1330. Major reasons why it may overcount or undercount were discussed earlier.

In addition, this may not be such a good fit because one of the three criteria that must be met for a site to be placed on the FWS priority list is that it is threatened. There is no comparable element to the H.R. 1330 definition of eligibility. Some sites that would meet the H.R. 1330 criteria would probably not make the FWS list because they are not threatened at this time.

The rate of conversion of wetlands to other uses is a dynamic process that can change significantly, based on changing incentives and disincentives. If the economy rebounds, economic pressures to convert wetlands are likely to increase. This pressure could increase the rate of conversions, and a higher rate would mean that fewer acres will remain. Therefore, some additional areas might be elevated to class A because of the "scarcity" consideration under H.R. 1330. It is unclear either how much the rate of conversion might accelerate or which specified sites (if any) would be elevated to class A. Further, FWS data on conversions lag five years or more behind the present, so measures of the real effects of these or other changes on wetland conversions will become available only long after they have occurred.

Value of Rural Wetlands

The value of rural wetlands is calculated to be 75 percent of the average value of farmland, or $5.35 billion. The value of rural wetlands was assumed to be 25 percent less than the average value of farmland in each State. This percentage, while admittedly arbitrary, is based on discussions with several experts in rural land markets at the Department of Agriculture and in academia, as there is no standardized protocol for making such a calculation. Some States would be a greater percentage and some less. A large percentage of rural wetlands have a low market value in comparison with surrounding lands. This low value is usually tied to location. In agricultural sites, the surrounding land may be farmed in row crops while the wetland is uncultivated, or perhaps used to raise hay and forage, or perhaps grazed. The value of these lands will also depend on where they are located within the overall farm operation, how the farmer has used or avoided them in the past, how water tables have been altered to make these lands more productive (in an agricultural sense), and related farm operation concerns. The capability to derive a more accurate multiplier will grow as experience with bidding to enroll land into the Wetland Reserve Program accumulates. These data are shown in table 1.

the mortgage lending process, it is the consumer who ultimately bears the cost burden. Of particular concern is the cost impact on the first time homebuyers which is disproportionately larger than on others.

The attached table presents the effect of lumber price changes on 1993 affordability conditions. Using the National Association of Realtors First-Time Buyer Affordability Index, we can clearly see the impact of a $3,200 new home price increase on affordability conditions during the year. By lowering the starter home price of $90,800 by $1,838 (this cost reflects both new and existing homes) we are able to estimate what affordability conditions would have been in the absence of lumber price increases. Unfortunately, the negative impact on the first-time homebuyer is significant. The Affordability Index would have been almost two percentage points higher (90.5 versus 88.6) If lumber prices had not risen. Rising lumber costs also forced first- time homebuyers to pay an additional $184 towards a downpayment for a starter home, as well as spend an additional $132 per year on mortgage costs. Qualifying incomes for mortgages rose by $546, pricing an estimated 37,000 to 55,000 potential first-time homebuyers out of the market.

One final point regarding the effects of lumber prices on first- time homebuyers and the mortgage lending process. Rising and volatile lumber prices may have an adverse impact on the appraisal process. In markets where homes are subject to erratic and upward surges in material costs, home market values reflecting higher builder costs, may differ from appraised values, generating different loan balance requirements for similar properties. If this situation arises, potential buyers may need to qualify for a larger loan balance than the appraised value dictates, creating yet another obstacle to homeownership.

Outlook

The outlook for lumber prices and housing activity differs depending on the near-term versus longer-term perspectives.

In the near-term, it is apparent that the prospects for a significant increase in output of Federal timber in the Northwest region of the U.S. are poor. Given that current inventory levels of uncut lumber are relatively low and the prospects for residential construction activity remain optimistic, price pressures are not expected to soften anytime soon. Further, duty on Canadian lumber imports remains at 6.5 percent and may increase in the near future. And finally, we are anticipating stronger economic growth in 1994 from the sluggish performance exhibited in both Europe and Japan last year. Any rise in export demand could exert additional upward pressure on prices.

In the longer-term, rising and volatile lumber prices WHI obviously motivate some market participants to explore alternative materials in an attempt to replace relatively expensive lumber materials. Building behavior may also change over time. The building process and design plans could be modified to accommodate higher material prices. For example, to save on lumber costs, smaller homes may be built and/or features could be cut back (e.g., wood floors, decks, etc.) With regard to housing market activity, the trade-up market may be inhibited somewhat because households may decide to expand their homes rather than move up to a larger one.

In summary, it may take years for new wood substitute products to filter into the marketplace in any meaningful manner. Ultimately, lumber will no longer be in short supply and prices will stop rising.

Acreage figures from the priority list are used to estimate acquisition costs under H.R. 1330.[4]

SETTING A VALUE FOR WETLANDS

What is a wetland worth? H.R. 1330 requires that owners of Class A wetlands be paid fair market value, and the bill contains general language that further defines how that value is to be determined. Setting a market value is more difficult than it may seem but usually is done on the basis of a land parcel's "highest and best use".

One complicating factor is that a large majority of all wetlands are in rural areas where land values are lower, and wetlands are at the lower end of these values. The value for farmers may be further depressed because the costs of converting wetlands to agricultural uses are relatively high for them; that is, the return on the land producing agricultural commodities can be low compared to the expense of conversion. By contrast, the return for growing rows of houses is much higher.

A large majority of all wetlands are in the rural and low value situation.[5] But the remainder are generally in urban, suburban, and other developed areas, and owners of many of these sites have expectations that, with physical modification, these lands could be converted into other uses that offer a far higher return per acre, most typically as building sites. The cost of compensation for this relatively small portion of all wetlands probably would equal or exceed Federal outlays for the much larger but less economically valuable wetlands of rural America.

Several sources of data could assist in setting values for wetlands in rural areas. The one that is most precise is a State survey of farmland values prepared by USDA's Economic Research Service. Land market experts at the USDA believe that this survey is more accurate than other sources because of

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[4]This assessment does not include Alaska and Hawaii. Including both those States would greatly increase the acreage and slightly increase the costs. Under any circumstances, Alaska would be a special case, with more wetlands than all other States combined (170 million acres), relatively little disturbance or modification to date, a very high percentage of public ownership, and little or no development pressure throughout the State.

[5] Others may argue that a larger portion of wetlands are in higher value locations. For example, in its February, 1991 report on wetlands, the National Oceanic and Atmospheric Administration states that almost one-quarter of all wetlands are in coastal counties. Wetlands account for 16 percent of the total land area in these counties. Coastal areas are also likely concentrations of intensive and extensive development pressures, according to U.S. Census and other projections.

However, in the near-term as long as government timber harvest policies remain unclear and court injunctions and other environmental constraints exist, uncertainty will remain in the markets, creating upward and sometimes volatile pressure on prices. In order to maintain a high level of housing affordability, we urge Congress and the Administration to pursue policies that promote greater price stability in the lumber markets.

* * * * *

Supply Constraints Causing Global Restructuring:
The Impact on Lumber Prices

Testimony for:

House Committee on Bank Finance and Urban Affairs,
Subcommittee on Housing and Community Development

Hearing on:
Lumber Prices and Housing Affordability
March 23, 1994

Bruce R. Lippke
Director

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College of Forest Resources, AR-10
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Supply Constraints Causing Global Restructuring:
The Impact on Lumber Prices

I am Bruce Lippke, professor and director of the Center for international Trade in Forest Products in the College of Forest Resources at the University of Washington in Seattle, Washington. We are essentially the only research center focusing on global competitiveness in wood product markets. In my earlier capacities as President of Wharton Econometrics and also as manager of Marketing and Economic Research for Weyerhaeuser, my expertise was in economic and industry forecasting, especially for housing markets as they provide the primary demand for wood products.

Prices have reached prior peaks with demand still low. This is not the first time wood product prices have been high, but it is the first time they have reached prior peaks even though US housing is still at least 30% below the two million-starts level reached in the '78-'79 business cycle peak. And, global markets are still essentially at recession levels today, compared to 1979, when most countries were contributing to very high levels of demand. Lumber markets are one of the most competitive markets in the world, with prices continually being set by changes in demand and supply. Even though we know that the demand for wood has been recovering slowly and US housing is just approaching its long-term

being used for other purposes which would have provided a larger return.[1] This bill defines eligible wetlands to include several characteristics, which can be paraphrased as follows:

I. Critical significance to the long-term conservation of ecosystems, and;

II. a. also serve critical wetlands functions,
b. are part of at least 10 contiguous wetlands acres, except as specified,
c. are scarce,
d. have no overriding non-conservation interest, and
e. minimization of impacts will not conserve wetland values and functions.

Forecasting the cost of this bill requires data on the number of acres that might be affected. Two sources could be particularly helpful. One is using the maximum percentage of wetlands that would be allowed in a jurisdiction, and the other is the priority wetland acquisition list developed by the U.S. Fish and Wildlife Service (FWS). These two sources are introduced below. They are discussed in greater detail in the appendix, which is a more general discussion of wetland data and which also includes a table listing acreage by State using both of these analytic methods.[2]

H.R. 1330 states that no more than 20 percent of the wetlands in a jurisdiction may be placed in Class A. The FWS reported on the number of wetland acres in each State, most recently in the 1990 report, *Wetlands Losses in the United States: 1780s to 1980s*. Using these data, the maximum amount of land that could be placed in Class A is approximately 21 million acres. Data for each State is shown in the second column of table 2 in the appendix.

Various interests have contended that 20 percent has no special merit; rather classification should be based on how much of the remaining wetlands deserve further protection and should be classified as highly valuable. If the

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[1] The bill specifies that landowners would have to seek a permit to initiate the compensation process. If the Corps of Engineers determines that the area affected by the proposed action is a Class A wetland, than the property owner would have two years to initiate the compensation process. The owner would then have six additional years to decide whether to accept the government offer; if the offer is accepted, title for the land would pass to the Federal Government.

[2] The only other national data set of wetland data that could be identified as potentially useful for this analysis was that each State was required to conduct a wetlands inventory as part of their Statewide Comprehensive Outdoor Recreation Plan. This requirement, also to implement section 301 and 303 of the Emergency Wetlands Resource Act, has been replaced by the more recent FWS effort. A cursory review of a few plans shows that there was wide variation in presentation of data from State to State; such inconsistencies would cause problems when trying to develop a nationally-consistent data set.

average, with the world demand for wood still very low, we can see in figure 1 that lumber prices have already reached the level of prior cyclical peaks even adjusted for inflation.

[Figure 1: not included due to formatting limitations.]

There is no mystery as to the cause of this price increase. Demand is not nearly as high as it was in prior business cycle peaks. Supply has been reduced.

Northern spotted owl conservation has reduced supply by withdrawal of over 10 million acres in the Pacific Northwest (PNW). Not long after the owl was listed, in a study for the Governors of Washington and Oregon, we estimated the harvest decline from proposed implementation plans to save the spotted owl would reduce the harvest in Washington, Oregon, and Northern California by 25% (B. Lippke, et al, 1990). The Option 9 plan to save the owl will soon exceed those earlier estimates (FEMAT, 1994).

Stumpage prices rose as soon as the USFS timber sales declined, as shown in figure 2. A statistical analysis of Washington State Department of Natural Resource Sales data through 1991 showed a $200-240/mbfs increase in stumpage as a direct response to the USFS sales declines (H. Lippke, 1993). And, stumpage prices are much higher today than they were at the time of that study.

[Figure 2 not included due to formatting limitations.]

Now that prices are up, we are beginning to see a restructuring in global markets. While in the short term local markets may move with local supply and demand changes, any long lasting change will result in changes in global wood flows. Wood product markets are linked globally through international trade. North America has a wood surplus and exports its surplus to world markets.

The first restructuring impact has been the decline in exports from the PNW. Log exports in Washington and Oregon are off 53% since 1989, the first year litigation began to curtail timber sales. Lumber exports are off 38%. If rising prices in the northwest had not diverted export logs to US processors, prices would have been even higher because more northwest mills would have shut down. The diversion of lumber exports to US markets has contributed to holding US prices down. Canada was able to backfill the international short fall while global demand was weak but will not be able to do so when international demand strengthens. And we also expect British Columbia's harvest level to decline as they rework their forest plans, forest unit by forest unit. That is expected to substantially worsen the supply reduction.

International responses to the supply reduction are beginning to- have an impact on imports of lumber, finished wood products, or logs from Sweden, Norway, Finland, Chile, New Zealand, and Russia. As a consequence of high prices, all are increasing their sales to the US even as US exports decrease. The earlier trade-flow pattern was to import construction wood from Canada for US housing and export higher- quality wood from the US west coast to Asian markets. Consumers were provided the lowest cost wood by that triangular trade flow.

The full market response to these changes will take some time to work out. New Zealand logs used to sell at a big discount compared to US logs, but last fall, after the US product prices had been up for

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a few months, high quality New Zealand log prices shot up above US log export prices (figure 3). They have since fallen back because of the weak international markets but should be expected to rebound again as demand continues to recover. New Zealand has significant new volumes of radiata pine logs ready to harvest over the next decade.

[Figure 3 not included due to formatting limitations.]

The adjustment process will eventually require investments in excess of $8 billion to replace the capacity lost in the PNW; this will not be an overnight adjustment. So the full adjustment will take as long as is required for new investors to step forward and take the risk that their investment is competitive.

Prices are not just high; they are also extremely volatile. The prices of US lumber futures this time last year for May delivery exceeded $450 per thousand board feet (mbf), or 110% above earlier contract lows of $213/mbf. Then they fell back to $310 per mbf, still 45% above the earlier lows and a dramatic decline. They stayed there through the summer and early fall. By December they were above $450 again for March delivery. What are these prices signaling?

If demand is strong enough to need the high-priced wood from the constrained supply region, prices rise to pull that wood into the market. If there is a flurry of supply increases from overseas, product prices fall back in the confusion of determining what the ultimate price will be when new and higher cost suppliers replace the lost supply from the PNW. The marginal cost producer sets the floor price in markets. If we need the high-cost producers, prices go up. If we don't need that volume, prices go down to the level of lower- cost producers.

Margins increase for the stage of processing in short-supply motivating expansion. Southern lumber production has increased about 10% over the last several years as west coast production has declined about 25%. And Southern timber prices are rising with that expansion, but the lumber cost base for Southern mills remains well below western mills. Recordhigh margins are accumulating to Southern processors as a signal to expand and increase production even more. The high prices in the west don't stay with the mills which have excess supply; they get bid back to the timber owner where the shortage has been created. In the west it is timber that is in short supply, not mill processing capacity. There is still a surplus of mill capacity for the available timber even after many mills closures over several years. So the prices are established by bidding for the scarce resource which in the US West is timber and the US South is lumber processing capacity. As table I shows, the marginal cost of high cost timber in the West is over $500, compared with less than half that 10 years ago.

Global production increases are triggered by high prices. Our trade research center, CINTRAFOR, manages a global trade model for forest products that is an outgrowth of 10 years of research launched by the International Institute of Applied Systems Analysis in Austria (IIASA) which had the support of researchers from all over the world. By introducing the supply disruptions in the PNW, the global trade model figures out who is the next best competitive supplier for the markets that are in short supply and shifts the flow of products toward that region, back filling the supply that was diverted to these markets from yet another set of next-best competitive sources. Using simulations of baseline demand conditions before supply constraints are imposed and then alternatively incorporating the supply constraints, the CINTRAFOR Global Trade Model (CGTM) estimates who makes up for the

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Calculating the Cost of Compensating Owners of Class A Wetlands Under Provisions in H.R. 1330

Prepared at the Request of
The House Merchant Marine and Fisheries Committee
Subcommittee on Fisheries and
Wildlife Conservation and the Environment

Jeffrey Zinn
Specialist in Natural Resources Policy
Environment and Natural Resources Policy Division

May 20, 1992

supply lost in the PNW and British Columbia and how it gets to the markets (Perez-Garcia, 1993). Figure 4 shows where we can expect replacement wood to be harvested. Russia is left out, because no economic history is available to judge their response.

The jobs we lose in the PNW will largely show up outside the US, with new suppliers which are higher cost than the US supply that has shut down. Some of those job increases will be in the US South. Also note the large reduction in wood demand that is shown in the figure, which is really substitution by non-wood products like steel, aluminum, concrete, and brick.

Supply shifts to high-cost producers and substitutes also cause environmental negatives. There is a growing body of research showing that whatever environmental gains are achieved in the constrained supply region, the PNW in this case, those gains are likely to be offset by even more acres harvested in other higher-cost regions around the world, with negative impacts on habitat perhaps more damaging than the habitat saved in the PNW. And, if non-wood substitutes, which are several times more fossil fuel intense, are used rather than wood products, the result is millions of tons of increased carbon emissions, another undesirable environmental impact.

So we are essentially exporting our environmental problems to other forest regions or other product impacts rather than eliminating them.

With current prices, US consumers are paying more than an additional $10 billion at annual rates. The direct wood cost in an average home is up almost $6,000, but that may not be the most difficult problem for builders. Availability problems will force many to change their plans, causing costly delays, while they find alternative types of wood and even non-wood products to meet their building needs. These disruptive impacts are frequently as much a problem as the cost of materials.

We have yet to see the full adjustment. There are a number of reasons to suggest that there is more to come in lumber availability problems and prices:

* Market demand is still low in the US and will also begin to recover internationally.

* USFS harvest plans are still being revised downwards.

* Federal harvest levels are not yet down to the plan levels as purchasers are still cutting earlier sales that are in the sold inventory.

* Forest practice rules are beginning to force the private sector to create habitat for owls and other species.

* Canadians are following in the US footsteps with plans to take their harvest level down.

* Global adjustments are just beginning, but some of the new supply regions may also begin to constrain supply.

* The non-industrial private forest owner has been liquidating their stands to avoid any chance of an owl taking residence. Under current rules, private owners are forced to set aside large blocks of land if an owl takes up residence. They are, therefore, liquidating any marketable wood to reduce the risk of

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creating any owl habitat. They cannot sustain such a high harvest level as their marketable timber inventory is rapidly being depleted.

As a consequence of current policy, it appears that expectations should be for prices to remain volatile for a considerable period of time and probably greatly exceed prior peaks for extended periods. Eventually, there will be some downward adjustment in prices after all of the other supply regions have had a chance to respond to the changing market conditions and to expand their capacity. The US will become more dependent upon imports and have exported their jobs and environmental problems to other parts of the world.

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STATEMENT FOR THE RECORD

OF

ALBERTO GOETZL
CONSULTING ECONOMIST
TO THE
AMERICAN FOREST & PAPER ASSOCIATION

BEFORE THE
HOUSE SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

MARCH 23,1994

Statement of Alberto Goetzl

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*** ACTIVITY REPORT ***
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ACTY#	MODE		CONNECTION TEL	CONNECTION ID	START TIME	USAGE T.	PAGES	RESULT
8971	AUTO RX	ECM	202 586 1628	CE-421	02/22 17:00	02'29	6	OK
8973	AUTO RX	ECM	202 2603527		02/22 17:03	00'46	2	OK
8972	TX	ECM	95867757	DOE EM-1	02/22 17:05	05'07	12	OK
8974	TX	ECM	912128546466		02/22 17:51	00'28	1	OK
8975	TX	ECM	92084684		02/22 18:23	00'53	2	OK
8976	TX	G3	913019533054		02/22 19:16	00'39	1	OK
8977	TX	ECM	97204732		02/22 19:38	01'40	4	OK
8978	TX	ECM	92083199		02/22 19:59	07'48	31	OK
8979	MEMORY RX	ECM	202 2085533		02/23 10:15	01'44	4	OK
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8992	AUTO RX	ECM	2025479022		02/23 12:11	02'02	3	OK
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8999	TX	ECM	96198000		02/23 14:12	00'38	1	OK
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9002	TX		919196845661		02/23 15:20	00'00	0	NG
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9003	TX	ECM	919155441725		02/23 15:38	02'15	5	NG
								5 STOP
9006	TX	ECM	919155441725		02/23 15:44	02'02	5	OK
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9009	TX	G3	55349		02/23 16:18	00'28	1	OK
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9013	B'CAST	ECM	92607546		02/23 17:00	04'44	9	OK
9013	B'CAST	ECM	92084684		02/23 17:06	03'06	9	OK
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Before the
House Subcommittee on Housing and Community Development
March 23, 1994

I. Introduction

Good morning. My name is Alberto Goetzl. I am President of Seneca Economics & Trade, a consulting practice that specializes in natural resources economics and international trade. I serve as an economics consultant to the American Forest & Paper Association and am representing that organization today. Over the past fifteen years I have conducted numerous analyses of timber supply and wood product markets.

The American Forest & Paper Industry represents companies engaged in the growing of trees and the manufacture of wood and paper products. Many of these companies produce lumber, structural and non- structural panels, engineered wood components, and other kinds of wood products used in the construction of new housing, and the repair and remodeling of existing housing. You can hardly talk about building affordable houses -- whether single family or project housing -- without talking about wood for framing walls, for roof trusses, for concrete forming, for interior walls, for siding, windows, doors and numerous construction components. Better than 95 percent of all residential wall framing and roof trusses are constructed of wood and residential markets account for two-thirds of the softwood lumber used in the United States. Housing is the "bread and butter" market for the lumber and wood products industry. The industry, therefore, has a direct interest in promoting affordable housing.

II. Average lumber prices have more than doubled over the Past two years and prices have been extremely volatile.

During the past couple of years, the high/low swings in lumber prices have never been wider and prices have spiked to new highs every several months. During the last week of December, 1993, the Random Lengths composite reached $510 per thousand board feet. It has since fallen to $443, but prices are averaging more than double what they averaged as recently as 1991.

The lumber market is highly competitive and approaches the economist's model of a market in perfect competition. On any given day, literally thousands of sellers are interacting with thousands of buyers throughout the production and distribution pipeline. Any change in demand or in available supply could, and usually does, have an impact in the market and is reflected in the price of lumber.

There are many factors that affect lumber prices. Some are as mundane as railroad route rescheduling or extremes in weather. Changes in inventory in any number of points in the production and distribution system can cause a reaction by buyers or sellers that affects price.

The market also reacts in anticipation of potential changes in supply or demand. In this way, the lumber market is similar to the stock market. When interest rates are likely to fall or when a favorable economic report is expected, stock prices will typically rise. The stock market is responding to what economic conditions are expected to be like in the future. The same is true of the lumber market.

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*** MULTI TRANSACTION REPORT ***
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During the past few years, as one development after another has unfolded in the spotted owl affair, the market has reflected increased uncertainty through higher prices [Chart 1].

Demand for lumber plays a very important role and those sectors of the economy which typically drive lumber demand have been strengthening over the past two years. The Congressional Research Service has argued that higher demand is the principal reason lumber prices have been increasing. But increased demand alone does not explain the increased volatility and generally higher lumber prices of the past couple of years. There have been periods in the past when housing construction has increased more sharply over shorter periods of time and, while price increases typically occurred, they were not as steep or as persistent as they have been during this housing recovery. Neither construction activity nor lumber demand is currently that extraordinary when compared with other years.

III. You cannot take 20 percent of the supply of timber off the market and not expect to see a big impact on price.

What differentiates this period from any other in the past is the supply side of the market equation and, specifically, the substantial decline in the availability of lumber from the western region of the United States. This, in turn, is a direct consequence of the steep reduction in public sources of timber available to the producing industry.

In the northwest, litigation over the management of federal lands in the northern spotted owl region has brought the federal timber sale program to a virtual standstill. Other litigation and administrative challenges have severely impaired the federal timber program in other regions. The CRS and environmental groups have down-played the role federal timber supply has on lumber supply and housing. The motivation to do so is to lend support for reducing forest management and timber harvesting. But federal lands have been a major source of lumber for the United States.

Of the 489 million acres of timberland in the United States, the federal government controls directly 97 million acres, or 20 percent. More importantly, over half of the nation's standing softwood sawtimber inventory is contained on those lands.

Throughout most of the 1970s and 1980s, the national forests alone supplied between 20 and 25 percent of the softwood sawtimber harvest in the United States. This is the harvest of large diameter trees that typically are needed to manufacture lumber, plywood and other solid wood products used in housing construction. Last year, the contribution of the national forests to the nation's sawtimber supply was down to 15 percent, and it will decline again this year [Chart 21.

The volume of timber sold from Forest Service and BLM timberlands went from 12.5 billion board feet in 1987 to 4.5 billion board feet in 1993 and is likely to drop to less than 4 billion board feet in 1994. That is an 8.5 billion board feet reduction in the timber available to the nation on annual basis [Chart 3].

This is not a trivial volume of wood. It is equivalent to the wood used to construct over 635,000 new single family homes each and every year, or nearly half of the homes that will be constructed in the United States this year.

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*** MULTI TRANSACTION REPORT ***
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Harvests will generally lag sales, but they too have followed the same downward trend. The volume of timber under contract, which represents the volume of timber sold but not yet harvested, represents, in a practical way, the pipeline of federal timber available to the sawmilling industry. The volume under contract is rapidly being depleted and no longer provides any kind of "supply reserve" to respond to demand changes [Charts 4 & 5].

IV. The management of federal forest land in the Pacific Northwest has become entangled in a legal quagmire, the end of which does not appear to be realistically anywhere in sight.

Throughout most of the 1980s, the federal government supplied 5 billion board feet annually from the national forests and BLM lands in western Oregon, western Washington and northern California. For the past three years, court injunctions have halted all federal timber sales in the region.

Next week will mark the one year anniversary of the Forest Conference convened by President Clinton in Portland, Oregon. The president's goal was to take the controversy out of the courtroom by developing a balanced solution that recognizes the economic importance of the resource while also ensuring its ecological protection. The Forest Ecological Management Assessment Team (FEMAT) developed a plan that dramatically reduces the timber program in the region to only 20 percent of its previous level, but which, it surmised, could meet the requirements necessary to lift the court injunction in effect since May, 1991 [Chart 6].

On July 1, 1993, when the FEMAT proposal was outlined in a draft Supplemental Environmental Impact Statement, the Administration announced that it would expeditiously implement the strategy. Administration spokesmen said that the plan would be submitted to the court expeditiously to seek the lifting of the injunction. They also said: that as much as 2.2 billion board feet could be sold during the first year of the plan; that the plan would comply with all existing laws; and that sales on the east side of the Cascades could be increased to offset some of the impact from the drop-off in sales from the west side.

As of today, the plan has not been submitted to the court. In fact, the Administration has requested a second extension of the court-imposed deadline for submitting its Record of Decision. It is also apparent that the land management agencies did not sell, nor can sell, 2.2 billion board feet of timber in the affected region. With the exception of a few salvage sales, there have not been any new timber offerings -- and there is not likely to be any in 1994 or 1995. The final FEMAT Environmental Impact Statement states explicitly that it will take as much as three years before its prescribed average timber sale level -- reduced to only 1.1. billion board feet in the final plan -- might be reached.

Nor have timber sales on the east side or in other regions been augmented to help offset some of the impact from the reductions on the west coast. In fact, timber sales have been reduced in Eastern Oregon and Washington, and throughout the National Forest System.

In short, the situation in the Pacific Northwest is not improving despite the publicity surrounding the preparation and announcement of the FEMAT plan. And the controversy remains inextricably entwined in the courts.

partial payment (easements, etc.) because the public desires active use of the land (e.g. hiking, hunting) or the restrictions are so great that no reasonable (nonnuisance) use remains for entire properties. But, we do not agree with the approach set forth in HR 1330 for the reasons provide above.

(3) Designation of priority areas for purchase.

We favor designation of priority areas for such purchase or payments based upon an overall willing seller concept and with consideration of

--the long term and short term functions and values of wetlands as part of broader hydrologic and ecological systems and the natural hazards (flooding, wave action, subsidence, liquefaction) posed by sites including the potential for nuisance impacts of development to adjacent lands,

--the potential impacts of regulation on the reasonable use of private land,

--the restoration potential of the area including the possible use of sites for mitigation banks and

--the land/water management capability for the units.

(4) Full funding of acquisition and "in lieu of" efforts.

We favor full funding of acquisition programs by Congress, state legislatures, local governments and private organizations through fee or less than fee programs at all levels of government including the federal Wetland Reserve and Water Bank programs and the Land and Water Conservation Fund. We favor similar programs at state and local level through bond issues or other approaches.

(5) Consolidation of lands in public ownership rather creation of tens of thousands of additional small parcels in federal ownership.

We favor consolidation of lands in public ownership rather than the addition of tens of thousands of small and unconnected wetland parcels throughout the nation which will be impossible to manage, will result in increased "patchwork" of private and public ownership, will remove land from the tax roles, and often will not result protection of wetland functions and values.

Attachment 2 to

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On the proposition that the FEMAT plan will comply with all existing environmental and other federal law, the prospect is also in doubt. Remember, one of the underlying goals was to take this controversy out of the courtroom. Just this week, a D.C. District Court judge ruled that FEMAT violated the Federal Advisory Commission Act. Other court cases are pending. A number of preservationist groups stand waiting to file legal challenges if the current injunction is lifted.

V. The adverse economic impacts in the affected region are substantial, but this is not only a regional problem.

Literally thousands of rural workers and their families have already been dislocated by the sharp drop-off in the federal timber program. It is worth dwelling on these impacts for a moment because of their shear magnitude. Since 1990, a total of 160 mills have closed and 14,675 mill workers have lost their jobs. This does not include the thousands of loggers and other workers dependent on the industry.

When the dust settles, the lumber and wood products industry will lose 34,000 employees. An additional 38,000 persons indirectly dependent on the forest products industry will also be displaced. Annual income losses in the 3-state spotted owl region will conservatively approach $2 billion. Federal payments to counties and school districts in-lieu-of-taxes will decrease by $209 million per year. Federal income tax receipts will drop by $117 million per year and unemployment compensation payments will cost $746 million to cover displaced workers for a twelve-month period.

These impacts would occur if the preferred option of FEMAT is implemented on schedule. As I noted, it will not be, so the situation will likely be worse than calculated using our models. Because of short supply, log costs continue to escalate, and hence lumber prices will continue to be a problem for housing.

Higher prices for lumber are passed on to the home-buyer. This particularly affects affordability at the margin, where only a few thousand dollars can put home ownership out of the reach of thousands families. Others on the panel will address that concern specifically, but one other consequence of higher lumber prices has recently surfaced. At least one major national provider of home owners insurance has raised premiums specifically because lumber prices have escalated. So not only are there economic impacts in the region, and not only are home-buyers affected, but so too are existing home owners who are now seeing insurance premiums escalate.

As lumber becomes more expensive, or in the worst case, shortages are experienced, builders can opt for using other building materials. There is an environmental cost to be paid, however, as all of the substitutes -- be they steel, masonry or plastic -consume far more energy and non-renewable resources in their manufacture than do wood products.

VI. The reduction in federal timber supply has substantially altered the supply/demand dynamic for lumber in the United States.

Housing starts are forecasted to number between 1.35 and 1.4 million units this year. All other things being equal, the higher costs of materials this year has added between $3,000 and $5,000 to the price of the average single-family house. Until now, lower interest rates have offset some of the

NWF COMMENTS ON ALASKA WETLANDS INITIATIVE SUMMARY DOCUMENT (March 4, 1994, Field Draft)

Executive Summary

The agencies state that the Alaska Wetlands Initiative addresses several major areas of "legitimate" concern and imply that these areas are fear of the future, need for more regulatory efficiency, and need for broader and more effective education. It should be stated unequivocally that these are the only legitimate problems documented by the regulated community. A decisive statement now with respect to Alaska's Section 404 program may forestall having to revisit the less legitimate concerns in the future, and would certainly be supported by the extensive administrative record.

It should also be recognized that while the agencies have addressed the complaints of the critics of the Section 404 program, they have not addressed the equally real concerns of the many people who wish to improve wetlands protection in Alaska. Although the record now demonstrates that the program is less protective here than in other states, and that federal authorization to fill wetlands is almost a foregone conclusion, there is virtually nothing in this document aimed at furthering the primary mission of the Section 404 program: protecting wetlands and other waters of the United States.

Introduction and Key Issues and Comments

These sections are notable for their lack of substance. After such an enormous expenditure of taxpayer money and agency resources, the public is surely entitled to some specific findings and to know the bases for the Administration's actions. For example, there should be an express finding that the Section 404 program in Alaska is not inflexible and is not unfair. This finding should be supported by a detailed account of permitting statistics and other data produced during the course of the Alaska Wetlands Initiative. Complaints of the regulated community should not just be repeated, they should be analyzed in light of the evidence in the public record.

Conclusions and Recommendations

The Mitigation Sequence

NWF suggests deleting the first recommendation of the mitigation sequencing section. That recommendation proposes to "clarify" the applicability of mitigation in Alaska. Although the agencies say that special exemptions are not needed, clarification that would add "predictability by specifying when detailed alternatives information is and is not required for the Section 404(b)(1) analysis" and that would state "that compensatory mitigation will normally not be required for fill in areas with abundant low value aquatic areas" sounds distinctly exemption-like.

The proposed clarification would also be redundant. In addition to

impact. However, with interest rates bottoming out, the impact of higher construction costs will increasingly have an impact on affordability.

From a market demand perspective, all of the indicators are favorable. Housing starts are increasing, with a high proportion of single-family units in the mix-, repair and remodeling expenditures are increasing; and industrial production is in recovery.Under normal circumstances, these indicators would suggest significant increases in lumber and wood products consumption. By applying historical lumber end-use factors to the these indicators, U.S. softwood lumber consumption should approach 51 to 52 billion board feet next year and continue to increase thereafter. However, that is clearly not going to be the case in light of timber supply constraints and a contraction in North American lumber-producing capacity [Chart 7].

This year, U.S. softwood lumber consumption will total between 46 and 47 billion board feet, essentially the same as during 1992 and 1993, despite increases in home building and other demand indicators. Consumption is likely to remain flat again in 1995 absent a change in policy affecting federal forest management.

The major softwood lumber producing and supplying regions are in the west, the south and Canada [Chart 8]. The three western regions have lost about 7 billion board feet of lumber-producing capacity. Neither higher output in the South nor higher imports can completely offset the reductions being experienced in the western region. In the South, softwood lumber production has increased. This year, southern pine production will total approximately 15 billion board feet, a modern-day record. However, in many parts of the South, harvests are currently exceeding annual growth and the region's ability to increase output over the short-term is limited.

Softwood lumber imports have also been increasing in response to higher prices. Imports increased 14 percent in 1993 and accounted for 33 percent of U.S. consumption. This compares with 29 percent in 1992. Canadian production is also being curtailed for environmental reasons. In British Columbia, the major source of Canadian imports, allowable annual cuts (AAC) are being reduced by 20 percent or more. Those reductions will begin to have a major impact during 1994 and 1995.

As you examine the history of lumber production and lumber prices, it is apparent that up until about 1990, whenever prices rose, producers increased production to take advantage of the market. Higher supply would then have a tempering effect on price levels. That has not been the case recently. Unlike past cycles that saw western production increase when prices rose, western production has been declining even as prices rise [Chart 9].

In 1993, despite rising demand, western lumber production actually fell by 7.5 percent, and will likely fall another 5 to 1 0 percent feet this year.

VII. The problem is not confined solely to public lands, although clearly that is where the timber supply situation is the most acute. The supply of timber from private lands is also affected by state regulations issued in response to federal guidelines for preserving endangered or threatened species and by federal wetlands Policy.

VIA Fax No. (202) 456-2710 -- HARD COPY TO FOLLOW

February 25, 1994

Mr. Mattezinn
Intern
Office of Environmental Policy
Old Executive Office Building Room 360
Washington, DC 20501

Re: Final Recommendations on the Alaska Wetlands Initiative

Dear Mr. Zinn:

In the next few days the White House Interagency Working Group on Wetlands will be developing and adopting its final recommendations on the Alaska Wetlands Initiative ["Initiative"]. Because your participation in the Working Group offers the unique opportunity to influence and shape the final set of policies, we are providing an analysis of the latest draft recommendations and direct your attention to those areas needing revision if --indeed-- the Administration is to adhere to its pledge of improving the wetlands regulatory program in Alaska without weakening its environmental safeguards.

Based on our review of what we understand to be the final Initiative recommendations, there has been significant improvement of the original "options" issued last December by the EPA and Corps. For example, the agencies no longer promote blanket exemptions from the Section 404 (b)(1) Guidelines for abundant or allegedly "low value" wetlands, and they have judiciously abandoned such environmentally-insensitive proposals as "circle general permits." We commend these and other positive changes made to the final draft and recommend that you reject any last-minute efforts to restore them.

Despite these laudable improvements, the final recommendations retain a number of elements that --unless deleted or modified-- will continue undercutting wetlands protection in Alaska. We direct your attention to, and request your action on, these issues, described below and in the attached critique.

This committee should be aware that timber supply from private lands which accounts for about half of lumber consumed in the United States is also being constrained. In the northwest, forest management activity on a substantial number of acres is restricted because of the presence of northern spotted owls or marbled murrelets. In other regions, landowners must also restrict activity to avoid violation of the Endangered Species Act. The irony is that landowners are becoming discouraged from managing for long rotations which produces the biggest trees and the best lumber because as the trees become older, they are more likely to form habitats for threatened or endangered species.

Wetlands can also be problematic from a forest management perspective. Although the Federal Clean Water Act exempts "normal" forestry activities on wetlands from permitting requirements, the exemption is increasingly being challenged in court and by reviewed by federal agencies.

The reauthorizations for both the Endangered Species Act and Clean Water Act are currently being debated in the Congress with considerable debate about the impact of these laws on private forests management.

VIII. Conclusion

This committee needs to be aware of the root causes for the unprecedented lumber price increases. They are, in my view, primarily related to constraints on timber supply. The United States has plenty of trees. We grow more wood every year than we harvest and have been doing so for at least 50 years despite a growing population and millions of homes constructed. But federal policy affecting forest management is seriously impairing the ability to provide wood for the nation's housing needs.

Some additional restrictions on timber harvesting are unavoidable given the need for economic and environmental balance. But resource issues are being viewed as regional problems. Environmental groups want to believe that we can continue to preserve large blocks of forestland without ill effects. Decisions are being made by the Administration and by the natural resources and appropriations committees of Congress without complete regard for the broad impacts of policy.

The President is to be commended for tackling the controversy in the Pacific Northwest and for attempting to design a solution. But the Administration has paid too little attention to the broad economic impacts of the current policy direction. And it has made a tactical error by insisting that a solution can be imposed on the region administratively. There are simply too many opportunities for legally challenging any decision or decision-making process. The only way to get around the gridlock is for Congress to intercede.

I welcome this committee's interest and would be delighted to work with you in devising a congressional strategy that can address the timber supply issues in a way that can help millions of Americans.

Thank you very much for this opportunity to testify before the Committee.

[CHARTS (9) DELETED]

because the doctor violated the Emergency Medical Treatment and Active Labor Act (EMTALA) by transferring a severely hypertensive woman while she was in active labor. EMTALA imposes responsibility on hospitals that execute Medicare provider agreements with the federal government.

"TAKINGS" BILLS UNDERMINE HEALTH CARE REFORM

"Takings" bills are bureaucratic obstacles that will block government efforts to protect the public health and safety. Numerous regulations would be affected, including those that:

- monitor the safety and effectiveness of medical and surgical devices such as heart valves;
- ensure that new drugs and cosmetics are properly tested for human use;
- place ceilings on the fees of doctors and hospitals who participate in Medicare and Medicaid; and
- direct health providers to comply with acceptable medical practice standards.

Efforts to reform the nation's health care system would also be severely hampered, such as proposals to:

- establish a single payer approach to health care coverage;
- require employers to provide health insurance to their employees;
- reorganize the health insurance industry;
- set guidelines regarding what types of benefit packages can be offered;
- prohibit denials of coverage based on pre-existing conditions;
- place price controls on pharmaceutical products; and
- incorporate long term care into health insurance coverage.

"TAKINGS" BILLS DISTORT CONSTITUTIONAL LAW

"Takings" bills codify a distorted view of the Fifth Amendment to the Constitution and represent a back-door attack on the government's ability to regulate for the public welfare.

- Many "takings" bills contradict the Supreme Court's standard for a "taking" and would find "takings" far more frequently than the Constitution requires. These bills will pay taxpayer dollars to those who are making a healthy profit - although not a "killing" - from their property.

- Other "takings" bills would block implementation of laws by subjecting regulations to a false "takings" test. This will require taxpayer dollars to create **new bureaucracy and red tape** in order to conduct meaningless "takings" analyses.

For Information Contact: Glenn Sugamelli, National Wildlife Federation (202) 797-6865

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Some additional restrictions on timber harvesting are unavoidable given the need for economic and environmental balance. But resource issues are being viewed as regional problems. Environmental groups want to believe that we can continue to preserve large blocks of forestland without ill effects. Decisions are being made by the Administration and by the natural resources and appropriations committees of Congress without complete regard for the broad impacts of policy.

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Thank you very much for this opportunity to testify before the Committee.

[CHARTS (9) DELETED]

section in the Alaska Corps office to specifically oversee and manage projects and Section 404 permit applications in rural Alaska. This office would receive special funding and would be staffed by persons familiar with the social and economic circumstances of Alaska Bush communities, and who bring greater sensitivity to the needs of rural Alaskans.

5. The Final Recommendations Should Seek Additional Funding For Monitoring And Enforcement Activities In Alaska. The final recommendations repeatedly suggest that lack of resources is, at least, partly to blame for the relatively ineffectual Section 404 program in Alaska. We strongly encourage amending the final recommendations to seek additional funding for wetlands monitoring and enforcement activities in Alaska. Such a recommendation will make the final package more environmentally-friendly rather than merely more user-friendly.

It is important to recognize that there is broad public support for taking these actions to strengthen --not weaken-- the final recommendations and protection of Alaska's wetlands. Despite EPA's decision not to formally notice the December 19, 1993 recommendations in the Federal Register, the agency has now received almost 2,000 written comments. As of this writing, 85 percent of the comments reviewed support STRONGER, not weaker, wetlands protection in Alaska.

In closing, we want to underscore the need and the importance of revising the final recommendations in a manner that squarely and adequately addresses our concerns. Failing to do so will continue jeopardizing Alaska's wetlands and --once again-- call into question the Administration's oft-stated commitment to developing fact-based solutions that respond to only legitimate problems. We urge your assistance and support in ensuring that the final Alaska Wetlands Initiative recommendations strengthen --not weaken-- wetlands protection in our Nation's 49th State.

Sincerely,

Alaska Center for the Environment
Alaska Natural Resource Center, National Wildlife Federation
Alaska Regional Office, National Audubon Society
American Oceans Campaign
Anchorage Chapter, National Audubon Society
National Audubon Society, Juneau Chapter
National Audubon Society, Washington, D.C.
National Parks and Conservation Association
National Wildlife Federation
Northern Alaska Environmental Center

* * * * *

STATEMENT FOR THE RECORD

OF

MICHAEL A. FRITZ

PRESIDENT

RUGG LUMBER CO.

ON BEHALF OF THE

EMPLOYEES OF RUGG LUMBER CO.
THE NORTHEAST RETAIL LUMBER ASSOCIATION
AND THE
NATIONAL LUMBER AND BUILDING MATERIAL DEALERS ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT -OF THE COMMITTEE ON BANKING, FINANCING AND URBAN AFFAIRS

OF THE

UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 23, 1994

1. INTRODUCTION.

Good morning. Mr. Chairman, members of the Subcommittee, my name Is Michael A. Fritz. My testimony Is presented on behalf of the employees of Rugg Lumber Co., the Northeast Retail Lumber Dealers Association, and the National Lumber and Building Material Dealers Association. Together these associations represent over 16,000 retail lumber dealers throughout the nation. I am the 5th generation in a small family owned retail lumber business entering its 153rd year. Our business is located in rural western Massachusetts. The business consists of two small retail home centers, a small manufacturing facility. and an architectural woodworking shop. I am a Naval Academy Graduate, with three combat tours in Vietnam. I have served as the Chair of our local Private Industry Council for the past two years. I am currently serving on the Capital Access Committee of the Northeast Retail Lumber Dealers Association. I have previously testified before the House Appropriations Committee on timber supply and related Forest Service appropriations issues.

Our company, the shelter industry, and the members of the organizations that I am representing, have been subjected in the last four years to some of the most difficult business conditions the industry

A lot great things have been done that prevented damages and mitigated the damages that did occur...we can't lose sight of this.

--Terry Branstad, Governor of Iowa

has ever seen. We've endured a severe housing recession in the Northeast; coupled with a banking crisis, the Invasion of the new wave mass merchants, and on top of all that, extremely volatile commodity wood prices. The turmoil has been more than many of our businesses could handle. I would like to provide the Subcommittee with a view "from the trenches" of housing affordability, construction trades employment, capital access, and community development as it relates to volatile commodity lumber prices.

II. Large price increases in commodity building materials eliminate families from the new home market. The price increases experienced over the last 16 months have eliminated an estimated 100,000 families from the new housing market. That's a serious blow to their dreams, but also to the economy. Basic economics tells us that money circulates 7-10 times through a community once it's spent. The average new home goes for about $140,000. That means that for just one lost start in a community. the local economy looses $1-1.4 million in activity. The loss affects all levels of employment, particularly in a rural community such as ours in Franklin County. The county is 30 x 40 miles in size, 77,000 population, 33-43% of the adults lack a high school diploma. The ultimate fallout, however; comes when the family has to stay in their older home. The whole system backs up. leaving someone at the bottom with a problem, either affordability or lack of availability.

Construction trades unemployment in Massachusetts is still hovering above 15%, even though the Boston central artery project has improved the picture. A large number of the unemployed carpenters and tradesmen are from the large Hispanic population in the Springfield- Holyoke area of western Mass. A strong building market would put people to work.

III. The problem of capital access and rigidly fixed credit lines is hampering the housing market. Most small lumber yards, like the ones that my company runs, don't have access to capital via public offerings and must rely on bank credit lines to finance inventory and accounts receivable. We tend to be the only method a carpenter or contractor has of obtaining financing. The banks in New England want nothing to do with the local tradesman, that builds 3 or 4 houses a year or relies on remodeling.

The volatility of commodity wood products has pinched us between the fixed credit lines available, and the inflated cost of the commodity inventory we must carry to service the shelter market in our trading area. The normal lumber yard has 50-60% of its inventory dollars invested in commodity wood products and building materials. When the cost of the inventory inflates as much as it has in recent months, something has to give. In some cases, the service level the yard could sustain for their customers. suffered enough to push them over the edge and into bankruptcy. The price situation has affected our ability to buy efficiently, truckload vs freight car, or from wholesalers vs manufacturer direct. This directly affects the level of consumer pricing.

The situation has required many to completely give up the new housing market and direct resources at a market they could afford the inventory to support. A good example comes from your own district, Mr Chairman. Guadalupe Lumber from San Antonio, is now concentrating strictly on remodeling and industrial sales. Another dealer in your area, Roy Campbell of Campbell Lumber, In San Antonio, complains that he won't be able to afford to carry the quality of product his customers prefer and may have to switch to an inferior product.

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The tougher stance by the banks, particularly Fleet Bank, is costing my company $65,000 in increased interest costs this year, plus $20,000 in legal fees. These expenses must be covered by increased prices.

The same squeeze is occurring in the Pacific Northwest for the producers. Many small mills don't own their own timber. Understandably, the bank first asks, "Do you have a documentable supply of logs for your mill?" When these mills do obtain credit. it's at a higher cost. These mills have traditionally relied on the Federal and private timber they could buy. With the availability of timber dwindling, they are being driven out of business. There about 408 mills, each producing more than one million board feet per year. in the Pacific Northwest. It is estimated that, only 1/3 third of that total owns any standing timber. There are also hundreds of 3-4 man operations producing less than I million board feet, in the same boat, without a reliable, affordable supply of timber.

IV. THE VOLATILITY OF COMMODITY WOOD PRICES SERIOUSLY JEOPARDIZES THE FINANCIAL STABILITY OF THE SHELTER INDUSTRY.

I have a very short story to tell that has been repeated at our place of business several times in the last few years. A young carpenter came into our store in Northampton, Mass in late August 1992 for prices an a list of materials he needed for a small porch project he was asked to quote. The job came to about $500, at his cost, for the materials. He and I talked for a while about his new wife, and the baby they were expecting in September, and a about our favorite activity, YMCA noontime basketball. After quoting his customer, he went on to a few other odd jobs, returning in early November, Three months had passed, and his customer had finally decided to do the project. We generally held our prices for 30 days, as noted on the quote. until our inventory had turned. The prices had now risen to the point where his material cost and the quote he gave his customer were the same. He unfortunately hadn't put a time limit on his quote. He had a choice, to skip the job and risk a law suit, do the job for nothing and not take any money home, or do the job and not pay us: not very attractive choices. We compromised and sold him the material at our cost, with the promise that he would remember us. On the small scale, we could follow the charitable approach. What can be done on the larger scale; the answer is. "Not much" The only alternative in the commodity markets available, is to buy lumber futures to lock in prices at some date in the future. That is a risky situation for small operations, like the majority of our 16,000 members, and also for the majority of builders, small contractors and carpenters that make up the shelter industry. The only real alternative is a predictable, reliable timber supply. A supply that results in stable prices.

The issue at hand, affordable housing, is dependent on many different issues. The timber supply issue, the capital access issue, the banking regulatory issue, and construction trades employment are all interrelated. We are trying to sit on a stool that has one leg about half the length it needs to be, and a second leg with a large crack in it. Mr. Chairman and committee members, you can fix the leg with a crack, the banking problems, and maybe you can help reach a balanced solution for the short leg, timber supply. I would ask you, for the sake of the small businessmen in the shelter industry, to represent our views both in congress and with the current administration. A healthy housing market means a healthy economy, and a happy electorate.

TEXAS GENERAL LAND OFFICE

GARRY MAURO

COMMISSIONER

DATE: 1/17/94

FAX TO: Matthew Z

NUMBER: 456-2710
PAGES: 1

FROM: **Elisa Lyles**

Washington Office **(202) 638-3927**
Fax **(202) 628-1943**

SUBJECT: One more person for Today's 11:00 meeting

Vernie Hobert 7-23-57

MEMORANDUM TO WILL STELLE

FR: Matt Zinn

RE: Housebuilding Costs & Lumber Prices

DATE: 16 February, 1994

According to a study produced by Ross Gorte of the Congressional Research Service in March of 1993,[1] any conclusion indicating significant correlation of increased housing and lumber prices with lower harvest levels on federal forests in the owl range must be spurious. He found that at most, "spotted owl protection on Federal lands is likely to raise prices by about 10%." (Gorte, 1993: CRS-5) Economic recovery was found to have the greatest influence (>30%), followed by seasonal fluctuations (10%) and import tariffs on Canadian wood (<6.51%). As of February 1993, lumber prices in current dollars had reached a historical peak ($445/kbf),[2] although prices in real terms were still 22% below their historical high of 1977. The study did indicate that price increases might be more severe in the short term, given the injunction on harvests, which this administration is currently seeking to lift. Lumber prices were $449/kbf (also in current dollars) as of Friday, February 4, 1994, showing virtually no change from last year.

The study went further, dismissing claims that rises in lumber prices would affect housing starts, thus causing economic recovery to stall. Mr. Gorte found, based on National Association of Homebuilders (NAHB) figures,[3] that a doubling of lumber prices would increase the cost of a new house by less than five percent. Given this relation, one could expect that **restrictions on harvests in the range of the owl could account for, at most, an increase of 0.5% in the cost of a new house**, or $500 on a $100,000 home.[4] This figure directly contradicts the industry assertion that owl-caused increases in lumber prices have had large impacts on housing costs: "The lumber crisis is having a severe effect on housing affordability and on the whole economy..." (J. Roger Glunt, NAHB President, quoted in Nation's Building News, 12/20/93, p. 7). The CRS study compared rising lumber costs during economic recoveries to changes in housing starts, and found that housing starts had actually increased simultaneously with increases in lumber prices: "...rising lumber [prices] appear not to have, historically, dampened homebuilding activity." (Gorte, 1993: CRS-5)

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[1] Ross Gorte, "Memorandum on Lumber Prices," Congressional Research Service, 2/10/93

[2] This figure is a composite index of framing lumber costs, complied by Random Lengths, Inc. of Eugene, OR.

[3] NAHB has indicated that lumber costs account for less than five percent of the total cost of a house. (NAHB, Housing Backgrounder, p. 24-25, cited in Gorte, 1993: CRS-5)

[4] This amounts to an addition of just over $3 per month on a 30 year mortgage at a conservative 8% interest rate.

It is thus reasonable to conclude that:

1) reductions in timber harvests on owl forests will not significantly affect lumber prices following the lifting of the injunctions;

2) the minimal price increases attributable to owl protection measures have little effect on the costs of homebuilding, and therefore will not likely impact housing starts overall;

3) no significant impacts to overall economic recovery can be expected to follow from owl mitigation measures.

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SPECIAL EDITION

NFRC TIMBER FACTS

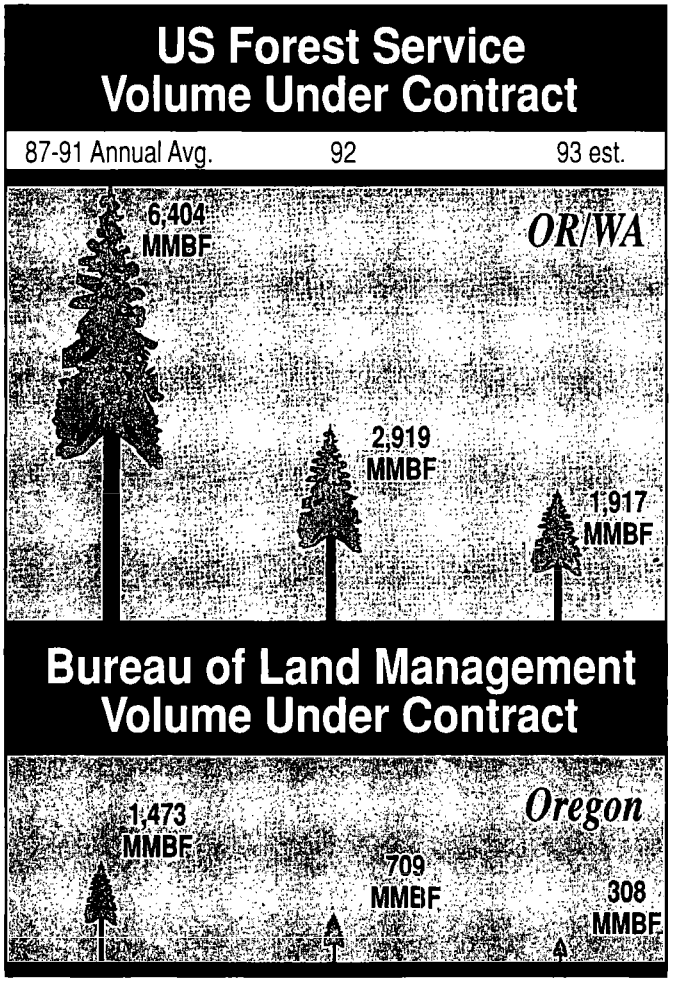
News & Information on the Forest Industry for the Public—Jan/Feb '94

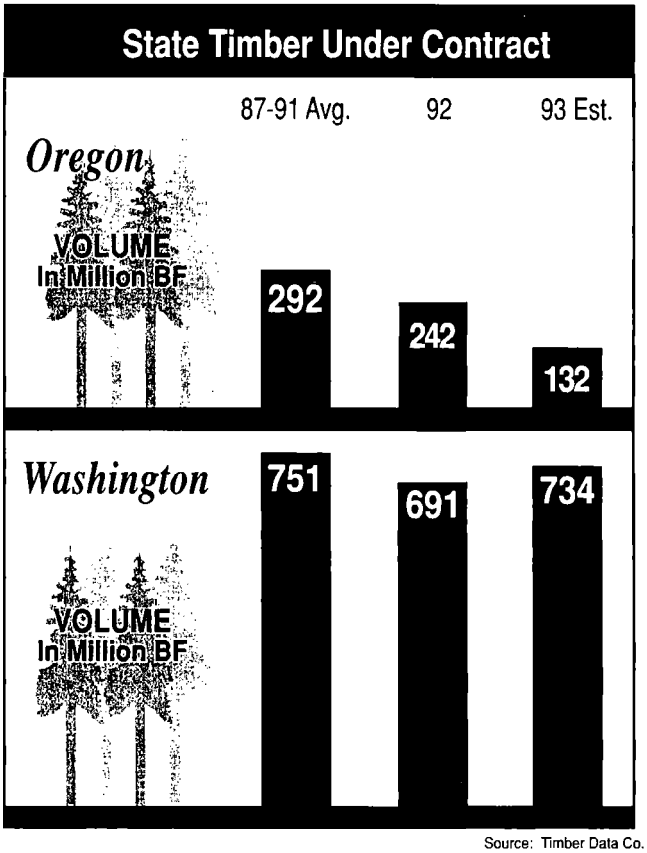
Public timber volumes continue drastic declines

The close of 1993 saw a record low level of public timber sales volume under contract. With the current forest gridlock and high product demand, Forest Service and BLM contract volumes may approach zero by the end of 1994. Of this federal volume, about a third is currently unavailable for cutting due to litigation, endangered species consultation and conflicts with the proposed President's Forest Plan. So the outlook for timber supply is even more critical than the charts display.

The State of Oregon's volume under contract has also declined dramatically due to reductions in their timber sale program. Washington State on the other hand shows only a slight dip. Continued gridlock on the federal lands and uncertainty associated with the Endangered Species Act's application to non-federal ownerships are likely to place more demand on the state timber volume under contract.

Source. Timber Data Co.





Source: Timber Data Co.

Measurements Board feet = a board 12" x 12" x 1"
mmbf = million board feet
bbf = billion board feet

* Note: Values are calendar year end (totals)

NFRC Timber Facts is published monthly by the ***Northwest Forest Resource Council*** *for the public.*
For more information contact: **(503) 222-9505**
NFRC • 1500 SW First Ave. • Suite 770 • Portland, OR 97201

FAX TO FUKUHARA

NFRC TIMBER FACTS

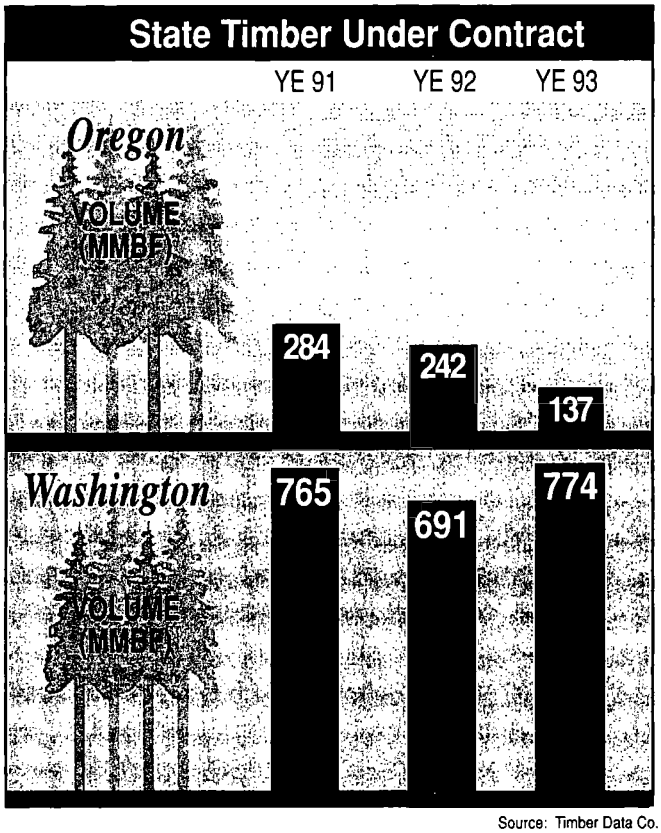
News & Information on the Forest Industry for the Public-March 1994

Contract volume declines

The amount of federal timber sales sold and under contract for harvest continued to decline in 1993. There was only 1.87 billion board feet under contract at the end of 1993 in Oregon and Washington on U.S. Forest Service lands. That's 44% of the timber under contract in 1991, just two years earlier.

Oregon Bureau of Land Management lands saw the same declines. Only 388 million board feet of timber was sold and was under contract to be harvested at year-end 1993. That's just 31% of the amount under contract at year-end 1991.

To put these numbers into perspective Paul F. Ehinger & Associates provides the following numbers. Oregon has 143 sawmills and plywood plants and Washington has 104 sawmills and plywood plants. The average mill uses roughly 35 million board feet of logs per year. While these mills receive logs from a variety of ownerships, the current volume under contract will not sustain the industry in these two states.



Source: Timber Data Co.

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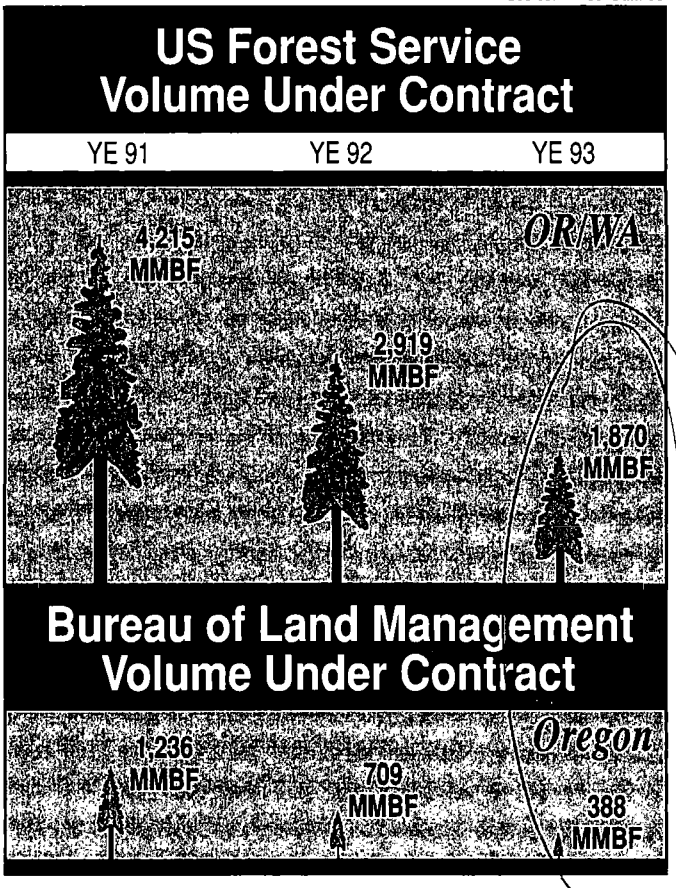

Oregon down, Washington up in state timber under contract

At the end of 1993 the amount of timber under contract on state lands in Oregon was 137 million board feet. That's only 48% of the volume under contract at the end of the year in 1991. Volume under contract on state lands in Washington is up slightly from 1991. At year-end 1993 the State of Washington had 774 million board feet under contract. That's about a 1% increase over year-end 1991.

Measurements Board feet = a board 12" x 12" x 1"
mmbf = million board feet
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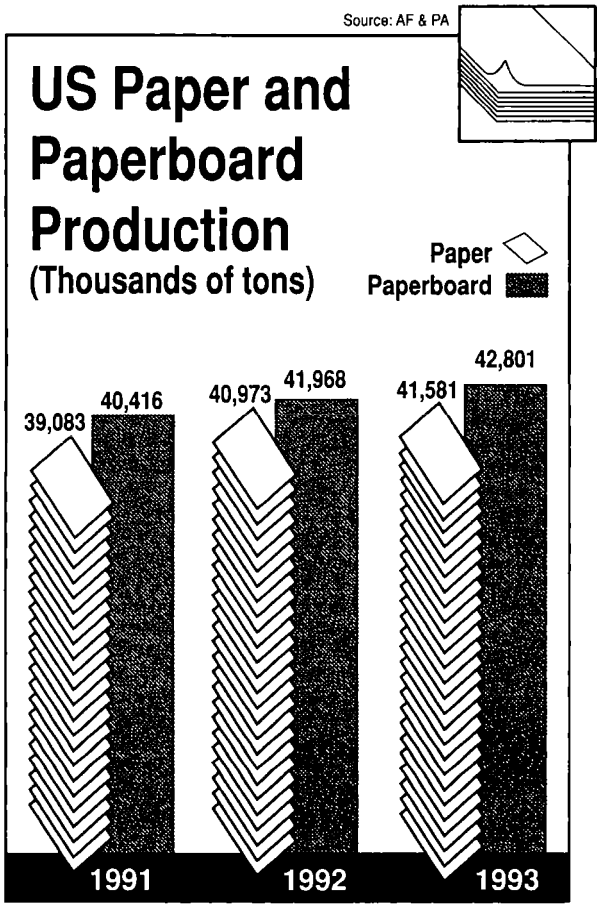
Paper recycling a 300-year tradition

Recycling may be a new concept in some U.S. communities, but it's been a paper industry tradition for 300 years! It all started at the Rittenhouse Mill, near Philadelphia, which began making paper from rags in 1690.

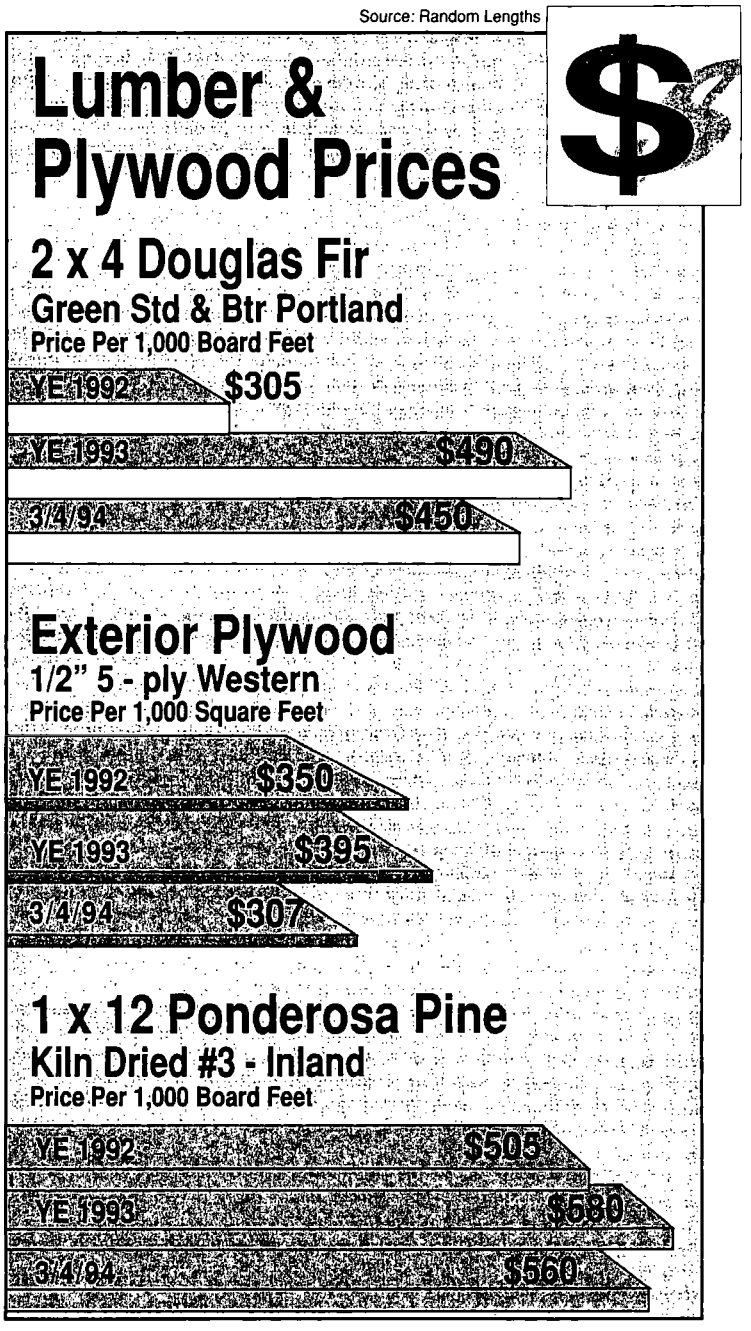
Until 1860, the U.S. paper industry relied exclusively on recycled fiber derived from cotton and linen rags, and on recovered paper made from these textile fibers. Economic growth soon led to greater demand for papers, and techniques were developed to utilize wood fiber in papermaking.

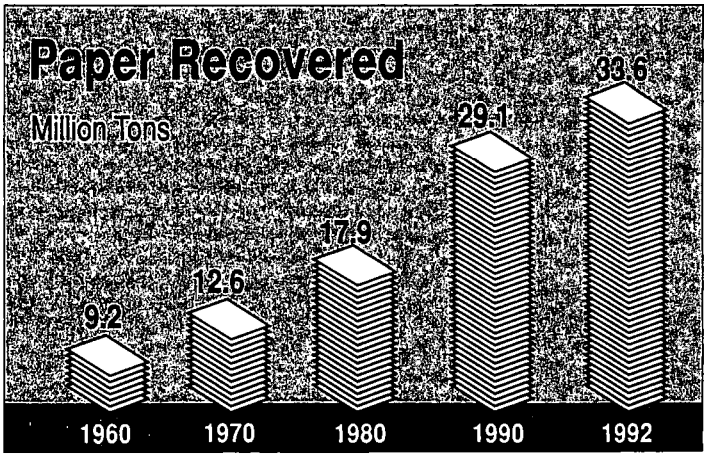
Today, more Americans are recycling than ever before; and much of their effort is devoted to paper recycling. A greater percentage of paper is recycled in the Northwest than any other part of the country.



Recovered paper rises

The U.S. recovered 33.6 million tons of paper for recycling in 1992, 38.1% of all paper and paperboard consumed. That's enough to make a box-car train 7,600 miles long. Paper is by far the most recycled of all materials.





94-122 ENR

CRS Report for Congress

Lumber Prices -- 1993

Ross W. Gorte
Specialist in Natural Resources Policy
Environment and Natural Resources Policy Division

February 18, 1994

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SUMMARY

Lumber prices rose to record high levels in December 1993, more than 60 percent above their July 1993 levels. This rise follows an unprecedented price rise from October 1992 to March 1993, with a substantial decline from March to July. (March and December prices were nearly equal.)

Some have attributed the price rise to restrictions on Federal timber sales in the Pacific Northwest to protect the threatened spotted owl. The Clinton Administration's forest plan has been singled out as a major problem. However, Federal timber programs in the region have been constrained largely by court injunctions based principally on forest management laws (not on the Endangered Species Act). The Clinton plan would reduce Federal harvests to a quarter of the level of the late 1980s, but is intended to resolve the litigation and thereby to increase Federal sales from the level of the early 1990s.

Despite the attention to Federal lands in the Pacific Northwest, they are a small contributor to U.S. timber supplies. Harvests on Federal lands elsewhere have also declined, although not as precipitously, and harvests on non-federal lands in the Pacific Northwest have declined, primarily because of the weak economy. Nonetheless, Canadian imports and non-federal timberlands, especially in the South, have some potential for expanding production in response to higher lumber prices.

The lumber price rise is at least partly, and perhaps substantially, due to rising demand for lumber. Housing starts rose 25 percent between July and December (coinciding with the lumber price rise), and gross domestic product grew at a 5.9-percent annual rate in the fourth quarter of 1993. In addition, lumber prices are quite volatile in the face of perceived changes or concerns in supply or demand; the October 1992-March 1993 price rise has been called a largely speculative price bubble. Concerns about Federal timber supplies are likely to have contributed to the recent price rise. Furthermore, uncertainties about the changing level and status of the U.S. countervailing duty on Canadian lumber imports and about the economic recovery in Japan probably heighten speculative behavior.

Some have expressed concerns that the lumber price rise could reduce homebuilding and choke off the economic recovery, but this possibility seems unlikely. The past two recoveries have proceeded despite 30 to 60 percent lumber price rises. Furthermore, lumber accounts for only 5 percent of the price of a house, and doubling lumber prices has less effect on mortgage payments than a one percentage point increase in interest rates. Nonetheless, potential substitution of some other products, such as tropical woods or steel studs, that could cause environmental problems raises social concerns about a sustained rise in lumber prices.

TABLE OF CONTENTS

LUMBER PRICES -- 1993

The recent rise in domestic lumber prices has attracted much attention. Some groups assert that the price rise is due to protection of the threatened northern spotted owl on the Federal lands of western Washington and Oregon and northwestern California. Others argue that the incipient housing recovery is the cause of the recent price rise. This report describes the recent price rise, and then examines the supply and demand factors that contribute to lumber price rises. The final section explores the various causes and assesses some implications of the lumber price rise.

LUMBER PRICES

In December 1993, lumber prices rose to peak levels that matched their previous record highs, set in March 1993. The *Random Lengths* framing lumber composite price averaged $492 per thousand board feet (MBF) for the month, and reached $510 per MBF in the last week of 1993.[1] Figure 1 shows monthly lumber prices from January 1975 through December 1993, and clearly demonstrates that framing lumber prices have risen substantially over the past year, with a large decline between the March and December peaks. Since a low of $255 per MBF in October 1992, the framing lumber composite price has nearly doubled.[2] The rise from October 1992 to March 1993 was the largest sustained rise -- $238 per MBF, 93 percent -- over the past 19 years, followed by the subsequent rise from July 1993 to December 1993 ($188 per MBF, 62 percent).[3]

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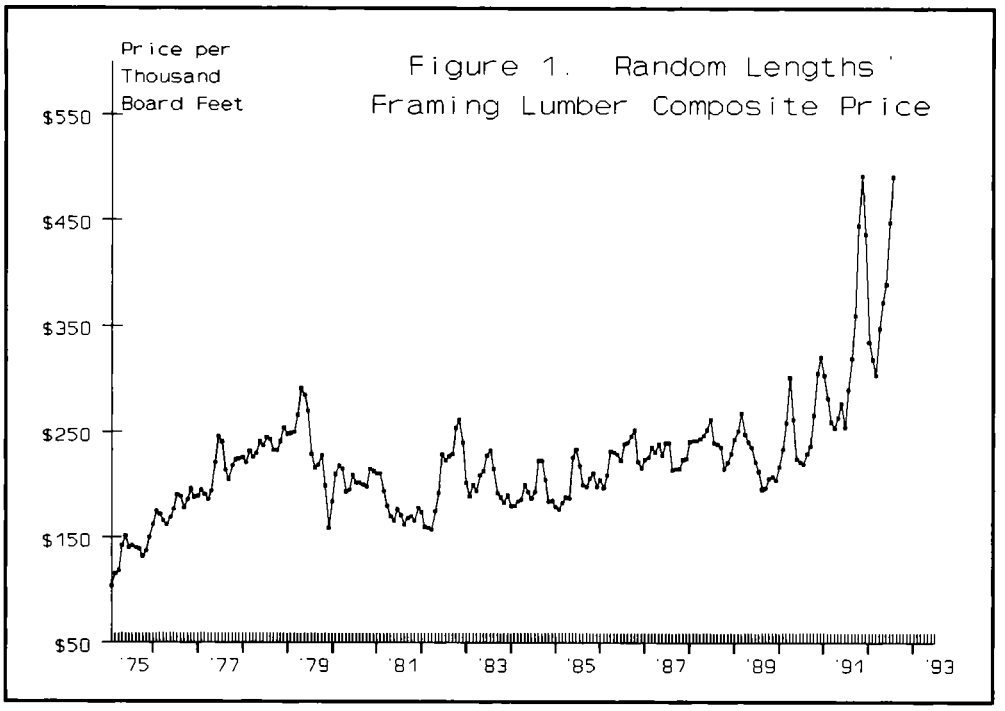
[1] This measure of lumber prices is a weighted average for a variety of framing lumber sizes, grades, and species, calculated weekly by Random Lengths, Inc., a lumber price reporting organization located in Eugene, OR. Prices are reported in dollars per MBF (a board foot is 144 cubic inches, in nominal dimensions -- *i.e.*, a 1-inch thick board that is 12 inches wide and 1 foot long). Prices and price changes for specific species and grades undoubtedly vary from this weighted average, but the composite price provides a consistent, historical measure that reflects changes in all regions of the country.

[2] The composite price has more than doubled when the weekly data are used; the price in second week of October 1992 was $249 per MBF, compared to $510 per MBF in the last week of December 1993. In between, the composite price reached $506 per MBF in the third week of March, and dropped to $295 per MBF in the third week of July before rising again.

[3] The rise from January 1975 ($104 per MBF) to the August 1979 peak ($291 per MBF) nearly matched the July-December 1993 rise in dollars ($187 per MBF), but was a much greater relative rise (180 percent); it may even have been greater, if the low price had occurred in 1974. (The framing lumber composite price was first calculated for January 1975.) However, this rise was not continuous over the entire period.

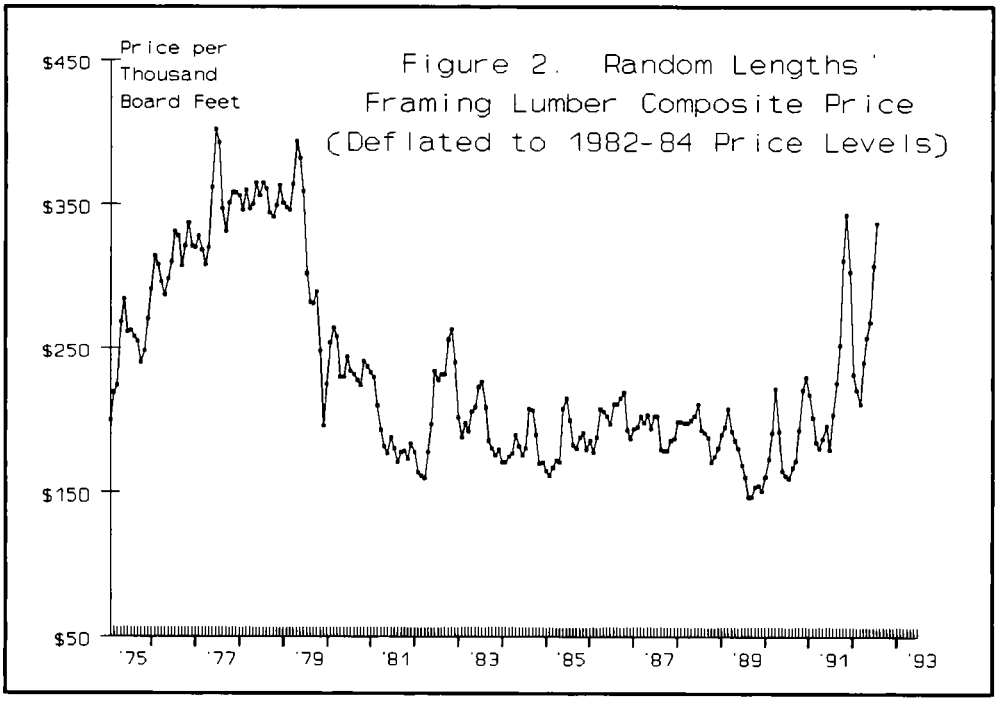


Current prices can be misleading when making historical comparisons, because inflation raises all prices. Adjusting prices to a common price level is a standard economic practice for examining changes in real (deflated) prices. Real, deflated lumber prices are shown in figure 2; these prices are the *Random Lengths* framing lumber composite prices adjusted with the Consumer Price Index (CPI) to 1982-1984 average prices. The figure again shows that the price increase from October 1992 to March 1993 is the largest in real dollars -- $163 per MBF, 91 percent -- over the past 19 years. However, in real dollars, the March 1993 price ($343 per MBF) is still substantially below the peak real price of August 1977 ($402 per MBF). In fact, from July 1977 through October 1979, real composite framing lumber prices were mostly higher than the March 1993 price.

Even if real lumber prices are below record high levels, they have risen substantially. Why? What has caused lumber prices to nearly double since October 1992? Some have blamed spotted owl protection, but others assert that it is a normal response to renewed economic growth. The following section examines the various factors that affect lumber prices, and the recent changes that might have contributed to the unprecedented price rises of 1993.

FACTORS CONTRIBUTING TO LUMBER PRICE RISES

Prices for a good or service are necessarily interrelated with the supplies of and demands for the good or service. Prices are a reflection of supply and demand factors in a given market; conversely, prices, along with a host of other



factors, also influence supplies and demands. Prices also necessarily include some measure of speculation, because buyers and sellers adjust to expectations about future supplies and demands, as well as to current factors. Thus, expectations about timber supplies and lumber demands may be as important as current situations in establishing prices for lumber.[4]

Timber Supplies

Much of the attention over lumber price rises has focused on changes in the timber supplies from Federal lands in western Washington, western Oregon, and northwestern California. Figure 3 shows the importance of the Federal Government as a source of timber in various regions of the United States.

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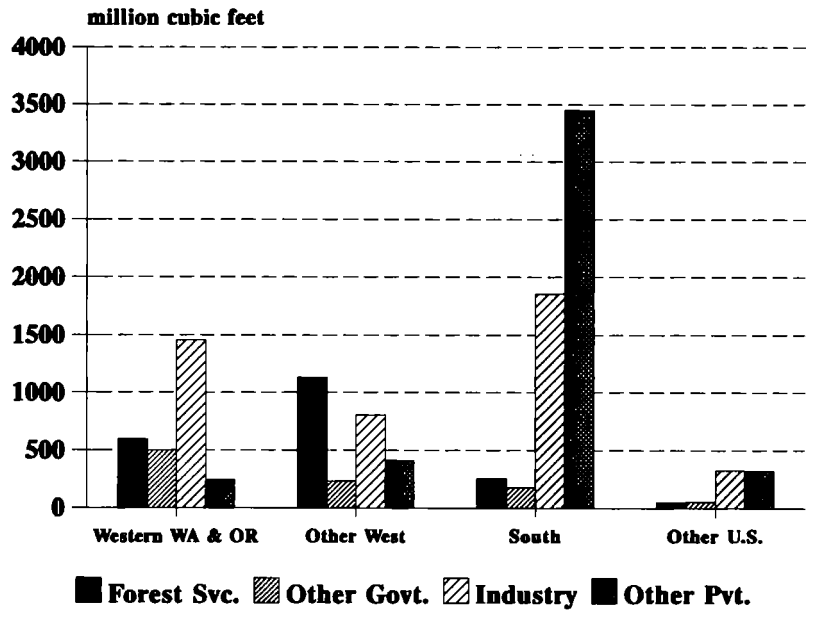
[4] This report focuses on lumber, because sawmills account for about 70 percent of the volume of primary solid wood products in the United States. (U.S. Congress, Office of Technology Assessment. *Wood Use: U.S. Competitiveness and Technology, Volume II -- Technical Report*. OTA-M-224. Washington, DC: U.S. Govt. Print. Off., November 1984. p. 18.) Pulpmill products (for paper and building board) account for as much wood fiber as solid wood products, but have not been part of the debates over product prices and timber supplies, because (1) paper prices are generally less volatile than the prices of lumber and other solid wood products, and (2) wood fiber accounts for less than 30 percent of the cost of paper production, compared to 46 percent of the net cost of plywood production and 72 percent of the net cost of lumber production. (Thomas P. Clephane and Jeanne Carroll. *Timber Ownership, Valuation, and Consumption Analysis For 87 Forest Products, Paper, and Diversified Companies*. New York, NY: Morgan Stanley & Co., June 20, 1980. p 3-4.)

Figure 3. Softwood Timber Harvests by Landowner in Various Regions, 1986



Source: U.S.D.A. Forest Service. *An Analysis of the Timber Situation in the United States: 1989-2040.* Draft. pp. C-144 - C-145.

Federal Lands in the Pacific Northwest

Federal lands in the Pacific Northwest have supplied substantial volumes of timber. Figure 3 understates their relative significance, because the Bureau of Land Management (BLM, U.S. Dept. of the Interior) accounts for about half of the other government timberland in western Washington and Oregon, and because northwestern California is relatively similar to its northern neighbors (and contains northern spotted owl habitat) but is included in other west.

Protection of the northern spotted owl has substantially reduced Forest Service and BLM timber sales in the Pacific Northwest over the past several years. In May 1991, the Forest Service was enjoined from selling timber in much of the area inhabited by spotted owls until it had prepared a management plan and environmental impact statement for the species. In February 1992, the BLM was similarly enjoined from selling timber because of its failure to prepare environmental impact statements. Contrary to conventional wisdom, the litigation and injunctions have generally not been based on protection under the Endangered Species Act (ESA), but rather on unfulfilled requirements of the National Forest Management Act of 1976 (NFMA), the National Environmental Policy Act of 1969 (NEPA), the Federal Land Policy and Management Act of 1976 (FLPMA), and other laws.

The impact of spotted owl protection on Federal timber sales is uncertain. Estimates following the designation of critical habitat by the U.S. Fish and Wildlife Service suggest that future Federal timber programs in the owl region would likely be near 2 billion board feet (BBF) annually.[5] This is down from the record 5 BBF harvested annually from these Federal lands in the late 1980s; however, about half of this decline (1.5 BBF) was proposed in new land and resource management plans for the national forests required by NFMA. Some of the decline in the NFMA management plans is likely due to owl protection, but such protection is only one of many factors affecting future Forest Service timber sale levels. The decline under the plans is not a result of protecting the spotted owl under the ESA; owl or no owl, Federal timber harvests in the owl region were likely to decline, and that decline had been predicted for decades.[6]

Federal timber sales in the past 2 years have been less than the 1.2 BBF sale program proposed in the Clinton Administration's "Option 9" for the forests of the Pacific Northwest. This proposal was intended to fulfill the legal requirements identified by the courts, and the plan's environmental impact statement has been submitted for judicial review. Until the courts accept the plan as fulfilling the requirements of NFMA, NEPA, FLPMA, and other laws, Forest Service and BLM timber sales in the Pacific Northwest will continue to be severely restricted. Thus, while the Clinton timber plan proposes to sell much less Federal timber than was sold in the 1980s, it also proposes to sell more Federal timber than has been sold in the past 2 years.

Other Lands in the Pacific Northwest

As shown in figure 3, non-federal lands in the Pacific Northwest -- State lands, tribal lands, industry lands, and other private lands -- also contribute substantially to the regional timber supply. During the 1980s, the BLM and Forest Service provided 37 percent of the timber harvested in Washington and Oregon. (Note that this overstates the importance of the Federal agencies in the area occupied by spotted owls, since Federal lands are relatively less important west of the Cascades.) Another 10 percent was harvested from State, tribal, and other government lands, while the remaining 53 percent was harvested from private lands.

Several factors could be significant in determining short-run future supplies from non-federal lands. One is whether spotted owl protection under the ESA will affect non-federal timberland management; one part of the Clinton forest plan is to ease possible ESA restrictions on timber cutting from non-federal

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[5] See: U.S. Library of Congress, Congressional Research Service. *Economic Impacts of Protecting Spotted Owls: A Comparison and Analysis of Existing Studies.* [by Ross W. Gorte.] CRS Report for Congress No. 92-922 ENR. Washington, DC: Dec. 7, 1992.

[6] See: V. Alaric Sample and Dennis C. LeMaster. *Assessing the Employment Impacts of Proposed Measures to Protect the Northern Spotted Owl.* Washington, DC: American Forestry Assoc., Forest Policy Center, 1992. 65 pp.

lands. Another is whether private landowners will respond to the higher timber prices by accelerating harvests. This may be possible in the short run, but such responses are unsustainable because of low timber inventories on private lands in the Pacific Northwest.[7]

One factor raised by environmentalists is the substantial volume of unprocessed timber (logs) exported from the Pacific Northwest. During the 1980s, 28.7 BBF of softwood logs from non-federal lands in Washington and Oregon were exported to Japan, China, Korea, and elsewhere.[8] In total, about a third of the timber harvested from non-federal lands during the decade was exported as logs. From the peak, the volume of log exports and the proportion of harvest exported without processing dropped sharply, from 3.7 BBF (39 percent) in 1988 to 2.2 BBF (26 percent) in 1992. This decline is most likely due to the economic recession in Japan and to the restrictions on log exports from State lands enacted in the Customs and Trade Act of 1990. It also seems likely that log exports will rebound as the Japanese economy recovers, although exports of unprocessed logs might never return to the peak levels of the late 1980s.

Federal Lands Elsewhere

While much attention has been paid to the decline in Federal timber levels in the Pacific Northwest, relatively little attention has been paid to declining timber programs in other regions. Timber sales and harvests have declined in nearly every Forest Service region since the peak of the late 1980s. Outside Washington, Oregon, and California, annual Forest Service timber sales and harvests in 1991-1993 were only 77 percent of the average annual sales and harvests in 1987-1990. The Forest Service cited administrative appeals and litigation as a factor in the decline, although previous agency data on appeals did not support this conclusion.[9] Environmental groups have asserted that the decline was inevitable, because Forest Service timber programs in the late 1980s were at unsustainable levels; this allegation is also undocumented. Finally, the lower timber programs might also be in response to the relatively slow economic performance in the United States since 1990.

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[7] For a discussion of these two factors, see: CRS Report No. 92-922 ENR, *Economic Impacts of Protecting Spotted Owls*.

[8] Logs from Federal lands generally cannot be exported without some domestic processing. See: U.S. Library of Congress, Congressional Research Service. *Restricting Softwood Log Exports: Policy and Legal Implications*. [by Ross W. Gorte and Kenneth R. Thomas.] CRS Report for Congress No. 93-738 ENR. Washington, DC: Aug. 13, 1993. 24 pp.

[9] See: U.S. Library of Congress, Congressional Research Service. *Administrative Appeals of Forest Service Timber Sales*. [by Pamela Baldwin and Ross W. Gorte.] CRS Report for Congress No. 92-349 A. Washington, DC: April 8, 1992. 9 p.

Other Non-Federal Timberlands

Non-federal lands are significant suppliers of timber in much of the United States, particularly in the South. Lumber production has also been expanding in the South, in relative as well as absolute terms. The South produced a quarter of the lumber manufactured in the United States in the early 1970s, but a third of U.S. lumber production through most of the 1980s, and 43 percent of the U.S. lumber produced in the first three quarters of 1993; lumber production in the South rose by 43 percent between 1977 and peak production in 1988.[10] Despite the rise in lumber production, softwood timber inventories in the South have also risen, from 87 billion cubic feet in 1970 to 99 billion in 1977 and to 104 billion in 1987.[11] While it may prove impossible to continue to expand both lumber production and timber inventories, these data suggest that lumber production in the South could be expanded further. However, kiln capacity for drying lumber could limit such an expansion in the short run.[12]

Canada has also been suggested as an alternative source of additional timber for the U.S. market. The United States has long been a major market for Canadian lumber, and Canada has supplied about 30 percent of the softwood lumber consumed in the United States since 1978. The potential to expand Canadian lumber production and exports to the United States is uncertain. Existing inventory data show that softwood inventories rose nearly 3 percent between 1976 and 1986.[13] However, others note concerns about overcutting in Canada, and one author stated that the 1989 harvest in British Columbia exceeded the annual allowable cut by 13 percent.[14] Thus, it is unclear whether Canada can respond to the higher lumber prices by expanding production, even temporarily.

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[10] American Forest and Paper Association. *Statistical Roundup: Quarterly Statistical Supplement*. Washington, DC.

[11] U.S. Dept. of Agriculture, Forest Service. *An Analysis of the Timber Situation in the United States: 1989-2040*. Draft. p. C-42.

[12] Doug Smyth. "Timber Supply Crisis Really Arrives in '94," *Wood Technology*, v. 121, no. 1 (Jan/Feb. 1994): 23-26.

[13] T.G. Honer, W.R. Clark, and S.L. Gray. "Determining Canada's Forest Area and Wood Volume Balance, 1977-1986." *Canada's Timber Resources*. [David G. Brand, ed.] Information Report PI-X-101. Chalk River, Ontario, Canada: Forestry Canada, Petawawa National Forestry Institute, 1991. pp. 17-25.

[14] F.L.C. Reed. "Canada's Timber Situation in 2050." *Canada's Timber Resources*. [David G. Brand, ed.] Information Report PI-X-101. Chalk River, Ontario, Canada: Forestry Canada, Petawawa National Forestry Institute, 1991. pp. 135-143.

See, also: James P. Kimmins. "Forecasting the Growth and Yield of Canada's Forests to 2050." *Canada's Timber Resources*. [David G. Brand, ed.] Information Report PI-X-101. Chalk River, Ontario, Canada: Forestry Canada, Petawawa National Forestry Institute, 1991. pp. 17-25.

Timber Demands

Construction Demand

Demand for lumber is a secondary demand, derived substantially from the demand for new or remodeled houses and other buildings. Wood products are a relatively minor component of construction costs; for example, structural wood products accounted for about 5 percent of the price of a new house in the late 1980s.[15] In contrast, construction accounted for 80 percent of softwood lumber used in the United States in 1992.[16] As a result, construction demand greatly influences lumber prices, but lumber prices have relatively little influence on construction demand.

New housing starts are clearly a major factor in lumber demand. From their 1986 peak of 1.8 million, new private housing starts declined to a low of 1.0 million in 1991. Starts rose to 1.2 million in 1992, and continued at that level through July 1993. From July -- the low point in 1993 lumber prices -- to December, housing starts rose 25 percent, to a seasonally-adjusted annual rate of more than 1.5 million starts in December. Whether housing starts will continue to rise in 1994 is uncertain.

The general economy is also a factor in lumber demand, since remodeling and nonresidential construction activity track changes in gross domestic product (GDP). The fourth quarter of 1993 showed strong growth in real GDP -- an annual rate of 5.9 percent. This was a sizable increase over the preceding quarters of 1993 -- 2.9 percent in the third quarter, 1.9 percent in the second quarter, and 0.8 percent in the first quarter -- and over the 2.6 percent growth in real GDP in 1992. Thus, demand for lumber in this sector was increasing while housing starts were rising.

Market Volatility

Lumber is a minor but critical component of construction. Thus, buyers often respond quickly to perceived changes or concerns about future supplies of or demands for lumber. Because of the time required to harvest, mill, dry, and ship lumber, inventories at the various points in the production and distribution system can be significant, and demands to expand or shrink inventory can change quickly. Thus, lumber markets are often quite volatile in the face of

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[15] National Association of Homebuilders, Public Affairs Division. *Housing Backgrounder*. Washington, DC: January 1989. pp. 24-25.

[16] The Irland Group. *Assessment of Pricemaking Forces in the US Softwood Lumber Markets*. Augusta, ME: April 1993. p. 19. (Hereafter referred to as Irland Group, *Assessment of Lumber Pricemaking Forces*.)

perceived changes or concerns in the short run, and "market overreaction" was identified as a major factor in two-thirds of recent price bubbles.[17]

The July-December price rise has likely been fueled by the price spike that occurred in March. Wholesalers have apparently been cautious about expanding their inventories this fall, after being burned with substantial inventories of high-priced lumber when prices collapsed in April and May.[18] Michael Carliner of the National Association of Home Builders predicted the post-March price decline:[19]

> Although lumber prices are quite sensitive to small changes in supply or demand, it's hard to attribute a 90 percent price jump to any recent changes in home building or forest policy. It is likely that prices will drop back. In the past, it has been common for quoted prices to shoot up due to panic buying and then to fall back down again when the speculative bubble bursts.

More recently, Carliner noted that the July-December price rise might also be fueled partly by speculation, although he asserts that the underlying trend is toward higher average prices.[20]

International Trade

Finally, international trade in wood products influences U.S. lumber prices. For example, log and lumber exports to Japan have declined since 1989, because of the weak Japanese economy. A strong Japanese recovery would add pressure on wood supplies, and would likely raise lumber prices further.

The uncertainty over U.S. duties on imports of Canadian softwood lumber might be contributing to the speculative concerns noted by Carliner. The uncertainty is due to the numerous changes and reviews announced by the various interests since October 1991. At that time, Canada withdrew from the Memorandum of Understanding with the United States on softwood lumber, and the U.S. Department of Commerce (DOC) initiated a review of Canadian lumber imports. Periodic releases of findings of the DOC on Canadian subsidies and of the U.S. International Trade Commission on injury to the U.S. lumber industry by Canadian imports, appeals to binational panels as provided for in the U.S.-

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[17] Irland Group, *Assessment of Lumber Pricemaking Forces*, p. 215.

[18] Jeffrey Taylor. "Commodities: Lumber Futures Prices Again Jump Daily Limit As Wholesalers Struggle to Find Scarce Supplier," *The Wall Street Journal* (Dec. 17, 1993): C14.

[19] Michael Carliner. "Lumber Crisis," *Housing Economics* (Feb. 1993): 5-8.

[20] Michael Carliner. "What's Driving Lumber Prices?" *Housing Economics* (Jan. 1994): 5-9.

Canada Free Trade Agreement, panel decisions, reanalyses, and subsequent reviews have created uncertainty about U.S. countervailing duties on softwood lumber imports from Canada; a chronology of the events relating to the U.S. countervailing duty on Canadian lumber is shown in box 1.

Box 1. Chronology of U.S. Countervailing Duty on Imports of Canadian Lumber

Dec. 1986	United States and Canada reach Memorandum of Understanding on softwood lumber, for a 15% Canadian export tax to be replaced by higher provincial stumpage fees.
Oct. 1991	Canada withdraws from MOU, citing higher provincial stumpage fees, but continued administrative costs.
Oct. 1991	U.S. Department of Commerce (DOC) self-initiates review of Canadian lumber imports.
Dec. 1991	U.S. International Trade Commission (ITC) issues preliminary finding that the U.S. lumber industry has been injured by lumber imports from Canada.
Mar. 1992	DOC issues preliminary finding of Canadian subsidies to lumber producers, estimated at 12.48% *ad valorem* (percent of market value).
May 1992	DOC issues final finding of Canadian subsidies to lumber producers, lowering estimate of subsidies to 6.51% *ad valorem* and imposing a 6.51% countervailing duty.
July 1992	ITC issues final finding of injury to U.S. lumber industry by Canadian lumber imports.
July 1992	Binational panel, under U.S.-Canada Free Trade Agreement, asked to review DOC finding of Canadian subsidies.
Sep. 1992	Another binational panel asked to review ITC finding of injury to U.S. lumber producers.
May 1993	Binational panel remands DOC finding of subsidies for further analysis.
July 1993	Second binational panel remands ITC finding of injury for further analysis.
Sep. 1993	DOC issues revised final finding of Canadian subsidies to lumber producers, now estimated at 11.54% *ad valorem*.
Oct. 1993	ITC issues revised final finding that Canadian lumber imports have injured U.S. lumber producers.
Dec. 1993	Binational panel reviews and again remands DOC finding of Canadian subsidies.
Jan. 1994	Second binational reviews and again remands ITC finding of injury to U.S. lumber producers.
Jan. 1994	U.S. Coalition for Fair Lumber Imports asks U.S. Trade Representative for Extraordinary Challenge Committee.

CONCLUSIONS AND IMPLICATIONS

Lumber prices rose substantially between July 1993 and December 1993. At their peak in the last week of December, framing lumber prices had reached historic highs, although after adjusting for inflation, the prices are still substantially below real lumber prices of the late 1970s.

Many factors have contributed to the recent price rise. Short-term price changes reflect the interaction of supply and demand, as influenced by expectations and concerns. Protecting spotted owls has reduced Federal timber sales in the Pacific Northwest. The Clinton Administration's forest plan proposes a Federal timber program substantially lower than sale and harvest levels of the late 1980s, but higher than in recent years under current court injunctions; thus, the Clinton plan is intended to alleviate some of the current shortage from Federal lands. Federal timber sales in other regions have also declined, for a variety of reasons. However, even in the late 1980s, Federal lands accounted for only about 20 percent of U.S. timber harvests, and a smaller share of supply of construction lumber when one considers lumber imports from Canada. Nonetheless, because of limited private timber inventories in the West and likely declines in Canadian production, reduced timber programs on Federal lands will contribute to higher lumber prices over the next several years.

The 62 percent price rise between July and December is probably more a result of the economic recovery combined with uncertainties over U.S. duties on Canadian lumber and fears about timber shortages. Lumber prices typically rise during economic recoveries; during the previous two recoveries, in 1983 and in 1976, lumber prices rose by more than 30 percent. The strong growth in GDP in the fourth quarter of 1993 and the rise of housing starts over the last 6 months most probably precipitated the price rise. The continuing uncertainty over the U.S. countervailing duty on imports of Canadian lumber undoubtedly contribute some to speculation in lumber prices. Finally, the national attention to Federal timber in the Pacific Northwest exceeds its importance in U.S. wood supplies, and also contributes to speculative behavior to alleviate anticipated wood shortages.

Some interests have warned that substantial lumber price rises might choke off the U.S. economic recovery. They argue that homebuilding is typically a major factor in an economic recovery, and that price rises for homebuilding supplies could dampen the demand for housing, and thus cause a recovery to falter. However, examining this possibility from two different angles suggests that this result is unlikely. First, history suggests that rising lumber prices are unlikely to constrain housing starts. Lumber prices rose by 73 percent between 1975 and 1978, while housing starts rose by 74 percent (from 1.16 million starts in 1975 to 2.02 million in 1978). Similarly, lumber prices rose by 31 percent between 1982 and 1983, while housing starts rose by 60 percent (from 1.06 million starts in 1982 to 1.70 million in 1983). Thus, rising lumber prices appear not to have, historically, dampened homebuilding activity.

The second angle is the likely effect of rising lumber prices on housing prices. Construction wood accounts for less than 5 percent of the price of a house. Thus, even doubling the price of lumber raises the price of a house by only 5 percent -- $5,000 on a $100,000 house. On a 30-year mortgage for a $100,000 house with a fixed interest rate of 9 percent, doubling the price of lumber increases mortgage payments by less than $40 per month. This increase is less than the impact of a 1 percentage point increase in the interest rate; increasing the interest rate from 9 percent to 10 percent, in this example, would increase the mortgage payments by slightly more than $40 per month. Since small changes in mortgage rates have a substantially greater effect on home buyers than doubling lumber prices, it seems unlikely that changes in lumber prices can have a significant effect on housing demand.

Finally, higher lumber prices may stimulate substitution of other products for lumber in construction, particularly if prices remain relatively high. Some homebuilders have already switched to steel framing, and the steel industry has stated it hopes to account for 25 percent of the homebuilding market by 1997 (up from 1 percent in 1993).[21] However, such a change has social and environmental ramifications beyond just homebuilding. For example, while many object to the environmental damages caused by timber harvesting and processing, they are also likely to object to the environmental damages caused by the mining, smelting, and refining needed to produce steel. Another concern is whether higher lumber prices may stimulate tropical deforestation, although tropical woods have rarely been used for construction lumber in the United States.

On the other hand, higher lumber prices may stimulate greater private investments in timber production and in wood processing productivity. There may also be potential to reduce material use through conservation in construction practices and standards, that would be stimulated by higher lumber prices. Thus, the positive and negative implications of higher lumber prices that are stimulated in part by declines and fears about declines in Federal timber programs are widespread, and worthy of consideration in any actions to influence lumber prices.

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[21] Maryann Haggerty. "With Lumber High, Builders Look to Steel," *The Washington Post* (Feb. 5, 1994): E1.

MEMORANDUM TO WILL STELLE

FR: Matt Zinn

RE: Housebuilding Costs & Lumber Prices

DATE: 16 February, 1994

According to a study produced by Ross Gorte of the Congressional Research Service in March of 1993,[1] any conclusion indicating significant correlation of increased housing and lumber prices with lower harvest levels on federal forests in the owl range must be spurious. He found that at most, "spotted owl protection on Federal lands is likely to raise prices by about 10%." (Gorte, 1993: CRS-5) Economic recovery was found to have the greatest influence (>30%), followed by seasonal fluctuations (10%) and import tariffs on Canadian wood (<6.51%). As of February 1993, lumber prices in current dollars had reached a historical peak ($445/kbf),[2] although prices in real terms were still 22% below their historical high of 1977. The study did indicate that price increases might be more severe in the short term, given the injunction on harvests, which this administration is currently seeking to lift. Lumber prices were $449/kbf (also in current dollars) as of Friday, February 4, 1994, showing virtually no change from last year.

The study went further, dismissing claims that rises in lumber prices would affect housing starts, thus causing economic recovery to stall. Mr. Gorte found, based on National Association of Homebuilders (NAHB) figures,[3] that a doubling of lumber prices would increase the cost of a new house by less than five percent. Given this relation, one could expect that **restrictions on harvests in the range of the owl could account for, at most, an increase of 0.5% in the cost of a new house**, or $500 on a $100,000 home.[4] This figure directly contradicts the industry assertion that owl-caused increases in lumber prices have had large impacts on housing costs: "The lumber crisis is having a severe effect on housing affordability and on the whole economy..." (J. Roger Glunt, NAHB President, quoted in Nation's Building News, 12/20/93, p. 7). The CRS study compared rising lumber costs during economic recoveries to changes in housing starts, and found that housing starts had actually increased simultaneously with increases in lumber prices: "...rising lumber [prices] appear not to have, historically, dampened homebuilding activity." (Gorte, 1993: CRS-5)

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1 Ross Gorte, "Memorandum on Lumber Prices," Congressional Research Service, 2/10/93

2 This figure is a composite index of framing lumber costs, complied by Random Lengths, Inc. of Eugene, OR.

3 NAHB has indicated that lumber costs account for less than five percent of the total cost of a house. (NAHB, Housing Backgrounder, p. 24-25, cited in Gorte, 1993: CRS-5)

4 This amounts to an addition of just over $3 per month on a 30 year mortgage at a conservative 8% interest rate.

It is thus reasonable to conclude that:

1) reductions in timber harvests on owl forests will not significantly affect lumber prices following the lifting of the injunctions;

2) the minimal price increases attributable to owl protection measures have little effect on the costs of homebuilding, and therefore will not likely impact housing starts overall;

3) no significant impacts to overall economic recovery can be expected to follow from owl mitigation measures.

the price communities get for an average ton of household trash from $100 in 1988 to $35 in 1993.

The problem is "especially acute" for plastics. Despite the "push by government to recycle," US factories have "actually increased" output of plastic made of virgin materials in recent years. About 6.5% of plastics packaging was recycled in 1992, according to the plastics industry. But the "majority of that" was plastic soda bottles, "largely due to state bottle laws requiring reuse" (David Kalish, AP/Nashville TENNESSEAN, 2/16).

*14 CONSTRUCTION: RISING LUMBER PRICES GIVE ALTERNATIVES BOOST

As wood prices continue to "rise rapidly" in the US, many home builders are considering alternatives to lumber. Some, for example, are experimenting with concrete walls, "a departure from the two-by-four wooden stud walls that are standard in home building." But steel "may be the most talked about alternative to wood." Although 45% of the nation's home builders have considered using steel framing, according to a 1993 study by the National Association of Home Builders, "few are using it today." Across the US, lumber prices have been rising because home construction increased "while the lumber output was held back by environmental restrictions." Prices for lumber will rise again this year as supply continues to "outstrip" demand, according to Lynn Michaelis, an economist for Weyerhaeuser Co. (Ralph Bivins, HOUSTON CHRONICLE, 2/13).

========== STATE REPORTS ==========

*15 CALIFORNIA: STATE BEGINS AERIAL SPRAYS AGAINST MEDFLY

California "is fighting a two-front battle to save its agriculture industry from an enemy invasion. On one side is the Mediterranean fruit fly. On the other, humans who want the state to stop spraying them with insecticides," reported CBS co-anchor Dan Rather. Despite a court battle from Corona, CA residents, aerial spraying began the night of 2/15 to combat the Medfly, reported CBS' Sandra Hughes. One study says that "left unchecked," the fly could cost the state's agriculture economy $1 billion a year. There are eight more aerial assaults planned, but city officials plan to fight for a court order to stop the spraying ("Evening News," CBS, 2/16). Corona had appealed to a Riverside Superior Court Judge, arguing CA violated its own enviro regs by failing to study the long-term health consequences of the insecticide malathion. The judge said that malathion did not pose a risk. City Councilman Jeff Bennett: "I'm advising every resident to file a damage claim against the state. This is dead-ass wrong" (Tom Gorman, L.A. TIMES, 2/16).

*16 MASSACHUSETTS: WASTE BEING SENT TO LOW-INCOME COMMUNITIES

Massachusetts, a state which "consistently tops" the national list for "tough" enviro laws, is sending its "worst waste problems to other states." The state's enviro laws have "made it virtually impossible to dispose of toxic or radioactive wastes" within its borders. State companies ship more than 200,000 tons a year of hazardous wastes to "places such as El Dorado, AR, Sumter, SC, and Paulding, OH -- low-income communities in states that ranked in the bottom third of one national survey for environmental protection." Almost 40% of the residents of both El Dorado and Sumter are African-American.

State enviros who "fight disposal facilities" sited in Massachusetts say they are "quite aware of how poor and weak communities" in other states "disproportionately receive" waste from MA. "But they say they would rather reduce the amount of

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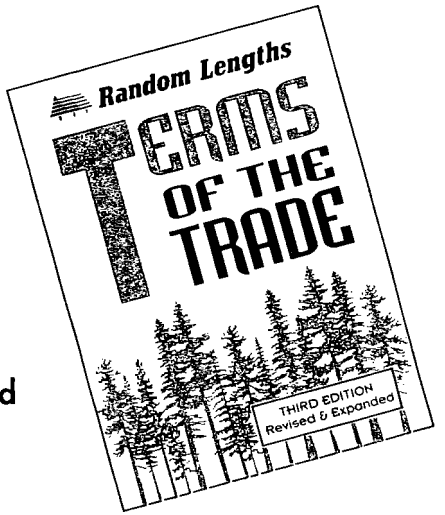

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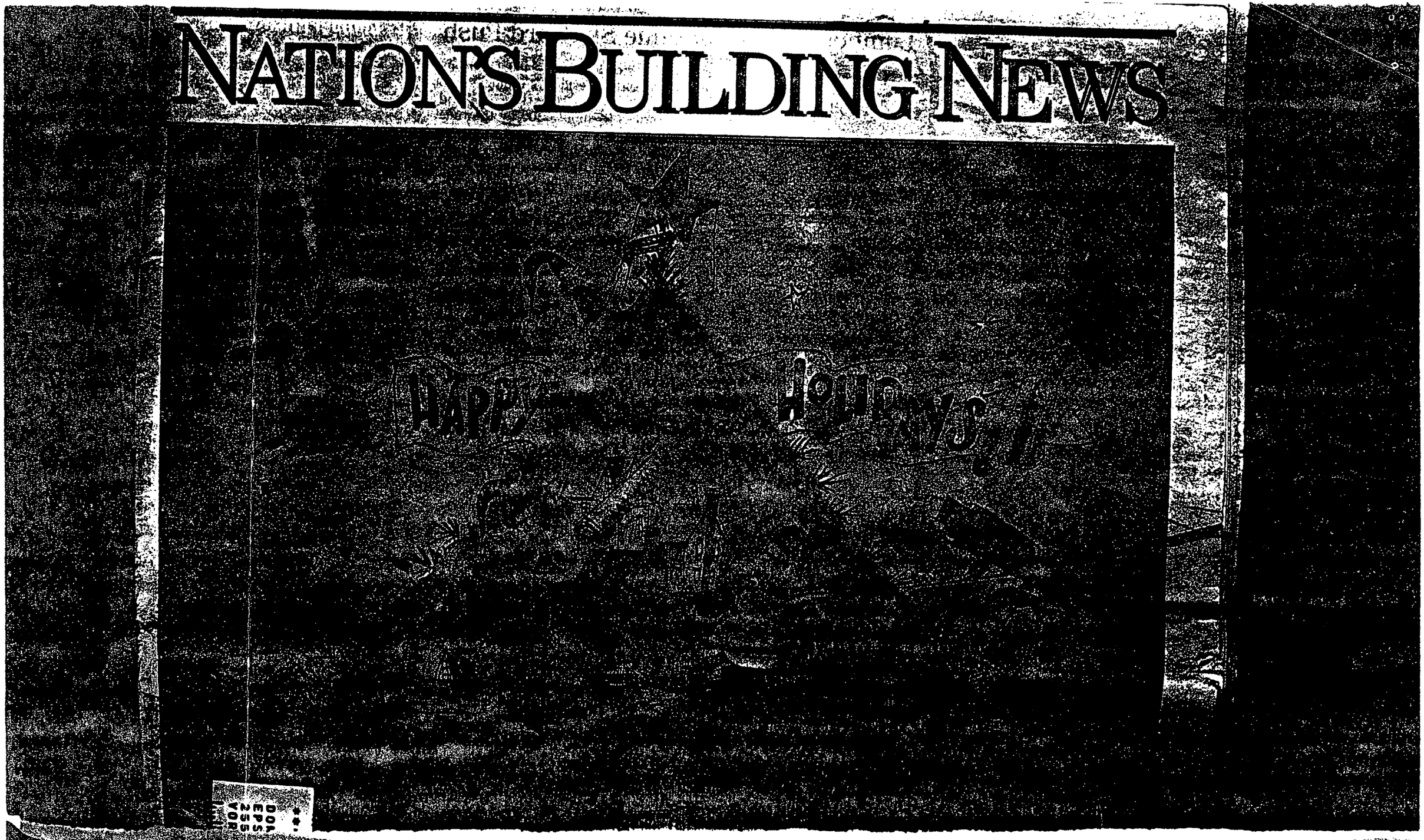
NATION'S BUILDING NEWS



Lumber Prices Continue Skyward Push

Since announcement of President Clinton's forest plan in April, lumber prices have risen 50%, more mills have closed and more people have lost their jobs, said NAHB President J. Roger Glunt in a year-end analysis of White House timber policies.

Speaking at a joint press conference with representatives from labor and the forest products industry, Glunt called on the President to rethink the plan.

"It's a one-sided plan and a major disappointment," said Glunt, adding that 30,000 people have already lost their jobs due to the lumber supply crisis and that the figure could double. "Enough is enough. It's time to re-evaluate the plan. We want President Clinton to put the plan back on the table. What we really need is a balanced, rational approach that gives us a predictable and sustainable lumber supply."

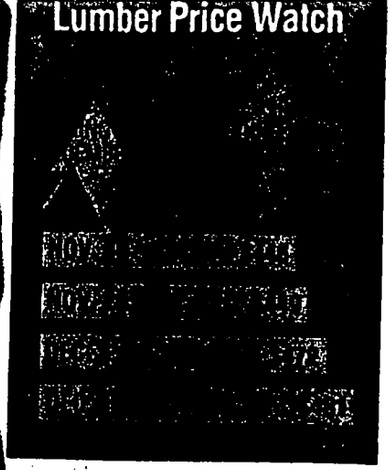
Supply and prices have been anything but predictable over the past 14 months. When the forest conference convened in April, the price of 1,000 board feet of lumber stood at about $480. Optimism over the President's willingness to address the situation dropped prices to about $300 by the time the plan was announced. Since then, they've risen steadily and stood at $481 as of Friday, December 10. (See accompanying Lumber Price Watch, opposite.)

The problem is with supply, not demand. Overall demand is down from the mid-1980s, from 50 billion board feet in 1987 to 45 billion board feet in 1993. Exports are down and imports are up.

"What's missing is the lumber that's traditionally harvested from the federal forests," Glunt said.

Traditionally, one-third of the lumber supply comes from private lands, mostly in the south; one-third comes from Canada; and one-third comes from public lands, mostly in the Pacific Northwest.

Just 150 million to 200 million board feet will be sold from the Pacific Northwest by the end of 1994, "just 10% of the volume that was supposed to be sold," said John Hampton, president of the Willamina Lumber Company in Portland and chairman of the Northwest Forest Resource Council.



Although the President promised to put an end to the litigation that continues to tie up land and prevent harvesting, since July 1 the pace of litigation has accelerated, Hampton said.

"Clearly Congress must intercede to avoid an economic catastrophe," he said.

That catastrophe is already affecting builders and potential home buyers.

(Continued on page 7)

Texas Voters Quash Species Habitat Bond

Voters in Travis County, Texas, sent a strong message to the federal government in early November that they should not be required to solely bear the onerous financial burdens of endangered species preservation. They resoundingly rejected a $48.9 million local bond issue to authorize the acquisition of more than 29,000 acres of private property to establish the Balcones Canyonlands Conservation Program (BCCP), which would have created endangered species preserves in the region.

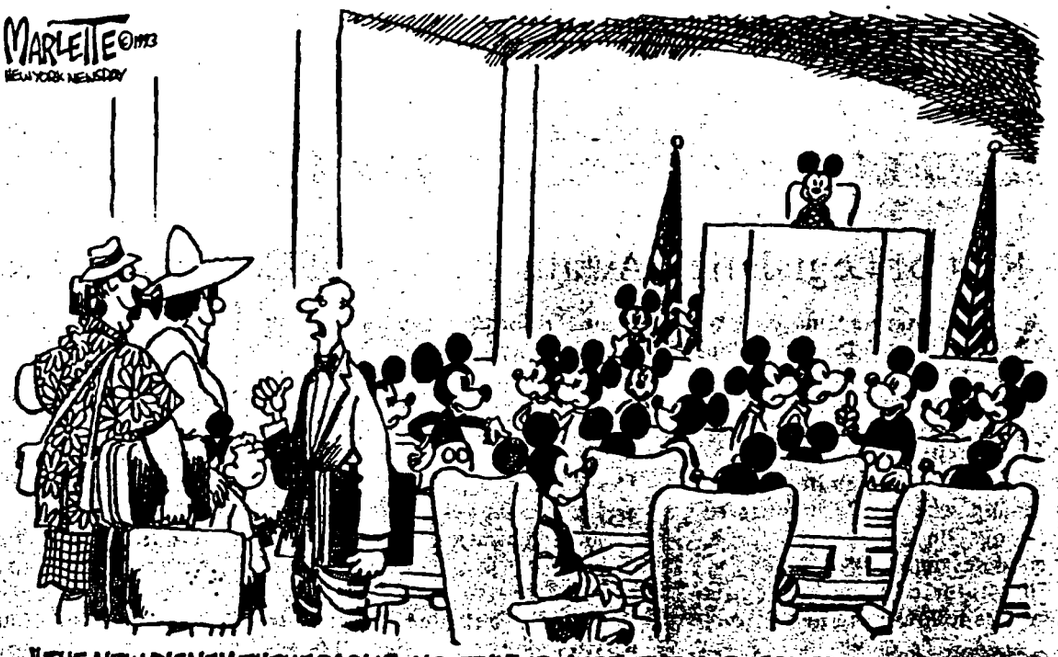
A multi-species habitat conservation plan, BCCP was prompted by the stringent land use restrictions imposed by the Endangered Species Act (ESA) when several species native to the Austin area were listed as threatened or endangered. As a result of the listings, the U. S. Fish and Wildlife Service (FWS) permanently halted or significantly delayed numerous private development and public improvement projects in the region.

In numerous public appearances and interviews, Interior Secretary [redacted] for the nation [redacted] residents in the Austin area were not as easily convinced as Secretary Babbitt.

The Balcones plan was based on

(Continued on page 9)

OPINIONS and COMMENTS



Fiddling with Rats While Homes Burn in California

Ike C. Sugg

Violating the Endangered Species Act just might be the best thing Michael Rowe ever did. While most of Mr. Rowe's law-abiding neighbors lost their homes to the October fires that destroyed an estimated $1 billion of property in Southern California, breaking the law saved his. By clearing a firebreak in habitat designated for an "endangered" species, Mr. Rowe spared his family's house from the blaze.

For fear of prosecution, Mr. Rowe will not say that he actually broke the law. Even if he did, he maintains, it is unlikely the government would prosecute him. As he puts it: "I don't think they're that stupid." The Endangered Species Act's mandates are directly implicated in much of California's recent fire-borne tragedy.

Nevertheless, Mr. Rowe's anger is palpable, and perfectly justified. In 1991, Mr. Rowe, his wife and three children moved into a cramped one-bedroom house on their 20-acre hilltop ranch 80 miles east of Los Angeles. That same year, after saving enough money to expand their house, Mr. Rowe was told that his ranch was part of a "study area" for the Stephen's kangaroo rat, a species protected by the Endangered Species Act. Thus Mr. Rowe was denied the use of his property — essentially because the government wants to turn it into a rat preserve.

The so-called "K rat" was listed as an endangered species in 1988. Since then about $100 million has been spent to protect it. Some 77,000 acres of private property have been designated as K-rat study areas in Riverside County, where Mr. Rowe lives. Study areas are strictly "protected." Of the land actually occupied by the K rat, 80% is currently off limits to human disturbance. The rodent's "historical range" encompasses some 500,000 acres of Riverside County. Those who can afford it must pay nearly $2,000 an acre to develop any of that land — occupied or not.

California property owners may smell a rat, but it is hardly the only species that impinges on their property rights. Already the spotted owl has restricted the use of 4.2 million acres. With the listing of the California gnatcatcher in March, more than 400,000 acres of Southern California coastal sage scrub were put off limits (a third of them, incidentally, in Riverside County). Only 5% of the gnatcatcher's total habitat can be released for constructive use.

Amazingly, Interior Secretary Bruce Babbitt says these examples present a "model" of "ecosystem management," which will actually "enhance the position of private property owners." Mr. Babbitt and other defenders of the Endangered Species Act like to note how "flexible" the law is for property owners.

It is true, in Mr. Rowe's case, that if he came up with $5,000 to hire a biologist, he might be allowed the use of his land. If a biological survey found no K rats, then Mr. Rowe could earn the right to use his own land by paying the government $1,950 an acre in "development mitigation fees" — to subsidize the purchase of occupied habitat elsewhere. The presence of a single rat, however, would negate even this limited option.

"I can't afford any of that!" Mr. Rowe exclaims. But then again, he can't afford to lose his house either. So when the Winchester fire came roaring over a nearby hilltop around 1 a.m. on October 27, Mr. Rowe jumped on his tractor and hastily made a firebreak to protect his property. Mr. Rowe "disced" (or turned over) a swath of ground before the fires arrived. He lost a shed and suffered other minor damage, but saved his house.

Others weren't so lucky. That one fire burned 25,000 acres and destroyed some 30 homes. So angry are fire victims that they are banding together to fight the Endangered Species Act. I blame those public-minded asses and envi-

(Continued on page 6)

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...93, it's fair to say the nation's home Problems remain, ...at deal on behalf of ...gainst formidable efforts of our grass- ...hrough their local set out this year to ...r of members; by ..., and the support ...ved that; now more ... diverse businesses ...nd and a few truck- ...use, and that house Remodelers' Show, ...ons, showed that ... reckoned with and ... lead this booming ...stressed education ...r of student chap- ...centers across the ...ent of NAHB's first Willenbrock.

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information about borrowers to credit bureaus.

Both bills also accelerate the process of getting botched credit information erased from reports — a task that can take some would-be mortgage borrowers inordinate amounts of time. In fact, says the prime author of the legislation, Rep. Esteban E. Torres (D-Calif.), once a borrower discovers that his or her credit report contains misinformation, "it's almost impossible" for the average individual to both get it corrected and be certain that a computer program isn't going to refile the deleted information again.

To get an idea of how credit report data can wreck a mortgage application, consider this real-life, ongoing example provided by a family that resides in Kentucky.

corrected, the Harrisons phoned and wrote to their New York lender, some days [illegible] received a copy [illegible] check stubs [illegible] demonstrate that [illegible] with the credit bureau [illegible] they were never more than two months late — and they made good on their full debt. They pleaded with credit bureau personnel, who advised them that the New York lender supplied the information, and that the lender needed to correct the data if it's wrong.

The upshot: The Harrisons lost the $110,000 dream house they intended to buy because no

[illegible] — to ensure that [illegible] rate. Suppliers who would pass on incorrect facts would be liable for punitive damages, court costs, attorney fees and statutory or actual damages, whichever is higher. The legislation would also require credit bureaus to supply a free copy of a disputed credit report after it was corrected — just to make sure the deleted information didn't find its way back into print somehow.

A 'Green Fable' for the '90s

Michael M. Berger

Call this one a fable for the '90s. Our hero is a northern California county whose land use planners tried to do the right thing. They tried to leave some room in their plan for builders to build something. And they were punished when they got caught. (If you think what follows is fiction, go to the law library and get a copy of a case called Sierra Club v. California Coastal Commission, 12 Cal.App.4th 602, 1993.)

Our story takes place in coastal California, in the rural area north of San Francisco. The central character in the piece is a vegetable — more accurately, a group of vegetables. They live in an area whose soil has been so deprived of nutrients as to be almost sterile. The soil is highly acidic, starved of nutrient value and underlain by a dense layer of hardpan. Roots cannot penetrate the hardpan and the trees that grow there are thus trapped in soil without nutrition and underlain by rock that precludes root growth. What survives is severly stunted.

Enter the environmental lobby in the form of the Sierra Club. This vegetation, they say, is important and must be preserved. In 1990s' newspeak, the vicinity is romanticized as a "pygmy forest" that merits its preservation for posterity.

As a part of its Coastal Act, California has a statute that provides for the preservation of "Environmentally Sensitive Habitat Areas," or ESHA. The Sierra Club wanted the pygmy forest declared an ESHA and off-limits for use by mortals. Under an ESHA designation the county would have been duty-bound to prevent the area from being "degraded."

The county's planners and governing body, however, were aware that much of the pygmy forest was located on private property. They were concerned that the owners of the property had some rights and that they ought to take those rights into account when drafting their long-range plans for the area's use and development.

They were also doing what they thought was appropriate self-preservation. They had read about constitutional litigation brought by property owners who thought that stringent regulation had taken their land. If a taking were found, then compensation for the value of the land would be due.

To salve their consciences and protect their posteriors, while also providing some recognition to the environmental concerns of the Sierra Club, the county supervisors produced a plan that called for scattered single-family residences on two- to five-acre lots. Hardly Trump City.

The Sierra Club was still unhappy. And — here's where the county's good deed gets punished — the courts agreed with the Sierra Club. The pygmy forest would still be "degraded" by this level of development. How, you ask? Dictionaries (go ahead, pick one at random) deem the word "degraded" to be synonymous with words like abased, demeaned, humbled and discredited.

Obviously, to the extent that a home is actually constructed on land occupied by "pygmy" vegetation, the vegetation will not only be degraded, it will disappear. But the courts were not content to let it go at that. They concluded that even minimal development would degrade the remainder of the "forest" as well. How? Well, as most of you probably know, when you build a house, you also build a system to remove human waste material from the toilets. What happens then is that the waste material

(Continued on page 11)

es for Discipline

has violated a particular standard under the code of ethics, there must be a clearly delineated enforcement mechanism for members who do not comply. Under no circumstances should an association "make up the rules as it goes along" when dealing with a complaint. An association can be subject to liability for restraint of trade if it applies its disciplinary standards in a variable manner for similar situations. The president of the association must be treated the same as a first-year member. An association must ensure that all members have been informed of the rules of the process before any action is initiated. Association members and staff who implement the grievance process must be thoroughly familiar with the rules.

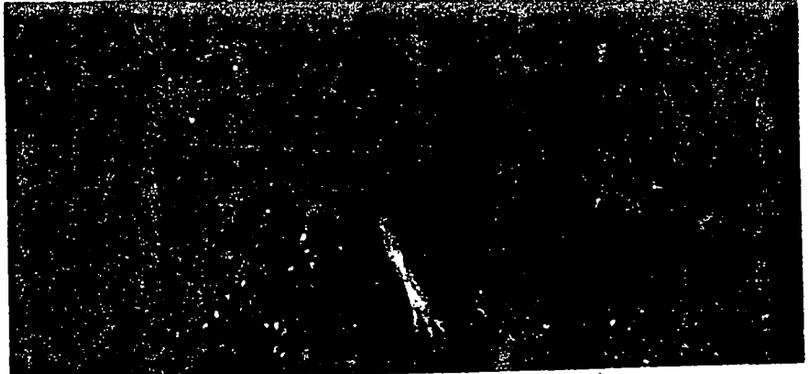
In most instances, expulsion is the most severe action that a local association can take for a valid grievance which a builder or associate member refuses to remedy. However, expelling the member will not remedy the original problem. If the cause of expulsion is a builder/home owner dispute, home owners may ask what purpose such a process serves for them when their main concern is getting the problems in their homes corrected.

Nevertheless, associations are strongly advised not to step in and remedy the problems. An association that considers fixing such problems after expelling a builder should keep in mind the precedent being set. Fixing a house for one person may create an expectation in the community to fix all other homes built by a builder who has been expelled. Also, the association could face liability for warranties on the work, tort liability if anyone is injured, etc.

An expulsion needn't be for life. An association may want to establish criteria allowing reinstatement after a certain time elapses if the other party in the dispute is amenable. Expulsion should be used only in very serious lapses of ethical conduct. Once members have been expelled, an association no longer has any authority in dealing with them. Before expulsion, associations should try to induce the builder to voluntarily comply with the decision of the ethics committee.

NAHB offers various services that can help local associations to establish a Builder Professional Image Program. You may call the following toll-free number for assistance: 1-800-368-5242: ext. 409, Consumer Affairs; ext. 359, Legal; ext. 463, Home Builder Press Phone Orders.

William Young is NAHB's director of consumer affairs. This article is the fifth and final article in a series. For further information, call William Young at 1-800-368-5242, ext. 409.



Stephen's kangaroo rat

Rats Fiddle While California Burns

(Continued from page 4)

ronmentalists who don't let us clear the brush," commented Ishmael Garcia, whose house was destroyed for that very reason. Anna Klimko, another Riverside County resident who lost her house, reported that "neighbors of mine who went ahead and disced their property still have their houses."

The issue of clearing ground to protect houses has come up before, of course. During the fire season of 1992, the Riverside County Fire Department ordered Mr. Rowe's neighbors to "abate the flammable vegetation," something they were eager to do. But the U.S. Fish and Wildlife Service (FWS) warned in a letter that "discing of the firebreak would harm" the K rat, and thus "is not authorized" by the Endangered Species Act.

In a separate letter to Mr. Rowe — whose property was threatened by his neighbors' vegetation — FWS wrote: "It should be noted that the act provides for both criminal and civil penalties" for discing — in this case, going to federal prison or being fined up to $100,000. (FWS sent a copy of the letter to an "FWS Law Enforcement Office" in Gardena, Calif.) Instead, FWS wrote, "mowing the site" would keep Mr. Rowe out of trouble and protect his property, too. Unfortunately, that claim isn't true, as Ms. Klimko discovered this year. She mowed her property and lost her home. "The mowed areas still burned," she laments angrily.

And that was the problem, not just with the K rat in Riverside County but with the gnatcatcher in Orange and San Diego counties, where fires took hundreds of homes as they tore through "protected" habitat. The designation of brush as protected habitat — and restrictions on controlled burns and other methods to keep brush down — fueled the destructiveness of the fires. According to the Orange County fire chief, clearing brush "could have stopped" the Laguna Beach fire.

This lesson was lost on Mr. Babbitt, however. Rather, "the lesson of these fires," he told media at a Los Angeles fire station, "is that we've got to keep the people away from the fire hazard." (Keeping the fire hazard away from the people was apparently not worth considering.) With such declarations Mr. Babbitt seems to endorse an alarming principle: The property rights of humans may be violated, but the habitat of certain animals may not be.

It is hard to know what to think when environmentalists assert that their favorite regulations "protect the public." If such regulations protected the public, Riverside County's fire hazard would have been mitigated. But it wasn't, and along with many others, Mr. Rowe's next-door neighbors suffered the consequences. The October firestorm scorched about 80% of their property, leaving them and their cattle in the middle of a cleared field at 2 a.m. surrounded by fire.

This pitiful story raises a question: Whose habitat is it, anyway? In FWS's 1992 letter to Mr. Rowe, it warned that harming or harassing a K rat would be considered a "take" under the Endangered Species Act. This includes "significant habitat modification or degradation where it actually kills or injures wildlife." But when the act was passed in 1973, it conspicuously lacked such language. Indeed, specific language in an earlier draft — language that prohibited habitat modification on private property — was deleted from the final bill. As with federal wetlands regulations, the Endangered Species Act has metastasized over time.

Mr. Rowe wonders: "By what authority do these do-gooders, with their tract homes and condos that destroyed prior habitat, determine that my property should remain open space for them to have hills to look at?" He notes that "not one of the advocates for preservation of the K rats owns property in the designated habitat preserves." His suggestion: "Let them bring their checkbooks, purchase the property and they can look at it all they want."

Mr. Sugg is a fellow at the Competitive Enterprise Institute in Washington, D.C. Reprinted from The Wall Street Journal by permission of Dow Jones, Inc., ©1993. All rights reserved.

(The Consumer Affairs Subcommittee has developed the Model Builder Professional Image Program to improve the image of local builders associations and the housing industry in general. Previous articles in this series have dealt with a model code of ethics, standard contracts, acceptance criteria for HBA members, standard warranties, construction standards and grievance procedures. Associations choosing to adopt any part of this program should first consult legal counsel to discuss relevant state laws and any possible liability implications of adopting the program.)

A local association can invoke the following disciplinary actions if its board of directors determines that a builder has violated the code of ethics beyond a reasonable doubt:

A. Censure. A written report will be sent to the member and kept on file by the association. The report will be discarded after one year if there are no other problems.

B. Suspension. A suspension may vary in degree and length of time. Examples include suspending a member from membership meetings for three, six or nine months, and/or home show participation.

C. Expulsion. The individual or company would be removed as a member of the association.

If an association finds a member

While serving on a forestry panel with President Clinton last April and criticizing timber harvesting on public lands, the Sierra Club's Northwest regional director William Arthur cut down and sold 20 logging truckloads from property he owns in the northeastern portion of the state. The Washington state Department of Natural Resources records show Arthur sold his timber to a "major log exporter," Global Pacific Forest Products, on Dec. 30, 1992. Steve James, who "wielded the chain saw" that brought down the trees last August, says he is "not proud" of the cut he made on Arthur's property, adding: "Stumps don't lie." Arthur said on December 4 that he is "satisfied with the logging job" and intends to use the money to improve his house along the Pend Oreille River. Arthur said that different standards apply to private timber owners than to the national forests (AP/Eugene Register-Guard, 12/6). On December 6 Arthur admitted that "it's not the lightest selective logging you can do," but still defended the harvest. The Sierra Club stands behind Arthur. (Julie Titone, Spokane Spokesman-Review, 12/7)

must be a clearly d enforcement mechanism bers who do not comply. circumstances should a tion "make up the rules along" when dealing wi plaint. An association ca ject to liability for res trade if it applies its di standards in a variable m similar situations. The pr the association must b the same as a first-year An association must en all members have been of the rules of the proce any action is initiated. As members and staff who in the grievance process thoroughly familiar with t

In most instances, exp the most severe action tha association can take for grievance which a builder ciate member refuses to However, expelling the will not remedy the origin lem. If the cause of expul builder/home owner d home owners may ask w pose such a process ser them when their main co getting the problems i homes corrected.

Nevertheless, associati strongly advised not to ste remedy the problems. An tion that considers fixin problems after expelling a should keep in mind the dent being set. Fixing a ho one person may create an tation in the community to other homes built by a b who has been expelled. Al association could face liabil warranties on the work, tort ty if anyone is injured, etc.

An expulsion needn't be f An association may want to lish criteria allowing reinstat after a certain time elapses other party in the disp amenable. Expulsion shou used only in very serious lap ethical conduct. Once mer have been expelled, an assoc no longer has any authori dealing with them. Before e sion, associations should t induce the builder to volun comply with the decision o ethics committee.

NAHB offers various ser that can help local associatio establish a Builder Professi Image Program. You may cal following toll-free numbe assistance: 1-800-368-5242: 409, Consumer Affairs; ext. Legal; ext. 469, Home Bui Press Phone Orders.

William Young is NAHB's direct consumer affairs. This article is the and final article in a series. For fu information, call William Young 800-368-5242, ext. 409.

Softwood Lumber Prices Continue Their Skyward Thrust

(Continued from page 2)

The lumber crisis is having a severe effect on housing affordability and on the whole economy, Glunt said, and is particularly troublesome for entry-level housing. Builders in that price range have reported increases of $1,300 in the price of building a home, he said. On a typical 2,000 square foot house, the impact is $3,000.

Since 1990, 160 mills have closed and more than 30,000 jobs have been lost, said Dan Dutton, president of Stimson Lumber Company in Portland, Ore.

And, the retraining package offered [illegible] the Administration is not sufficient, said Jeff Joseph, an economist for the United Brotherhood of Carpenters and Joiners of America, AFL-CIO.

"The proposed package is under-funded and sadly inadequate because it underestimates the amount of jobs that will be lost, it provides very little new money that isn't already earmarked for the region, and it emphasizes ecological investment over worker retraining," Joseph said.

Glunt called on Congress and the Administration to enact legislation that would free up lumber in the Pacific Northwest and that includes sufficiency language so that decisions are not tied up in court. He also said the Administration should allow dead and dying timber in the Pacific Northwest to be harvested, eliminate the 6.5% countervailing duty on Canadian lumber imports, and enact endangered species legislation that recognizes the economic impact of listing a species.

As the forest plan stands now, it is unfair and is not the balanced solution President Clinton promised at the forest summit, Glunt said.

"Everything we feared could happen and everything the President said he hoped to avoid is indeed happening, and in my opinion, the worst is yet to come," Dutton said. "No timber sales in the spotted owl region is not a balanced solution."

Photo by Morris Semiatin

MEETING THE PRESS—Discussing the state of emergency that has sent lumber prices skyrocketing, from left, are NAHB Executive Vice President Kent Colton; NAHB President J. Roger Glunt; John Hampton, chairman of the Northwest Forest Resource Council; Dan Dutton, president of Stimson Lumber Company in Portland, Ore.; and Jeff Joseph, an economist for the United Brotherhood of Carpenters and Joiners of America, AFL-CIO.

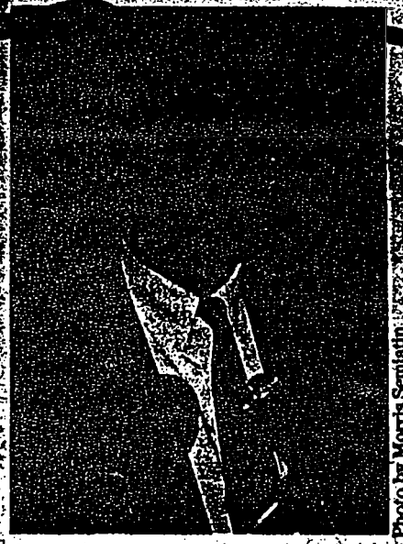


Photo by Morris Semiatin

Glunt

Vermont Builder Recycles Felled Trees

Vermont builder Bob Marcotte has found a way to cut his dependency on lumber and thereby avoid paying higher lumber prices: He recycles the trees that he cuts from lots and uses them in his homes for everything from clapboard siding to hardwood floors.

"It's amazing how much you can recycle [illegible] hood back into [illegible]," said Marcotte, whose company, Pinewood Manor Inc., in [illegible] builds five to six homes a year. Marcotte has been milling and finishing wood, white pine into clapboard siding and interior and exterior trim, hemlock into framing and maple and oak into hardwood flooring. Marcotte also recycles red pine and spruce, and even chips branches for mulch and makes firewood available for his home owners from small logs. Fifty percent of the clapboard siding [illegible] from his own trees, as [illegible] and 100% of the [illegible] except

Official Notice

The following schedule of events is a partial listing provided as notice for the upcoming NAHB Board of Directors Meeting to be held at the NAHB Convention/Exposition in Las Vegas, Nev., Jan. 18-24, 1994.

Tuesday, January 18

National Vice Presidents — 9-11 a.m.

1993 Executive Committee — 1-5 p.m.

Wednesday, January 19

Business Management

NHC Board of Governors — 1:30-5 p.m.

National Representatives Council — 1:30-5:30 p.m.

Committee Meetings — all day

Friday, January 21

Resolutions Committee — 7-11 a.m.

Membership Awards Breakfast — 8-10 a.m.

New Directors Orientation — 8:30-10 a.m.

NAHB Opening [illegible]

Phantom Fish Could Snag Alabama Barge Traffic

It's hard to believe, but the endangered species gears are grinding toward shutting down a good chunk of southern Alabama. The reason? A fish that either hasn't been seen in a decade or is plentiful from Montana to the Mississippi delta, depending on your taxonomic sympathies.

This wrecking ball got swinging two years ago because of an article in the Bulletin of the Alabama Museum of Natural History. After examining a stuffed museum specimen, the authors tossed out 100 years of scientific opinion and declared the Alabama sturgeon a separate species from the Mississippi shovelnose. That was all the local U.S. Fish and Wildlife office needed to nominate the sturgeon for the endangered list.

The "phantom fish" has become a running joke in the Alabama papers. State officials have launched a frantic hunt using gill nets, hoop nets, electroshock as well as the fish poison Rotenone, but can't seem to scare one up for view. Nobody will be laughing if the fish wins federal protection.

Under a federal rule already drafted, the sturgeon would be awarded some of the nation's busiest commercial waterways as "critical habitat" including the lower reaches of the Alabama, Cahaba and Tombigbee Rivers. Owing to vague hopes that somewhere a lonely sturgeon may still be snuffling along these bottoms in search of snails and whatnot, dredging would be sharply curtailed, causing the navigation channels to silt up. If the state's barge traffic stops moving, 20,000 jobs could vanish.

No wonder Alabama's entire congressional delegation has come out against a listing. At a public meeting in Mobile, hundreds had to stand outside and peep through the open windows. These folks cheered the 59 speakers who badmouthed the sturgeon and booed the fish's only supporter.

Jim Stewart, the Fish and Wildlife biologist who has taken on the mission of shepherding the sturgeon through the bureaucracy, is puzzled that "seemingly intelligent people" would rise up against Scaphirhynchus platorynchus.

It's not the fish that scares folks, but the crowbar it would give litigious activists. Alabamans have heard tell of the spotted owl, exploited by environmentalists to kill off much of the Northwest timber industry. U.S. Senator Richard Shelby warned the Mobile meeting that an endangered listing can "open a Pandora's box that would wreck thousands of lives."

We don't question Mr. Stewart's devotion to saving rare species, but the law's myopic absolutism makes him a dangerous fellow. He takes credit for putting "15 or 20" on the list, so Mr. Stewart clearly knows how to work the process.

It was Mr. Stewart who orchestrated the study that dubbed the sturgeon a unique species in the first place. He drafted the proposal for an endangered listing and plotted out its critical habitat. Inopportunely, he submitted his first package to the Interior's Division of Endangered Species during the presidential campaign, and it quickly came back. But after Clinton's election, he got a call inviting him to resubmit.

His friends in the bureaucracy came to his rescue again when Alabama's congressmen began throwing rocks at Interior Secretary Babbitt, who promised to appoint an independent scientific panel. But somehow that job landed back on Stewart's desk. Now a court has blocked the report.

Mr. Stewart considers himself a simple scientist, but he clearly understands the importance of remedial flackery. He's frequently quoted in the Alabama press poohpoohing the potential job losses, and he almost has a war going with the U.S. Army Corps of Engineers, which predicts that without steady dredging the rivers would be impassible in 12 months or less.

The taxonomic questions, though, may be the real zinger for future preservationist battles.

In Mr. Stewart's view, any population that undergoes a period of geographic isolation can be deemed a separate species, regardless of its potential for interbreeding with outsiders. If it looks different, it is different. And compared to the Mississippi shovelnose, the Alabama sturgeon has a bigger eye, and a slightly different arrangement of scales.

"If that definition is adopted, we're all in trouble," says Mike Howell, an ichthyologist at Birmingham's Samford University. Mr. Howell led the recovery effort for Alabama's first endangered fish, the watercress darter. This time he's joined the sturgeon's opponents, and even briefed Mr. Babbitt on their behalf.

Mr. Howell's point is well taken. It's inevitable that contiguous animal populations will get sectioned off by the spread of human societies. If geographic isolation becomes the legal rule, two guppies living on either side of a dam could be deemed different species. No wonder many ecologists are talking less about species these days and more about preserving habitats, where the animals and plants presumably can be left to figure out their own identities.

That's been the problem with the Endangered Species Act from the start. Its scattershot attempt to preserve everything defies making rational choices. Scientists have only cataloged three million of the estimated 100 million species on earth. Unless the law is changed, it's only a matter of time before zoologists identify enough rare critters to put the planet legally off limits to humans.

Alabama sturgeon

Notice of Meeting

The Annual Meeting of the Membership of the National Association of Home Builders will take place at 10 a.m. on Saturday, Jan. 22, 1994 (immediately following the NAHB Board of Directors Meeting), in the Las Vegas Convention Center Ballrooms, for the purpose of electing directors and considering such other matters as may come before the meeting.

Randy Smith,
Vice President
and Secretary

A REMNANT OF AN EARLIER LIFE—This photograph of the long abandoned Friberg Township Schoolhouse in Otter Tail County, Minn., is part of an exhibition of works by architectural photographer Maxwell MacKenzie. It will run through January at the American Institute of Architects Gallery in Washington, D.C.

Species Habitat Bond Quashed

(Continued from page 9)

require a stricter scientific basis for listing species."

Second, the Congress should require a critical habitat designation at the time of listing, Glunt said. FWS has routinely failed to designate critical habitat for listed species.

As a result of failure by the FWS to designate critical habitat, the Austin FWS field office regulates development on all potential habitat. In the Austin area, the local FWS office currently wields more power over development in Travis County and the City of Austin than the planning commissioners or the local officials. In the surrounding area, virtually every proposed development, even the construction of one single-family home, requires prior FWS approval.

To obtain FWS approval, a landowner must engage in a costly and time-consuming process to demonstrate that there is no suitable endangered species habitat on or even near the subject property. In most cases, FWS requires a qualified biological consultant to make the determination through field surveys.

In the case of the Golden-cheeked warbler, Austin FWS required three consecutive years of field surveys to determine the species' critical habitat. (Warbler surveys are only admitted as acceptable proof if the surveys are conducted within a 66-day period, from March 15 to May 20.)

In addition, FWS requires an endangered species permit to conduct most field surveys, arguing that even surveys are a potential harm to listed species. If FWS fails to sign off on the project, the landowner faces severe enforcement penalties.

Third, Glunt said that the Congress should revise the habitat conservation planning process. The act's statutory language merely describes the necessary vation Plan. FWS regulations merely reiterate the ESA's imprecise criteria. HCP guidelines should be developed to advise participants on the essential elements of any plan, on what value FWS ascribes to habitat enhancement or other conservation measures, and how to measure the success or failure of the plan.

In the past, FWS has been unwilling to offer definitive guidelines in crafting an acceptable HCP. Although FWS attends all HCP planning sessions, the agency typically refuses to indicate whether it will find the plan acceptable or whether a particular component will prevent HCP approval.

Fourth, the Congress must provide financial assistance for habitat preservation.

"If species preservation is deemed a worthy national goal the federal government should share in the responsibility for the cost. FWS refuses to contribute funds to the cost of the Balcones plan. In fact, FWS forbade the proposed Post Oak National Wildlife Refuge in Austin to be used as habitat mitigation for the BCCP. Perhaps if FWS were required to contribute 50% of the costs of the BCCP, FWS and Secretary Babbitt would be more critical of the plan's grand scheme," Glunt said.

Fifth, and most importantly, private property owners should be compensated when their property is unduly restricted by the act's stringent limitations, Glunt said. The act imposes harsh limitations, both temporary and permanent, on the use of private property.

"Our nation's rare plant and wildlife are worthy of preservation. However, the expense should be shared by all. FWS must recognize that property owners deprived of economically viable use of their property, as a result of the act's prohibitions, are due compensation. The Congress should require FWS to formulate a claims process and strict timetable for requesting and offering restitution. All disputes should be referred to arbitration for resolution.

"Travis County voters resoundingly denounced the spend-and-regulate extravaganza endorsed by Secretary Babbitt. Rather than endorsing the model plan that fosters economic growth and preserves endangered species, FWS endorsed the model plan that achieves neither goal," Glunt said.

For more information about the endangered species issue, contact Michelle Desiderio at 1-800-368-5242, ext. 485.

Supreme Court To Hear Takings Case

The U.S. Supreme Court has agreed to hear an important Fifth Amendment "takings" case from Oregon that could have serious implications for a wide variety of federal, state and local permitting programs.

The case, Dolan v. City of Tigard, involves an application by an Oregon property owner, Mrs. Dolan, for a site development review in order to expand a retail electric and plumbing supply store. The city of Tigard granted the necessary permit but as a condition of the permit would have required the plaintiff to dedicate land for storm drainage improvements and imposed an exaction requiring Mrs. Dolan to dedicate 7,000 square feet of her land for a pedestrian and bicycle path and a greenway. The city justified the exaction on the expected transportation impact and storm water runoff that would result from the

Mrs. Dolan brought an inverse condemnation action in state court claiming that these conditions were not sufficiently related to the project's impacts and therefore constituted a taking of private property without just compensation in violation of the Fifth Amendment.

The Court of Appeals and the Oregon Supreme Court rejected her claim, stating that the transportation impacts and storm water runoff from Mrs. Dolan's new store were "reasonably related" to the requirement to dedicate land for a pedestrian and bicycle pathway and a greenway.

This case is similar to Nollan v. California Coastal Commission, which was decided by the U.S. Supreme Court in 1987. In the Nollan case, the California Coastal Commission issued a permit to the Nollans authorizing construction of an addition to their beach house but required the Nollans to grant a public easement across their beachfront because, according to the commission, the new addition would create a "psychological barrier" to public access to the beach.

The Supreme Court held that there must be an "essential nexus" between an exaction and the impact of new development. The Supreme Court further stated that a higher level of scrutiny is necessary when a court reviews the constitutionality of this type of exaction. In granting review of Mrs. Dolan's case, it appears that the court is preparing to give further guidance on these important issues.

NAHB last month filed a friend-of-the-court brief with the Supreme Court urging the high court to hear the Dolan case as it involves issues critical to the housing industry. NAHB will file another brief with the Supreme Court asking the court to reaffirm its holding in the Nollan case. The case is expected to be set down for oral argument later this winter with a decision from the court anticipated by the end of June 1994.

A 'Green Fable' for the '90s

(Continued from page 5)

finds its way into the surrounding soil. Septic waste turns out to be rich in minerals, particularly nitrogen and phosphorous. Plants like nitrogen and phosphorous. Especially plants that aren't used to getting any.

All right, class: How does development "degrade" a "pygmy" forest? All together now: It fertilizes it. (Wouldn't that be upgrading it?) One expert testified that he had seen a mere five-years exposure to septic effluent cause "pygmy" trees to triple their height. That's right; to feed these starving trees would be to "degrade" them. In fact, if you actually owned this land, you'd probably better avoid walking the family dog on it. Most of them go around dropping little bundles of natural nitrogen packages all day long.

The county committed the apparently unpardonable sin of suggesting to the court that leaving some potential use for the private owners of this property was mandated by both state and federal constitutions and that a plan that precluded all development might result in a taking of property requiring compensation. Unfortunately, while this was a serious issue, the court gave the rights of those who own the property along with the duties of those responsible for planning its future use) less shrift than it gave the feelings of those who wanted to keep the stunted vegetation starved.

The issue that needed to be addressed was clear: Is it appropriate for a government agency to do its general planning in a manner that takes into account the long-term interests of all of the citizens and residents of the area, including property owners? The court sidestepped that issue by concluding that, as no property owner had actually applied to develop any land and been turned down, the question of whether development preclusion would be a constitutional taking was not "ripe" for determination. True, but irrelevant. The question before the court was whether it was proper for the government's land use planners to develop a plan that would permit sufficient use that the taking issue would not arise in the future. That's planning. Indeed, it is responsible planning.

At the Sierra Club's urging, however, the court took the view that any property owners who might be injured by future denial of the right to use their property could, at that future time, file an inverse condemnation suit to recover compensation. Until then, however, the county had no business taking into account for planning purposes the necessity for leaving the owners of private property with the possibility of making economically productive or beneficial use of their land.

Nonsense. Would the court have held that it is OK for auto manufacturers not to be overly concerned about brakes because anyone injured by defective brakes could sue them later?

This column, as will be many in this new series, is in the nature of a warning. There are people and organizations out there with nothing better to do with their time and money than to try and erect "No Development" signs wherever they can. Those who care about the ability to make productive use of land need to be equally vigilant. NAHB, through both its LANDS program and its Legal Action Fund, has been at the national forefront of the movement to protect the right to use property. Without continued vigilance, those who used to be viewed as the productive members of society — that is, those who went out and made things — will suffer the same fate as the pygmy forests of northern California: The "environmentalists" will fence them off and starve them out. (Wouldn't it be better/more in keeping with the moral of the pygmy forest story, to say "They'll be protected to death"?)

Michael Berger is a principal in the Santa Monica, Calif., law corporation of Berger and Norton.

Speak Up on Land Development Standards

"Proposed Model Land Development Standards and Accompanying Model State Enabling Legislation, 1993 Edition," prepared by the NAHB Research Center for HUD, provides guidelines for safe, high quality residential development that eliminates needless state and local land development requirements that add to home prices. The Research Center plans to update this publication as needed to reflect comments, suggestions and continuing land development research. You are invited to request a free copy, look it over and see if it addresses your land development problems and concerns. If it doesn't, your comments are solicited through January 10. For a copy, contact Carol Schaake, NAHB Research Center, 400 Prince Georges Blvd., Upper Marlboro, Md. 20772-9731; telephone 1-800-638-8556.

PRESIDENTIAL TAGS—NAHB Women's Council (right) and Metropolitan Omaha BA President meet with NAHB President J. Roger Glunt during Women's Council promises to project a high profi Show. It will sponsor "Harassment in the Work gram, on Sunday, January 23 from noon-1:30 p.m. Las Vegas Convention Center.

The Business Transportation Council (BTC) has announced three new publications to help businesses make the most of provisions in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), that mandate greater citizen participation in regional mobility decisions. The publications are: "Complying with

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Austin Voters Soundly Defeat Bond for Species Habitat

(Continued from page 2)

the premise that by purchasing sufficient land to set aside in preserves, local governments would be able to obtain an ESA permit allowing development in other areas of Travis County. The local bond referendum would have authorized the public purchase of habitat for so-called endangered or threatened species, including songbirds, plants, amphibians and invertebrates in the western part of the county.

The ESA allows the Fish and Wildlife Service to authorize the development of endangered species habitat upon its approval of a Habitat Conservation Plan (HCP), a federally prescribed land use management plan adopted by the appropriate local government. HCPs generally establish habitat preserves and institute specific land use controls, such as habitat mitigation assessments, to preserve endangered species.

Planning for the BCCP began over five years ago and remains incomplete. Without Travis County's bond money, the plan's future is unclear. Preparation and implementation of the BCCP to permit the incidental taking of the listed species is estimated to cost more than $168 million.

Funding for the plan was to have been derived largely from three sources. First, the City of Austin approved $22 million in bonds to underwrite part of the land acquisition costs. Second, the Travis County bond issue was to have supplied additional land acquisition funds. Third, a voluntary habitat mitigation "contribution" by developers and builders, levied on a per acre basis, was to have paid for the operation and maintenance of the habitat preserves. The plan proposed a habitat mitigation assessment of $2,000 per acre for each acre of development, regardless of the amount of habitat that is actually destroyed.

Since 1987, FWS has deemed several species native to the Austin area as worthy of ESA protection, including two birds — the Black-capped vireo and the Golden-cheeked warbler — and five cave invertebrates. In Travis County alone, several thousand parcels of land, covering approximately 250,000 acres, are currently regulated by FWS as potential habitat under the act. The listing of the Golden-cheeked warbler as an endangered species effectively imposed a county-wide development moratorium. The county appraisal district estimated that land values in the area fell from over $335 million to less than $57 million after the warbler's listing.

"Poor implementation of the ESA in the Austin area, which has resulted in voter dissatisfaction and unnecessary restrictions on housing development, highlights a dire need for reform, according to NAHB President J. Roger Glunt. He noted that the Travis County situation exemplifies the five areas where the ESA most needs reform: listing decisions, critical habitat, habitat conservation plans, federal cost-sharing and compensation.

First, the Congress must ensure that FWS extends the act's protection to only those species which are truly endangered. Controversial decisions taint the listing process. Currently, there is no congressional or regulatory directive to guide FWS in its listing decisions. Accordingly, the agency routinely renders unreliable listing decisions with no basis in science or fact. The harmful results from FWS's current listing practices are significant: The agency inevitably reviews and accepts petitions to list species that do not face danger of extinction.

Biologist Warren Pulich has raised serious questions over the validity of the data on which FWS listed the Golden-cheeked warbler. Yet the allegation by an environmental organization that the warbler's existence was jeopardized because of a single landowner's attempt to clear his property spurred FWS to conclude that there was an emergency "posing a significant risk to the well-being of the warbler." The warbler's listing became effective immediately under the act's emergency procedures, thus suspending normal rule-making requirements and the opportunity for public comment.

FWS justified the emergency listing by announcing that 220 acres of warbler habitat had been cleared. However, the agency selectively neglected to disclose that 105,000 acres of suitable warbler habitat remained in Travis County alone. The warbler is also found in at least 41 counties in Texas.

"It is highly doubtful that a negligible loss of habitat could constitute an imminent threat warranting the warbler's emergency listing and justify the abandonment of normal rule-making procedures," said Glunt. "Congress must reform the listing process to

(Continued on page 10)