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**REPORT TO THE
PRESIDENT AND VICE PRESIDENT
REGARDING
OPTIONS FOR CONVENING A FOREST SUMMIT**

February 4, 1993

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"Our entire society rests upon -- and is dependent upon -- our water, our land, our forests, and our minerals. How we use these resources influences our health, security, economy, and well-being. But if we fail to chart a proper course of conservation and development -- if we fail to use these blessings prudently -- we will be in trouble within a short time."

President John Fitzgerald Kennedy
Special Message to the Congress
on Natural Resources
February 23, 1961

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EXECUTIVE SUMMARY

Attached is the Forest Summit Transition Team's report on Forest Summit Options. The report includes a detailed discussion of the old-growth forest management issue, the Summit Transition Process, the results of our efforts to obtain input from interested and affected parties, and our analysis of how these comments affect decisions regarding how to proceed with the Forest Summit.

The Problem

Forestry issues in the Pacific Northwest and northern California are complex. Yet, they are all linked to a simple underlying question -- How should the public forests of the region be managed?

Key concerns include:

- o How many acres of old growth should be protected?
- o How many acres will remain available for timber production?
- o How will other species of fish and wildlife be dealt with?
- o What efforts will be made to assist the people and communities affected by changes in forest management?

The polarized nature of this issue is reflected in the repeated Congressional attempts over the last four years develop a legislative remedy.

It was within this context that candidate Clinton stated "If there is no resolution to this issue during [the 102nd Congress], early in my administration I will convene a summit to work out a legislative solution."

Forest Summit Transition Process

On December 18, 1992, a Forest Summit Transition Office was established to gather information on the best way to move the Forest Summit forward. Staff met with all but two Members of the Oregon, Washington, and northern California congressional delegations, staff to Senators from the region (and with Senator Patty Murray of Washington), and staff from the key Congressional committees involved in the debate. We also met with representatives of labor, industry, and environmental organizations and spoke, by telephone, with representatives of the three State governors' offices. Finally, letters were sent by transition staff on behalf of the President-elect and Vice President-elect to nearly 1500 representatives of state and county governments, Indian tribes in the region, academicians, and others included on lists provided by labor, industry, and the environmental community.

Over 400 responses allowed us to measure how people felt about a number of Summit questions including: Who should lead the summit?; When should it occur?; Where should it occur?; Who should be involved?; What process should be used?; Who should be involved?; What issues should be addressed?; What roles should the public and science play?; and What should result from the Forest Summit?

Results

Below is a brief summary of the responses we received:

Areas of Agreement:

- A process must begin as soon as possible.
- Leadership must come from the White House.
- The Forest Summit must be an inclusive process.
- Some component must take place in the affected region.
- Some form of negotiated decision making must take place, however, respondents differ on who should be involved.
- Forest management and community assistance must be addressed.

Areas of Disagreement:

- Some believe the Summit should consist of a single meeting like the Economic Summit. Others believe it should consist of several steps. Still others believe it should be a negotiated settlement.
- Some believe decisions should be made by the administration, others believe decisions should be jointly made by Congress and the administration.
- There are differences of opinion about whether President Clinton or Vice President Gore should lead the Summit.
- Some believe public involvement is needed. Others feel the public has been involved and the Summit should concentrate on making decisions.
- There are different perspectives about how the Summit should address issues related to geographic scope and the specific topics that should be discussed (e.g., whether or not to consider issues related to salmonid stocks).

Given the anticipation and enthusiasm that exists in the region for the Summit, it is clear that this transition effort must be followed closely by decisions regarding how to proceed. All those who commented were in clear agreement that leadership must be brought to this issue. They clearly look to the White House for that leadership. To fulfill the President's campaign promise, planning for the Forest Summit must begin immediately. As a part of this effort, those who are anxious to participate (or to simply help in some way) need to know that the Administration is committed to the Summit process, and is interested in and concerned about their views.

INTRODUCTION

Background on the Issues

Debate Over Old-Growth Forest Issues in the Pacific Northwest

For the past decade, debate has occurred over the protection of old-growth forests and the northern spotted owl (*Strix occidentalis caurina*) in the Pacific Northwest and northern California and the human costs of such protection. In recent years, this debate has escalated with the listing of the northern spotted owl as a Federally-listed threatened species, the proposed listing of the marbled murrelet (*Brachyramphus marmoratus*) as threatened, and the anticipated listing of various species of salmonids that spawn in the rivers and streams of the region.

The northern spotted owl inhabits old-growth forests in Oregon, Washington, and northern California. Old-growth forests, which are generally 200 years of age or older, also serve as important habitat for other animal and plant species that are threatened by the loss of these forests, primarily to logging. Many runs of salmon and trout in the region may also be threatened, in part, as a result of historical logging practices.

Reductions in logging in the region have already occurred as a result of a number of factors, including, but not limited to, reductions in market demand and court-ordered injunctions. The reduction in Federal timber sales has affected timber-dependent communities in two ways. First, timber-related employment, such as logging and milling jobs, has declined. Second, many communities that depend on receipts from logging on Federal lands to provide funding for community schools and roads, have seen their county budgets fall precipitously. This funding base is further endangered by future reductions in logging on Federal lands.

Little old-growth remains on private lands since these forest stands are highly valued for their timber. Until recently, most mills cut only old-growth in the area. The stands of old-growth that remain are largely on Federal forest land, and administered by the U.S. Forest Service and the Bureau of Land Management (BLM). Since private landowners (especially those in the forest products industry) have cut out their remaining old-growth, they have relied on these Federal forests for timber until their "second growth" forests reach harvestable age. Unfortunately, this point is still some 15 to 20 years away, exacerbating the struggle over remaining old-growth forests.

At the heart of this issue is debate over the management of Federal forest lands in Washington, Oregon, and northern California, and the manner in which the

administering agencies, the BLM and the Forest Service, care for the public lands that they have been entrusted to manage.

Three agencies, the BLM, the Forest Service, and the Fish and Wildlife Service (FWS), have been involved with this issue. The following summarizes the activities of each, as well as some of the litigation that has affected the actions of the agencies and brought into question their ability to resolve the issue administratively.

An updated chronology of the actions and litigation associated with the northern spotted owl and old-growth forest issue, based on testimony received by the Subcommittee on Forests, Family Farms, and Energy in March 1992, is included in Appendix 1.

Actions of the Forest Service

The Forest Service manages about 25 million acres of Federal land in Washington and Oregon. In FY 1989, about half of all the timber harvested nationwide from Forest Service lands came from these two states, which produced a combined total of about 6 billion board feet (bbf) of timber.

The BLM and the Forest Service manage the majority of lands between the western coast of the United States and the Cascade Mountain Range, lands of primary concern with regard to the survival of the spotted owl. In addition, old-growth forests and spotted owl habitat occur in a number of the national forests in northern California.

The Forest Service is required by the Forest and Rangeland Renewable Resources Planning Act¹ (the 1974 Act) to prepare land management plans to guide timbering and other activities on each of the national forests. Among other things, Section 6 of the 1974 Act² requires that forest management plans "provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives." The Forest Service regulations to implement this provision of the 1974 Act further require that viable populations of a species be maintained throughout a planning area (36 C.F.R. 219.19).

In 1984, the Forest Service sought to provide guidance to forest planners in the Pacific Northwest region by issuing a regional guide which included a strategy for protecting spotted owl habitat. This strategy called for the establishment of Spotted Owl Habitat Areas (SOHAs) distributed throughout the national forests in the region to protect nesting owl pairs and provide for future habitat.

¹ (16 U.S.C. 1600 *et seq.*) .

² (16 U.S.C. 1604) .

The SOHA strategy and the adequacy of the guidance for protecting the spotted owl, which was designated by the Forest Service as an indicator species for the health of old-growth ecosystems, was challenged by the National Wildlife Federation. As a result of this challenge, the Forest Service agreed to review and revise its spotted owl management guidelines.

In 1988, the Forest Service produced a lengthy "Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide: Spotted Owl Guidelines" (Supplement). This approach was considered by environmentalists and most scientists to be inadequate in ensuring the long-term stability of owl populations. The timber industry also disliked the approach because it believed the approach would reduce harvest levels excessively. This document has been superseded by later events.

Several suits were brought against the Forest Service, based largely on the spotted owl guidelines prepared under the 1974 Act and its regulations. These were consolidated in Federal court (Seattle Audubon Society v. Robertson). Eventually, Congress intervened by enacting Section 318 in Public Law 101-121.

Under Section 318, the FY 1989-90 timber sale levels for Oregon and Washington were set for the Forest Service and for the BLM. Section 318(b) also directed the Forest Service (but not the BLM) to minimize fragmentation of old-growth habitat, and enlarged the areas that should be set aside for each owl territory.

In October 1988, the Forest Service, BLM, FWS, and National Park Service chartered the Interagency Scientific Committee (ISC) to prepare a conservation report on the northern spotted owl. This report, "A Conservation Strategy for the Northern Spotted Owl" (Strategy), generally has been regarded as the best scientific information available on the habitat, needs, and methods to protect the species. The Committee was composed of scientific experts from the participating agencies.

The owl and habitat preservation aspect of the Strategy centered around protection of blocks of habitat called Habitat Conservation Areas (HCAs). The ISC recommended that certain forest management activities within HCAs be curtailed.

The ISC Strategy also focused on management of the remaining forest lands outside the HCAs by recommending certain management requirements for those lands that were not already reserved from management and were suitable for growing timber. One of these requirements, the "50-11-40 rule", provided that for every quarter township (5,660 acres), timber harvest on Federal lands would be permitted only when 50% of the forest landscape consists of forest stands with an 11-inch mean diameter at breast height and a canopy closure of 40%. The final

ISC Report was delivered to the participating land management agencies in April, 1990.

The Forest Service initially planned to adopt the ISC Report recommendations, but was superseded by the administration's decision to initiate another study to develop an alternative to the ISC strategy for protecting the owl. The administration established a task force chaired by USDA Assistant Secretary James R. Moseley to develop a long-term strategy for the Forest Service. Forest Service actions for FY 1991 and beyond were to be developed and submitted by the administration's task force, along with legislative proposals to Congress, by September 1, 1990. A long-term strategy was not developed, however, nor was proposed legislation submitted.

On October 3, 1990, the Forest Service published a notice in the Federal Register, vacating the December 1988 Record of Decision (ROD) for the supplement to the Regional Guide which had proposed the SOHA plan. Instead it announced that for the immediate future, it would "conduct timber management activities in a manner not inconsistent with the Interagency Scientific Committee recommendations". However, U.S. District Court Judge Dwyer found this notice inadequate guidance to permit timber sales in owl habitat, enjoined proposed sales, and ordered the Forest Service to develop adequate guidance on management of the owl habitat by March 1992.³

In addition, the court held that the Forest Service's notice did not comport with the 1974 Act diversity requirements, nor was it promulgated in compliance with Forest Service viability regulations, or other regulations implementing the 1974 Act and the National Environmental Policy Act of 1969 (NEPA). The court also held that the awarding of timber sales by the Forest Service did not involve a "taking" of migratory birds within the meaning of the Migratory Bird Treaty Act. Finally, Judge Dwyer ruled that the diversity requirements of the 1974 Act, as implemented through the Forest Service regulations regarding viable species populations (36 C.F.R. 219.19), are not obviated once a species is listed under the Endangered Species Act (ESA).

Subsequently, on May 23, 1991, the court (Judge Dwyer) enjoined the Forest Service from auctioning or awarding timber sales in habitat suitable for the northern spotted owl until the Forest Service adopted standards and guidelines for the conservation of the owl, which the court ordered to be done by March 5, 1992.

³ Seattle Audubon Society v. Evans et al., C89-160 W.D. Wash., May 23, 1991.

The U.S. Court of Appeals for the Ninth Circuit affirmed Judge Dwyer's decision on December 23, 1991. In this same opinion, the court also held that claims under (NEPA)⁴ against BLM could be filed because the bar to such suits that was contained in an appropriations act had lapsed.

In response to the May 1991 order of Judge Dwyer, the Forest Service developed a new draft environmental impact statement (EIS) on management for the northern spotted owl in which the preferred alternative was the implementation of the ISC Report recommendations. That proposal was delivered to Judge Dwyer on March 5, 1992.

A new suit was filed, which challenged the adequacy of the new EIS and the associated ROD. The court issued an injunction on July 2, 1992 enjoining the Forest Service from auctioning sales in owl habitat until changes were made in the new EIS and ROD to address certain issues and new information in compliance with NEPA. Although the case has not yet gone beyond NEPA issues, the court also indicated reservations about the adequacy of the preferred alternative to protect old-growth associated species other than the northern spotted owl.

Actions of the Bureau of Land Management

The Bureau of Land Management (BLM) manages approximately 2.4 million acres in the Douglas-fir region of western Oregon and Northern California. Unlike other BLM lands which are managed for multiple uses according to the Federal Land Policy and Management Act of 1976⁵ (FLPMA), most of these lands also are managed according to the Oregon and California Grant Lands Act of 1937⁶ (O&C Act). The O&C Act focuses on timber production, under the principle of sustained yield to promote community stability. In cases where the two Acts conflict, the O&C Act prevails over FLPMA.⁷

The O&C lands have been extensively harvested. These timber harvests, in combination with the BLM's intermingled land ownership, have contributed to the problem of forest fragmentation, which has contributed to the decline of old-growth forest ecosystems.

⁴ (42 U.S.C. 4321 *et seq.*) .

⁵ (43 U.S.C. 1701) .

⁶ (43 U.S.C. 1181 *et seq.*) .

⁷ See section 701(b) of FLPMA.

The seven existing timber management plans for various parts of the O&C lands were prepared in the late 1970's and early 1980's. Collectively, these plans decreased the amount of commercial forest land available for timber production by 11%, but increased the allowable sale quantity (ASQ) to 1.185 bbf annually, and called for 18,210 acres of annual harvest area.

With respect to the northern spotted owl, the seven timber management plans provided 300 contiguous acres of old growth for each of 79 spotted owl sites. However, as new scientific information became available, the BLM did not update its owl protection plans.

In September 1983 (subsequent to publication of the timber management plans), the BLM and the Oregon Department of Fish and Wildlife signed an agreement which stated that BLM would maintain habitat to support a population of 90 pairs of spotted owls. No amendments were made to the timber management plans to reduce the ASQ commensurate with this additional protection of owl habitat.

In 1987, the Oregon Department of Fish and Wildlife succeeded in persuading the BLM to agree to guidelines protecting at least 2,200 acres of conifer forest over 80 years old at each of the 110 areas identified for spotted owl protection, resulting in protection for approximately 230,000 acres. However, no amendments were made to the timber management plans to reduce the ASQ of timber commensurate with this additional protection of owl habitat.

Section 318 of the FY 1990 Interior Appropriations Act directed the BLM to protect additional owl areas, bringing the number of protected BLM areas to 121. Section 318 also identified an aggregate sale level of 1.9 bbf for FY 1989 and FY 1990.

Environmentalists sued BLM over timber sales in owl habitat, but BLM argued that section 318 insulated it from lawsuits for sales in that fiscal year. Environmentalists argued that section 318 was unconstitutional.

The Ninth Circuit held part of Section 318, of P.L. 101-121 to be unconstitutional based on a violation of the separation of powers, but the Supreme Court held on March 25, 1992, that section 318 is constitutional. Challenges to some of the 1990 sales that had been allowed may now be reconsidered.

Following the decision in June 1990 to list the northern spotted owl as a threatened species, the BLM consulted with the FWS on 157 of 453 timber sales covered under Section 318. The FWS biological opinion stated that essentially all of the BLM's annual timber sale program was comprised of old growth and mature forest, that the 157 sales submitted for consultation (covering 17,200 acres) would adversely affect the owl through loss of habitat and increased

fragmentation, but that none of the sales would jeopardize the continued existence of the owl. The BLM dropped or deferred awarding 118 million board feet (mmbf) that had been offered for sale in order to modify the sales as a result of the measures identified in the FWS biological opinion.

In its opinion, the FWS also stated it did not agree with BLM's claim that only 157 of the 453 sales may affect spotted owls, but BLM did not submit any additional sales for consultation. The FWS opinion recommended that the BLM adopt a number of conservation measures, including adoption of the ISC Report's recommendations on the northern spotted owl, as soon as possible.

Instead, in order to maintain a higher level of timber sales than would be possible under the ISC strategy, BLM adopted the so-called "Jamison Strategy." This plan proposed to sell timber at levels well above those that would be consistent with the ISC strategy by ignoring the ISC requirements of adhering to the "50-11-40" rule on lands outside those designated for owl conservation. Under the ISC strategy, the BLM would sell approximately 443 mmbf annually. Under the Jamison strategy, the BLM would sell 750 mmbf annually.

In April 1991, environmentalists sued BLM in Federal court for failure to consult with FWS on implementation of the Jamison Strategy. In September, Judge Jones ruled that BLM had violated the ESA, but could continue to sell timber.⁸

On January 10, 1992, three BLM employees testified that BLM was still using the Jamison Strategy. On March 4, 1992, the Ninth Circuit affirmed that BLM must consult on the "Jamison Strategy" or any other timber program guidance, and also held that timber sales could not go forward until consultation was completed.

In a separate suit, environmentalists charged that BLM failed to comply with NEPA by preparing an EIS for the Jamison strategy, and had failed to consider new information on the northern spotted owl. On February 19, 1992, Judge Frye blocked logging on BLM lands containing old-growth forests because the agency had failed to prepare the required EIS under NEPA. The injunction was later made permanent.

BLM's decision not to fully implement the ISC strategy was a factor in Judge Dwyer's decision in 1991 to impose an injunction on Forest Service timber sales in all national forest spotted owl habitat. The success of the ISC strategy in maintaining the viability of the owl was predicated on implementation of the plan by both the BLM and the Forest Service. Under terms of the Judge Dwyer's order

⁸ Lane County Audubon Society v. Jamison.

and the Record of Decision signed March 3, 1992, the Forest Service was restricted from offering any timber sales prior to April 10, 1992.

On June 17, 1991, the FWS concluded that 52 BLM timber sales were likely to jeopardize the owl. FWS concluded further that the sales should be deferred in whole or in part until BLM developed a long-term conservation strategy or adopted a recovery plan, and determined all sales to be consistent with either plan. Of these 52 timber sales, BLM modified 8 to comply with the ESA, but selected the remaining 44 and submitted an application for an exemption from the ESA. Secretary of the Interior Lujan then determined that BLM met the requirements for convening the Endangered Species Committee, the body to which applications for exemptions from the ESA are referred, and consequently accepted the application. The State Department further certified, as required by ESA, that no international agreement to which the United States is a party protected the spotted owl from the effects of the proposed sales.

After various delays, the Endangered Species Committee met, and on April 15, 1992, received Secretary Lujan's report on the application. The Endangered Species Committee's decision was issued on May 14, 1992, the same day the draft recovery plan required by the ESA, and an alternative plan were released.

After a review of background information, the Chair of the Committee, Secretary Lujan, proposed that 31 sales should not be exempted. He proposed to exempt the remaining 13.

Dr. John Knauss, administrator of the National Oceanic and Atmospheric Administration (and, ex officio, a member of the Endangered Species Committee) expressed strong reservations about the proposal, and offered an amendment to the Chairman's proposal. He argued that to prevent the reappearance of BLM timber sales before the Committee, it was necessary to adopt a long-range plan. By a vote of 5-2, the Committee accepted his amendment to (1) implement the final recovery plan⁹ as expeditiously as possible; (2) use the recovery plan as the basis for its 10-year plan, consistent with the best scientific and commercial data available (including the ISC report); (3) submit its 1993 and 10-year timber plans to FWS for consultation as a whole; and (4) cease offering timber sales "until the [10-year] plan has gone through a 60-day comment period and has been approved by [the Department of the Interior]".

If delays in approval of the plans beyond the control of the Department of the Interior occurred, then sales could be offered if consistent with the recovery plan.

⁹ See the section of this report entitle "Actions of the FWS" below.

The Endangered Species Committee adopted the Lujan proposal, as amended by the Knauss amendment, by a vote of 5-2.

A suit was filed on June 9, 1992, challenging the May 14, 1992 decision of the Endangered Species Committee. Attorneys for the plaintiffs sought subpoenas for White House documents, claiming that these would show inappropriate pressure on members of the Endangered Species Committee.

Actions of the Fish and Wildlife Service

The initial petition requesting listing of the northern spotted owl as threatened or endangered under the ESA was filed in 1987. At that time, the FWS decided not to list the owl.

A court case ensued in 1988, Northern Spotted Owl v. Hodel, in which Judge Zilly, of the U.S. District Court for the Western District of Washington, ruled that FWS's decision not to list was arbitrary and capricious and not supported by expert opinion.

FWS reconsidered, and on July 23, 1990, listed the northern spotted owl as threatened throughout its range. At the time of listing, the FWS did not designate critical habitat for the owl, stating that it was "not determinable."

Conservation groups filed a motion to require FWS to designate critical habitat for the spotted owl. On February 26, 1991, Judge Zilly ruled that FWS had "failed to discharge its obligations under the ESA and its own regulations [and] abused its discretion" and directed FWS to publish a critical habitat proposal no later than April 29, 1991.¹⁰

Released on May 6, 1991, the proposal recommended 11.6 million acres for designation in Forest Service, BLM, State, other Federal, tribal, and private lands. However, FWS did not specify what activities could be carried out in these areas. In addition, because of the requirements for legally defined boundaries (e.g., section lines), some areas appeared to be included that had no owl habitat in them. Environmentalists praised the proposal; timber interests condemned it. The proposal was revised on August 5, with a reduction in acreage to 8.2 million acres. The major change was the removal of private lands. The reduced proposal still met strong criticism from the timber industry. Under a court order, FWS produced a final rule designating 6.8 million acres as critical habitat in the three States. Again, the final rule was criticized as either inadequate or excessive, depending on the observer's point of view.

¹⁰ In Northern Spotted Owl v. Lujan (C88-5732, W.D. Wash. 1991)).

Under Section 4(f) of the ESA, FWS drafted a recovery plan for the owl. Most scientists agreed that the ISC report represented the best scientific effort to date to develop a plan for the owl's conservation, as well as an unrivalled review of the scientific literature available at that time. This report was, if not the result, the starting point of the recovery planning process.

A draft recovery plan was to have been available in January or February, 1992, but during various delays in the plan's release, Interior Secretary Lujan announced that the draft plan's possible resulting job loss was too great. Instead, the Secretary asked another team to come up with an alternate plan. In May, 1992, the Secretary released an alternative to the draft recovery plan for the northern spotted owl that would reduce projected job losses by one half, but would result in a greater likelihood of the owl's eventual extinction through most of its range.

The Department of the Interior acknowledged that the "preservation plan", as the alternative to the recovery plan has come to be called, did not meet the requirements of the ESA and certain other laws. Secretary Lujan would not characterize the administration as "recommending" the plan, and said that the administration would not send legislation to the Congress, but would be "willing to assist in drafting" legislation. A final recovery plan for the northern spotted owl has not been released.

In all, 11 judges have been involved in U.S. District or Circuit court rulings related to the actions of the Forest Service, Bureau of Land Management, and the FWS as they affect the northern spotted owl and the management of Federal forest lands in the Pacific Northwest and Northern California.

Consistently, these Federal agencies have been sued, and in decisions by these 11 judges, have been found to be in violation of one or more Federal laws or regulations affecting the management of Federal forests, the protection of endangered species, and compliance with procedures pursuant to NEPA or other statutes.

The comments of the following judges illustrate this point:

"More is involved here than a simple failure by an agency to comply with its governing statute. The most recent violation of the [1974 Act] exemplifies a deliberate and systematic refusal by the Forest Service and the FWS to comply with the laws protecting wildlife."¹¹

¹¹ U.S. District Judge William L. Dwyer, in Seattle Audubon Society v. Evans.

"Without a doubt, the Jamison Strategy is [an] action that 'may affect' the spotted owl. In implementing the Jamison Strategy before consultation with the FWS, the BLM has violated the ESA. The defendants are enjoined from implementing the Jamison Strategy until [it] has been submitted for consultation."¹²

The actions of the agencies often ran contrary to available science and the advice and recommendations of the agencies' own scientific experts. In addition, the actions of an individual agency, in particular the BLM and the Forest Service, were often inconsistent and antagonistic to the other agency's ability to take necessary and corrective action to bring their management of the forests into compliance with court rulings or applicable statutes. For example, the Forest Service, in finally deciding to adopt the ISC strategy to govern the management of its lands, was stymied by the decision of the BLM to implement its own alternative, the "Jamison Strategy".

The Forest Service and BLM have failed to fulfill obligations to develop an effective solution to these issues. Following the issuance of the report of the ISC, the administration established its own "blue ribbon" panel to develop an alternative spotted owl management plan. However, no plan was developed by the panel. The so-called "preservation plan", achieved its objective of reducing projected job losses, but failed to meet the legal requirements of ESA and certain other laws. Consequently, Congressional action would have been required for its implementation.

Congressional Efforts Toward a Resolution

A number of legislative proposals have been discussed and bills introduced in both the House of Representatives and the Senate to deal with issues associated with the northern spotted owl and old-growth forests. In addition, in May 1991, at the request of the Committee on Agriculture and the Committee on Merchant Marine and Fisheries of the United States House of Representatives, and appropriate subcommittees, a scientific panel of four well-known forestry and wildlife scientists was asked to provide options for management and protection of old-growth forests and species dependent upon old-growth forest ecosystems, in particular the northern spotted owl. The panel (which has come to be known as the "Gang of Four") was not asked for, nor did it provide, a recommended alternative. Their findings which were delivered to Congress on October 8, 1991, consisted of 14 interim alternatives, with increasing levels of ecosystem and species protection and beginning with a high timber yield alternative. Each of the last 11 alternatives also have 3 management options available, making a total

¹² U.S. District Judge Robert E. Jones, in Lane County Audubon Society v. Jamison.

number of 36 alternatives. The effects of each alternative are described in terms of changes to timber harvest levels, employment and personal income, and probability of retaining old-growth or late successional ecosystems and species.

Some of the focal points of the old-growth report included the following: a network of late successional forest reserves that would protect approximately 25% more spotted owl pairs than the ISC Strategy; areas to meet the standards and guidelines of the ISC Strategy for spotted owls in the alternatives with more likelihood of retention of viable species populations; a watershed and fish component to provide for the long-term maintenance and restoration of habitat for fish species and stocks at risk, riparian-dependent species and processes, and aquatic ecosystem integrity; and possible "de-listing" of the northern spotted owl as a threatened species over significant portions of its range if certain alternatives were implemented.

The Gang of Four report broke new ground in the northern spotted owl, old-growth forest debate. First, the old-growth report represented an independent assessment of the status of the management of the national forests and BLM districts in the region by four scientists with substantial expertise and knowledge of the issue. Second, the old-growth report resulted in a comprehensive assessment of remaining old growth forests in the region and an evaluation of the relative importance of retaining specific old-growth areas for sustaining old-growth forests and related resources. Third, the old-growth report included a risk analysis for each alternative to assess the effect, by alternative and management option, on the ability to ensure the viability of owl populations, old-growth ecosystems, marbled murrelet nesting habitat and habitat for other old-growth associated species, and sensitive fish species and stocks. Finally, the report made clear that current forest management practices, and even management in accordance with the proposed forest plans for the region, would result in substantial risk to the continued viability of the owl, sensitive fish species and stocks, and the old-growth forest ecosystem itself.

H.R. 4899, introduced by Chairmen de la Garza, Miller, and Studds and S. 2895, introduced by Senators Leahy and Adams, built upon the scientific framework provided by the old-growth report by using an alternative from that report as an interim strategy for protecting old-growth forest ecosystems and associated species of animal and plants (including fish). In addition, these bills included measures to assist affected timber workers, their families, and communities that would be impacted by the reductions in federal timber sales that would result from implementation of the old-growth protection strategies in each bill.

H.R. 4899, which was jointly referred to three House Committees, was reported by the Committee on Agriculture. However, action on the bill stalled in the Interior Committee (currently the Committee on Natural Resources). The bill was not

considered in the Merchant Marine and Fisheries Committee. At the close of the 102nd Congress, negotiations among the staffs of these three Committees and a representative of the Speaker's Office led to a tentative agreement on principles that might serve as the basis for a legislative solution to the old-growth issue. However, no new legislation was introduced or considered. No action was taken on S. 2895 prior to adjournment.

More than a dozen bills were introduced in the 102nd Congress that related to or sought to resolve the old-growth forest/northern spotted owl issue. None of these received consideration from a committee of jurisdiction with the exception of S. 1156, introduced by Senator Packwood. This measure, and its companion bill, H.R. 3263, introduced by Congressman Huckaby, were supported by the labor-industry coalition and focused on providing more certain timber supply by proposing changes to the administrative appeals process and judicial remedies process. The Senate Energy and Natural Resources Committee made two attempts to report this measure, only to fail to complete consideration prior to adjournment of the 102nd Congress.

Key Players

The key players in resolving the old-growth forest management issues confronting the Clinton administration can be categorized into seven groups:

Administrative Departments/Agencies

As noted above, the USDA Forest Service and the BLM in the Department of the Interior are key participants in the old-growth debate, having jurisdiction over the management of the forest lands that are at the center of the controversy. In addition, the Fish and Wildlife Service in the Department of the Interior, which is responsible for administration of the Endangered Species Act, has been directly involved. As species of salmonids become candidates for listing as threatened or endangered, the National Marine Fisheries Service in the Department of Commerce may also become a part of the dialogue. The Environmental Protection Agency (EPA) has also been a player in the current controversy, particularly as the Forest Service and BLM have attempted to implement administrative remedies, only to fall short of the requirements of NEPA. Other Departments and agencies may become involved depending on the scope of the issues addressed. For example, assistance to displaced workers, as envisioned in H.R. 4899 and S. 2895 in the 102nd Congress, might necessitate the involvement of the Department of Labor and/or the Department of Education depending on the nature of the assistance. Budget concerns resulting from reduced timber harvest levels and the cost of worker and community assistance programs will bring the Office of Management and Budget into the debate as well.

Congress

Substantial turnover has occurred in the California, Washington and Oregon Congressional delegations. Key players in the Washington delegation include Speaker Foley, Congressman Norm Dicks, and Congresswoman Jolene Unsoeld. In the Senate, Senator Slade Gorton took a strong position on forestry issues during the last Congress and authored a number of amendments and bills. Senator Gorton will face reelection in 1994. Senator Patty Murray, in her first term, has yet to make any public statements regarding her views on the issue.

The Oregon delegation includes several new Members as well. Key players will be Congressman Peter DeFazio, who led efforts to develop a legislative solution to the issue in the 102nd Congress, Mike Kopetski, who authored a key amendment to H.R. 4899 in the Committee on Agriculture, and Congressman Ron Wyden, the senior Member of the delegation. The only remaining Member from Oregon who sits on the Agriculture Committee is Congressman Bob Smith, who introduced companion legislation in the House to the Gorton bill. Senator Mark Hatfield, who engineered many of the past Congressional "fixes" to the old-growth issue through the Appropriations Committee, is likely to remain a key participant in the debate. What role Senator Packwood, who introduced legislation on behalf of the labor-industry coalition in the 102nd Congress, will play remains uncertain.

Only a few Members of the California delegation are directly affected by the issue. These Members are mostly Republicans and have taken positions in the past that are reflective of the views of the forest products industry. New to the debate this Congress will be Congressman Vic Fazio, whose new district includes some portions of the affected national forest lands, and first-term Member Dan Hamburg. The largest change in the California delegation is in the Senate, where Senators Diane Feinstein and Barbara Boxer could play a key role in moving old-growth legislation.

The House Committees on Agriculture, Merchant Marine and Fisheries, and Natural Resources have primary jurisdiction over this issue in the House. During the last Congress, the three worked closely in introducing H.R. 4899 and in attempting to negotiate a final resolution to the issue during the latter part of the session. In the Senate, committees of jurisdiction include the Committee on Agriculture, Nutrition, and Forestry; the Committee on Energy and Natural Resources; and the Committee on Environment and Public Works.

State and Local Government

State and local governments currently receive 25 percent of all gross revenues from federal timber sales (for sales from the Oregon and California Railroad Grant (O&C) Lands administered by the BLM, the revenue-share is 50 percent). In

Oregon, for the Forest Service alone, this totaled over \$200 million in 1990. These funds help support schools and road maintenance in each county and create a tremendous financial incentive to keep timber sale levels high.

Environmentalists

The environmental community has made a strong commitment to the protection of remaining old-growth forests. The "Ancient Forest Alliance", composed of many of the national and local environmental organizations with an interest in the issue, attempts to speak for the environmental community with one voice. However, differences between the national groups and grassroots environmental activists can sometimes be strong, making efforts to negotiate with a single representative difficult.

Labor

Labor and forest products industry management formed a "Timber Industry Labor-Management Committee" two years ago to fight against old-growth forest protection. While numerous worker assistance proposals were made, labor continued to side closely with efforts which demand higher timber harvest levels. Labor remains strongly committed to worker retraining and assistance programs as an element of a final solution.

Forest Products Industry

The industry has spoken largely with one voice. However, some differences remain between individual companies and the industry associations, and between large and small timber operators.

Key Issues

The substantive issues of concern in the debate over the future of old-growth forests vary with each interest group. The Forest Summit will send an early and clear signal to these groups regarding the administration's interest in their concerns and its commitment to resolution of the old-growth issue. Primary old-growth issues include the following:

"Ancient Forest" Protection

To some, the debate over old-growth or "ancient forests" centers on the protection of all remaining old-growth forests. Advocates of protection generally argue that only a small percentage of what constituted old-growth forests remains in the region. Often, this group rejects management as an option, and instead, proposes

to preserve all remaining old-growth forest through the establishment of reserve areas.

Ecosystem Management

Although the spotted owl has been blamed by many as the cause for this conundrum, other old-growth associated species have been brought into the debate. For example, the marbled murrelet has been listed as threatened in portions of the Pacific Northwest. Loss of nesting habitat -- primarily old-growth -- has been attributed to the murrelet's decline. The listing of several stocks of salmon as threatened has also been attributed, in part, to past logging practices and their impacts on watersheds and key salmonid habitat. To avoid dealing with the "endangered species a month" problem, as former Congressman Sid Morrison characterized it, some management strategies look beyond the needs of the owl to protecting the core components of the whole forest ecosystem. Opponents argue, however, that this expands debate beyond what is legally required and beyond the geographic scope of lands now under injunction from timber harvesting.

Management of Other Forest Lands

The spotted owl listing had a direct effect on the management of private forestlands in the region, requiring private landowners to avoid "taking" owls or destroying their habitat. Some assert that a resolution to this issue must consider remedies for private landowners in order to offer hope that they may be able to realize income from their property as well. Others view the issue as a federal land management problem.

Certainty of Timber Supply

The timber industry argues that for investment purposes, they must have some certainty regarding future wood supplies. They express frustration over final forest plans, drafted by the Forest Service to chart a course for future management of national forest lands, that offer more timber than can be harvested if the owl is to be protected. In addition, the industry and labor fear that appeals and litigation will continue to limit timber availability no matter what the resolution of the pending problem. They seek certainty of timber supplies -- either through a legislated level of timber production, limits on citizen access to the courts to challenge timber sales, or both.

Worker Assistance

Reductions in timber jobs seem an inevitable outcome of any old-growth agreements. Few people discount the reduction in timber sale levels that will result should a protection strategy for old-growth forests, spotted owls, and/or

other fish and wildlife species be put in place. Others recognize that a void will inevitably occur between the time when old-growth timber supplies dwindle and second-growth timber reaches a harvestable age. To soften the blow from the loss in timber jobs, worker assistance strategies -- from retraining, to education, to other resource-related employment -- have been proposed. This is an obvious concern to labor interests and organizations.

Community Assistance

To compensate for lost wages, tax revenues, and timber sale receipts, community assistance programs are sought by affected parties in the region. While this assistance can take the form of direct payments, others are seeking assistance of a rural development nature, to aid communities in expanding their economic base beyond timber. These attempts at economic diversification are seen as a key to reducing the boom and bust cycles that have characterized many timber-dependent communities in the Pacific Northwest and northern California.

Statements of Candidate Clinton

During the campaign, candidate Clinton made a number of statements regarding the old-growth issue. Complete transcripts of key statements and correspondence are included in Appendix 2. A summary follows:

On seeking compromise: "...[B]ecause there was no attempt to work this out in a reasonable compromise over the last five years, you've got all these timber tracts tied up in court, where some logging could occur. I would attempt to fashion -- and I believe this can be done without an amendment to the Endangered Species Act ...-- I would attempt to fashion a compromise based on real forest health and science that would permit reasonable logging, preserve a significant percentage of the old growth forest, accelerate replanting, accelerate modification of mills, and try to diversify the economies of the area." (Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

"...[T]he thing that has really bothered me about this whole deal is how, looking over the last four or five years, how the parties have gotten off in armed camps, and it's been like trains running at a steel wall, just waiting for the crash to occur. And now the whole thing has been thrown into the courts, and all these timber tracts are basically immune from any sort of activity because they're tied up in the courts."

(Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

On leadership to resolve the issue: "If I were president, let me say, I would be personally involved in trying to get all the parties together to try to work out a solution...." (Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

"Let me just point out what I think the president's role ought to be in all of this. I think ... we ought to have a Forest Summit after the election and come up here and get all the parties to sit down.... [W]e're going to have to decide what the national government position is between all these different bureaucracies. We've got to get the timber that ought to be cut out of court." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers", Portland, OR, September 14, 1992)

On log exports: "We know that unrestricted exports of raw logs has hurt both our environment and our economy. By depriving domestic mills of needed timber, it has driven many mills out of business and caused thousands of high wage mill jobs to be lost. At the same time, raw log exports have threatened important wildlife habitat and weakened the watersheds that protect us from flooding." (Source: The Seattle Times, May 18, 1992)

On the role of the federal government: "You're entitled to know that there is a coherent, consistent position from the national government about how these lands are going to be handled. The reason I called for this Forest Summit ... is that I think we're going to have to decide what the national government position is between all these different bureaucracies." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers", Portland, OR, September 14, 1992)

On jobs vs. the environment: "If national policy puts you out of a job, national policy ought to put you back in one. In other words, if we make a decision that we simply can't sustain 1980 yield levels but we want a constant yield so everybody can predict it. Then we ought to have a reinvestment policy in you that guarantees you that...."

[W]e've got to have a no net job loss policy. It's going to say if we lose jobs in the mills, we lose jobs in the woods, we're going to put people back to work either rebuilding the forest or in incentives to retool the mills or adding value to the timber here at home or training them fully and completely to go back to work." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers" Portland, OR, September, 14, 1992)

On a commitment to convene a Forest Summit: "[I]f there is no resolution to this matter during this Congress, early in my administration I will convene a Pacific Northwest Forest Summit to work out a legislative solution. I will work with the Congress and all interest parties to help break the gridlock which has caused so much pain in our Pacific Northwest communities. It is time for us to all come together and seek common ground." (Source: Letter from Bill Clinton to Sigurd Lucassen, et al., United Brotherhood of Carpenters and Joiners of America, August 25, 1992)

FOREST SUMMIT TRANSITION PROCESS

Establishment and Purpose

The Forest Summit Transition Office was established on December 18, 1993, to gather information to guide the development and implementation of the Forest Summit. The press release is included in Appendix 3.

Information Collection

The Forest Summit Transition Office was co-directed by staff of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Two full time and three part time volunteer staff assisted the co-directors in their efforts. Through meetings, telephone conversations, and correspondence with interested and affected parties, the office gathered information and answers to key questions regarding the Forest Summit.

At the outset, meetings were held with representatives of forest products industry, labor, and environmental groups. These meetings provided preliminary information regarding key questions and concerns of each party. Each group was asked to provide, and submitted, a list of individuals to contact by telephone or mail for additional comments on how the Forest Summit process should move forward.

Additionally, staff met in person with all but two Members of the Congressional delegations from Oregon, Washington, and northern California. Follow-up telephone calls were made to those with whom a personal meeting could not be arranged. Meetings were also held with key staff from each of the Washington, Oregon, and California Senators' offices. A personal meeting with Senator Patty Murray was also arranged.

Separate meetings were held with the staff of key House and Senate committees with jurisdiction over the old-growth and spotted owl issues. Chairman George Miller of the House Committee on Natural Resources and Chairman Bruce Vento of the Subcommittee on National Parks, Forests, and Public Lands also met with the transition staff.

Telephone contact was made with the offices of Governor Wilson (CA), Roberts (OR), and Lowry (WA), and each provided a list of persons to be contacted by telephone or mail. Detailed proposals for conducting the Forest Summit were also received from Governor Roberts and Governor Lowry.

Finally, a mailing on behalf of the President-Elect and Vice President-Elect was sent to nearly 1,500 individuals identified on mailing lists provided by the forest products industry, labor, and environmental groups and the offices of the three governors. This mailing was also sent to the Congressional Representatives and Senators from each state, the State Senators and Representatives in each, as well as every county commissioner and elected school board officials or similar representatives. It also went to a list of presidents of regional universities and colleges, and to the affected Indian tribes in the region.

A copy of the letter is included in Appendix 4. A list of contacts who received letter is included in Appendix 5.

To guide the respondents, each was asked to provide answers to questions about who, what, where, when, and how the Forest Summit should be set up. Contacts were also told that the effort was primarily focused on process -- as opposed to policy -- questions.

While many comments on policy were received, they were not included in the analysis. Additionally, many respondents requested that they, and/or other individuals, participate in the Forest Summit. A list of these individuals who would like to participate in the Forest Summit is included in Appendix 6.

Operating under a limited time frame did not allow for follow-up contact. However, the response rate was good given the short period people had to respond. In addition, a good number of responses were received from individuals who had not been formally contacted.

Analysis of Responses

Letters and notes from meetings and telephone calls were summarized and all comments regarding the Forest Summit process were coded into nine categories as follows:

- Number of Signatures
- Scope of Issues
- Process
- Format
- Public Involvement
- The Role of Science
- Location
- Timing
- Final Product

The detailed code sheet and raw data are presented in Appendix 7.

The comment period was closed on Friday, January 29th at the close of business. Comments received after that date remain unopened and are located in the letter files.

Comments were sorted by group and tabulated by categorical column. No statistical analysis was completed because of the non-scientific nature of the data collection process. The limitations of this analysis are further described in the following section.

RESULTS

The results provide good descriptions about how various groups -- environmentalists, labor, industry, government officials and others -- think a Forest Summit should be put together. Specifically, the response rate was high and diverse enough to identify a number of trends, important decision variables, and areas of agreement and disagreement.

The results in both this and the following sections were compiled by combining the numerical analysis described in the previous section with general comments that were made through discussions or letters.

Limitations of Analysis

In reviewing the results it is important to understand that they have little statistical reliability. There are four reasons for the data's softness.

First, no attempt was made to undertake a scientific sample. Contacts were made by talking to primary constituency groups and requesting lists of "people we should contact". Contacts lists varied from the 30 forest products industry contacts to the 400 environmental contacts. This does not necessarily mean that industry cares less about the Forest Summit, but, that they may have wanted to speak in one voice. To try to get around this, data was sorted and analyzed by group.

Second, individual responses had to be subjectively analyzed because respondents gave us their views on the non-specific topics contained in the letter inviting their comments. This allowed for more creative responses, but also made coding very subjective. In other words, the results should not be construed as resulting from concrete answers to specific questions.

Third, the many non-responses to specific data collection categories are not measures of a respondent's support or opposition to that particular category. For example, only 9 of 83 timber-related industry respondents commented on log exports. Therefore, the results are based on the 6 respondents who said the Forest Summit should deal with log exports and the 3 respondents who said it should not. As we did not ask a specific question about log exports, there is no way to measure how the remaining 74 timber-related industry respondents feel about the issue.

Fourth, the short transition time frame did not allow an adequate period for individuals to respond. Moreover, the response rate was lowered because no attempt was made to make follow-up contact and bad weather slowed mail delivery throughout the region.

In closing, the staff recommends that a sample of individual responses should be reviewed to pick up a true feeling for how many people support the Forest Summit and to obtain more details on the many well thought out suggestions for running a Forest Summit.

Contacts Made and Analyzed

A total of 404 individuals provided input to the Forest Summit Transition Team through meetings, telephone conversations and written responses. Response rates for each organization category are as follows:

- 33% (15 of 33) of the academics;
- 24% (97 of 403) of the environmentalists;
- 83% (35 of 42) of timber-related industry representatives;
- 19% (136 of 711) of the elected officials;
- 22% (35 of 157) of the labor members;
- 67% (12 of 18) of non-timber-related industry representatives; and,
- 19% (13 of 69) of tribes.

Note that some letters had multiple signatures. Therefore, the calculations above underestimate total input.

In addition, responses were received from 43 citizens, 6 federal agency workers, 4 conservation group leaders, and 8 mediation/facilitation experts.

Key Questions

This section summarizes respondents' views toward nine key questions. It simply provides various perspectives about how people think a Forest Summit should be set up. The analysis does not exhaust all Forest Summit options, but attempts to show how the majority of respondents feel.

Leadership

The Forest Summit's leader will send an important signal -- real or perceived -- to all involved in this forestry debate. Moreover, an overwhelming majority of respondents strongly believe that the White House must take the lead.

Labor, timber-related industry, and local and state government respondents all stated that President Clinton must take the lead. Federal elected officials were basically split over their feelings about whether President Clinton or Vice President Gore should take the leadership role. A clear majority of environmentalists believe Vice President Gore should lead the Forest Summit, however, President Clinton received strong support as well.

A number of individuals said that Secretaries Babbitt, Espy, and Reich should help lead the Forest Summit.

A few respondents suggested that an independent facilitator/mediator be appointed to run the Forest Summit.

Participants

Overall, people recognized the need to be as inclusive as possible. This may signify the respondents' recognition that all sides must be heard if any workable solution is to be developed.

Not surprisingly, when respondents specifically identified Forest Summit participants, they made sure individuals representing their particular values or interests were recommended. Respondents also wanted to be sure their philosophical allies were recommended for Forest Summit participation. For example, the timber industry suggested that the Forest Summit include labor representatives, and environmentalists said non-timber-related industry representatives should be included. In addition, environmentalists suggested that biologists be included, timber-related industry respondents wanted economists to be included, and state and local governments wanted to be sure that rural residents were included.

Timing

Timing is one decision everybody agreed on. All respondents wanted the Forest Summit process to begin as soon as possible.

The dates most often mentioned for starting up were March, April and May. For labor and timber-related industry there is a real sense of urgency to develop a solution because timber stocks are expected to bottom out this year, unless injunctions are lifted. Environmentalists generally support a quick Forest Summit start up, but some were more concerned that a time table be established to assure an open and equitable Forest Summit process. Federal elected officials -- cognizant of legislative deadlines -- often spoke of completing the Forest Summit process either right before or right after the August recess so they would have an

opportunity to pass any needed legislation by the end of the 103rd Congress' first session.

Location

Most people believe the Forest Summit -- or some component of it -- should take place in the Pacific Northwest. A number of Californians were quick to point out that their state is caught up in the debate, and therefore, a component of the Forest Summit should take place in California.

Labor, timber-related industry, tribes, and local elected officials were split over whether the Forest Summit should take place in a rural or urban area. Most environmentalists, state elected officials, and academics thought the Forest Summit should take place in an urban area.

Most federal elected officials thought the Forest Summit should take place in the Pacific Northwest and northern California. A number of members indicated that some part of the Forest Summit process should take place in Washington, D.C. in recognition that this is a public lands issue of national concern.

There seems to be a general feeling that if a single meeting is held, that it should be in Portland, OR because it is centrally located and more easily accessible than other parts of the affected region. Yet, many felt strongly that a meeting should take place in each state, and a number of people mentioned that at least one meeting should take place in their home town.

Public Involvement

There were general comments about public involvement, but few gave concrete suggestions.

It appears that labor and local elected officials are more concerned about reaching a solution than making sure a public involvement process is carried out. These interests often stated that this issue has already been talked to death and that now is the time to make decisions. A number of local elected officials actually said there should be no public involvement.

Environmentalists believe a public involvement process is necessary to assure that citizens are not shut out. This perspective may result from their often stated belief that they were shut out of previous Forest Summit type efforts. Note, however, that a small number of environmentalists did support a limited public involvement effort.

A number of timber-related industries, state governments, academics, and tribes also supported the establishment of a public involvement process.

Scope of Issues:

There are many complicated issues to be tackled at the Forest Summit. Few question that issues such as old growth protection, forest management, timber supply, and community assistance should be discussed at the Forest Summit. Yet, some of the most contentious decisions will revolve around what parameters -- if any -- are set for discussion of the issues.

Region - Most respondents indicated that issues related to the Pacific Northwest and northern California should be addressed. However, few made the distinction between issues related to the west-side forests -- home of the spotted owl and court injunctions prohibiting timber harvest -- and east-side forests where forest health problems have led to a similar debate about how much timber should be harvested. Some labor and timber-related industry group leaders indicated that they want the Forest Summit limited to the west-side, and some environmental leaders indicated that they want the Forest Summit to address both east-side and west-side forests. Federal elected officials are looking to Speaker Foley to provide his views on this issue.

A few environmental and timber-related industry respondents said that the Forest Summit should address national forestry issues. These respondents indicate that problems similar to those in the Pacific Northwest and northern California exist in other parts of the nation and suggested they all be solved during the same Forest Summit session(s).

Some local elected officials wanted the Forest Summit to address forestry issues from a global context.

Public v. Private Land Base - Federal forest management is technically the most pressing problem. However, the manner in which federal forests are managed has a significant impact on private forest lands and their owners.

Within all groups there was a split between those who want the Forest Summit to deal with issues related to public land management only, and those who want the Forest Summit to deal with both public and private land issues. More labor respondents wanted to deal just with public lands. More environmental, timber-related industry, and local and national elected official respondents thought public and private lands should be addressed by the Forest Summit. State elected officials were split on their views.

Owls v. Associated Species - The existing timber harvest injunctions have been put in place to force federal agencies to manage for the northern spotted owl. Yet, there are a number of other species -- most notably salmon -- whose existence is tied to the management of old growth forests.

Labor, timber-related industry, and local and national elected official respondents were split between those who believe that only spotted owl issues should be addressed and those who believe that owl and associated species issues should be addressed. Environmentalists, state elected officials, academics, tribes, and non-timber-related industry representatives believe the Forest Summit should address owl and associated species management issues.

Exports - Nearly a third of the Pacific Northwest and northern California's timber harvests are exported. These exports all originate from private lands since it is against the law for logs to be exported from federal lands before domestic primary processing occurs.

There was overall support among the groups about discussing log export issues at the Forest Summit. Even the majority of timber-related industry respondents supported log export discussions. However, this masks the fact that most industry respondents were silent on this question, and that the respondents whose companies exported logs suggested that it not be discussed.

Changing Environmental Laws - The hammer in the Pacific Northwest and northern California has been forged by court decisions which found that the Reagan and Bush administrations failed to comply with the nation's environmental laws. Such court renderings have caused some to call for changes to those laws.

Labor, timber-related industry, and a few local and national elected officials would like the Forest Summit to address changes to the nation's environmental laws. Environmentalists feel strongly that there should be no discussion about changes to environmental laws.

Other Issues - In addition to these issues where process decisions must be made about how they are included in Forest Summit, there are a number of other issues that all parties either agree, or do not disagree, to address in a Forest Summit.

The majority of all group respondents agree that the Forest Summit should address community assistance and forest management. All but labor groups had respondents who supported discussions about forest management with particular emphasis on maintaining ecosystems.

Environmentalists, tribes, academics, non-timber-related industries, and local, state, and federal elected official respondents supported discussions about forest protection. To a lesser extent, labor and timber-related industries also had respondents who supported forest protection.

Labor, timber-related industry, and local, state, and federal elected official respondents feel that unemployment, worker retraining, and timber supply are particularly important issues for the Forest Summit to address.

Environmentalists, tribes, non-timber-related industries and state elected officials also want the Forest Summit to address management of forest watersheds.

Forest Summit Format

There were many different perspectives about how the Forest Summit should be set up. Clearly, many of the respondents gave a great deal of thought on how to best set up a Forest Summit. A review of the individual responses is recommended in order to pick up some excellent recommendations that cannot be learned through this numerical analysis.

A few respondents suggested that the entire Forest Summit -- from beginning to end -- be set up to develop a negotiated settlement among all interested and affected parties. A few others suggested that the Forest Summit simply mimic the Economic Summit's process.

Overall, the majority of respondents envisioned a multi-tier process whereby information would be gathered first and a decision-making process would follow. Listed below are some general views on how this multi-tier process might work.

Information Gathering - Most group respondents thought some form of hearings would be the best way to obtain people's views on regional forest management issues. A few respondents suggested that panels of invited speakers be established to gather information.

A number of environmentalists, timber-related industry respondents, non-timber-related industries, academics, and state elected officials also suggested that a "blue ribbon commission" should be established to gather information.

Decision-Making - Decision-making refers to suggestions about who should be involved in resolving regional forestry issues. This is contrasted to comments about leadership which focused on suggestions for individuals to run the entire Forest Summit effort. A few respondents felt that decisions should only be made by the White House. However, the majority of respondents all agreed that some

kind of negotiations should occur at some time during the decision-making process.

There were disagreements about who should participate in those negotiations. All groups had respondents who felt that they -- or their representatives -- should be involved in the decision-making process. Yet, the majority of respondents also felt that elected officials should be the primary decision makers.

Labor, timber-related industries, and tribes felt that the administration, Congress, and state elected officials should be involved in the decision-making.

Environmentalists, academics, and non-timber-related industries felt that the administration should be primarily involved in decision-making. Some environmentalists specifically indicated that regional Congressional delegations should not be involved in the decision-making process.

Federal elected officials were split between those who believed that representatives from the regional delegation should participate in decision-making and those who felt they should be kept away.

Role of Science

The report "Alternatives for Management of the Late Successional Forests of the Pacific Northwest," or "Gang of 4 Report," (summarized in the introduction) set a new standard for the role that science would play in public policy debates. The controversial conclusions did not make any recommendations, but outlined ten options for future forest management. The scientists found an inverse relationship between the amount of timber harvested and the long-term viability of the region's forests.

Environmentalists, academics, and local, state, and federal officials all believe that science should be involved in the Forest Summit. A number of environmentalists are particularly interested in having science used to resolve differences, and others want the Gang of 4 Report to serve as a basis for scientific input into the Forest Summit.

Few labor and timber-related industry respondents commented on the role of science. A few spokesmen adamantly opposed the use of the Gang of 4 report within the Forest Summit.

Forest Summit Products

Most groups felt -- or assumed -- that any long-term resolution to regional forestry issues would require legislation. Most timber-related industry respondents felt

that the Forest Summit should produce legislation. Academic respondents believed the Forest Summit should produce a set of policy principles. The remaining groups' respondents were split between those who felt that the Forest Summit should produce legislation and those who felt that the Forest Summit should end with the development of a set of detailed policy principles.

A few respondents in each category felt that the Forest Summit should produce a summary report that would be publicly released.

Another small group felt that the Forest Summit should produce a set of administrative actions that would solve regional forest management issues. However, many environmental and timber-related industry respondents did not think this approach was feasible or supportable.

DISCUSSION

The results outlined in the previous section show how individuals responded to each of the questions presented to them. In this section of the report, we attempt to offer some insight into the critical decisions that must be made regarding these key questions.

Areas of Agreement

There are a number of areas of agreement among respondents regarding the design of the Forest Summit. Below is a list of issues in which the majority of respondents agreed.

- The Forest Summit process should begin as soon as possible.
- Forest Summit leadership must come from the White House.
- The Forest Summit must be inclusive -- i.e., it must include all interested and affected parties if a workable solution is to be developed.
- Some component of the Forest Summit must take place in the Pacific Northwest and northern California.
- Some form of negotiated decision-making must take place, however, respondents differ on who should be involved.
- The Forest Summit should address issues related to forest management and assistance to affected workers and communities.

Key Decision Variables

From the key questions asked of all respondents come certain key decision variables that must be considered and addressed in the development of the Forest Summit. It is in dealing with the disagreement over these variables that the architects of the Forest Summit will first be able to demonstrate the kind of leadership and commitment they intend to provide in dealing with the old-growth forest/spotted owl issue.

Leadership

There was strong agreement that leadership of the Forest Summit must come from the White House. In fact, many in the forest products industry, labor, and the communities of the region are clearly looking to the President to fulfill the

commitment made during the campaign to return to the region to help resolve the old-growth forest issue. As stated by Mark Rey of the American Forest and Paper Association:

"Our strong preference would be for the President-elect to fulfill his campaign commitment by being directly involved in the proceedings."

Representatives of the forest products industry, in particular, expressed strong reservations regarding the involvement of the Vice President in the Forest Summit. As one industry official reflected, "In the Northwest, the Vice President is perceived to have an agenda." Others expressed similar concerns that perceptions of the Vice President in the region might impact negatively on the Forest Summit.

Others, however, strongly supported the notion that the Vice President lead the Forest Summit. In fact, some argued that Mr. Gore's knowledge of the issue and respect within the environmental community might serve to be advantageous in helping to broker a final solution to the issue. As stated by Chairman George Miller of the House Committee on Natural Resources, "Gore helps carry the ball across the goal line".

It is interesting to note that in the same letter in which the forest products industry expressed a preference for leadership by the President, they softened their previously hardline position in opposition to the Vice President's involvement:

"[I]t may be that the question of who leads the new administration's delegation to the Forest Summit is less important than: (1) the public perception that the person or persons have an open mind before they get to the Forest Summit; and (2) the President's personal endorsement of the outcome of the Forest Summit as an administration initiative."

Participants

Again, while there existed general agreement and a desire to ensure an inclusive process -- i.e., one that allowed all who were concerned to play a role -- respondents clearly recognized the need to limit the decision-makers in the process.

To some degree, determining who participates in the process is a function of the kind of process that is used. Generally, the environmental community has advocated a process that provides for a strong role for scientific experts and others in a fact-finding phase. They argue that, "[This approach] would demonstrate that the White House is not only interested in action, but is committed to finding the right course."

Others have sought to limit further information gathering and argued for a limited list of elected officials to make key decisions. For example, one local of the United Paperworkers International Union urged that participants be limited to

"our Northwest Congressional delegation, one representative from unions involved and affected, one representative from industry, one representative from grassroots groups, and one representative from environmental groups."

Many respondents clearly believed that the Forest Summit should, in the end, be structured to assist the administration in establishing a policy for dealing with old-growth forest issues. As stated by Jeffrey Rogers, Portland City Attorney, "The administration should listen; then lead, not follow."

Timing

Given the organization and coordination that must follow a decision on how to proceed, there is little disagreement that the Forest Summit should proceed as soon as possible. Clearly some have viewed the Forest Summit as an element to be included in the "100 days agenda". Others have stated that a Forest Summit in the spring of this year (March/April/May) would be timely.

Some respondents, particularly in the environmental community, have recommended that the Forest Summit process involve the creation of a blue ribbon commission or similar entity to gather and analyze relevant scientific and economic information. This dimension of a Forest Summit process could require additional time. The desirability of this approach was characterized by the following comments by Susan Saul, Coordinator for the Gifford Pinchot Task Force:

"The President should resist political pressure to rush forward with the Forest Summit. Since the final solution should be based on careful and thoughtful consideration of public input and sound science rather than political expediency, the President should take the time to develop a sound Forest Summit process and assemble the resources he needs to do it right before proceeding."

Probably the greatest concern regarding timing was expressed by members of the Oregon and Washington Congressional delegation. Recognizing that the eventual solution to this issue is likely to be, at best, reluctantly acceptable to the affected parties, the delegation expressed a strong desire to have the issue resolved this year. In order to do so, Members sketched out a timetable that necessitated the completion of the Forest Summit process, including the development of any legislative package that might result, by August. Should legislation be the result, Members differed on the advisability of introducing legislation before the

traditional August recess. Some cautioned that efforts to legislate a solution by former Congressmen Morrison and AuCoin were thwarted, in part, by strong public opposition to a bill that was introduced just prior to the recess without adequate opportunity for public discussion and review.

Location

As with timing, there was little disagreement that some facet of the Forest Summit process must occur in the Pacific Northwest. Only representatives of the environmental community expressed reservations that the Forest Summit occur in the region.

A related and more difficult question is where in the region the Forest Summit or elements of the Summit should convene. Portland was offered as the logical, geographic mid-point for convening a meeting. Others indicated a strong desire to bring the Forest Summit to the people and the communities affected by the old-growth issue. Also, northern Californians expressed some objections to having to go the Oregon or Washington to have their views heard.

One option presented by Kevin Lynch and Tom Imeson of PacifiCorp, was to convene three separate meetings in the region, one each in Olympia, Washington; Salem, Oregon; and Sacramento, California. If conducted over a week-long period, such a schedule would permit Forest Summit participants to hear from a broad range of individuals reflecting the unique nature of the problems faced in each State.

Public Involvement

As noted earlier, there exists a strong desire to be inclusive in the Forest Summit process. However, distinction is drawn between the information-gathering phase of a process -- which might include public hearings and/or a process similar to the Economic Summit convened in Little Rock -- and the decision-making process.

Regarding the former, environmentalists believe a public involvement process should be set up to assure that the public is not shut out. This perspective may result from their often mentioned belief that they were shut out of previous Forest Summit type efforts, most notably the Oregon state effort which led to the "Section 318" agreement. This is summarized in Appendix 8. Note, however, that a small number of environmentalists did support a limited public involvement effort.

However, more respondents, including labor and local elected officials, are more concerned about reaching a solution than making sure a public involvement

process is carried out. These interest groups stated often that this issue has already been discussed thoroughly, and that the time has come to make decisions.

The importance of public involvement in the process was best stated by Terry Supahan of the Karuk Tribe of California who stated:

"[I]n order for the Forest Summit to be successful, you will have to somehow bring all the participants toward a collective thinking on the causes of the crisis we face today.... Everyone who is interested should feel like they have had an opportunity to participate."

Scope of Issues

Perhaps one of the more complex and controversial elements of designing the Forest Summit will be deciding upon and clearly stating the objectives of the Forest Summit. This critical step is directly linked to a decision regarding the scope of the issues to be addressed.

Few respondents question that issues such as old growth protection, forest management, timber supply and community assistance need to be discussed at the Summit. However, others expressed serious reservations regarding the integrity of the Forest Summit process if it failed to deal with certain issues or included others. These concerns can be separated into issues of geographic scope and subject matter.

With regard to scope, there was clear agreement that the Forest Summit should cover, at a minimum, those national forests and BLM districts affected by the spotted owl issue. From there, disagreement begins. Forest industry representatives believe that this should be the entire scope of the topics addressed by the Forest Summit. Others argue that forest management issues affecting eastern Washington and Oregon should be included, as well as the management problems of the California Sierras. Some would extend the scope further to include Idaho and parts of Montana if the Forest Summit is to deal with issues affecting salmon in the region.

Disagreement over the subject matter to be addressed includes concern for whether or not to include salmon (and other species of old-growth-associated flora and fauna), whether to deal with private as well as public forestland management issues, and whether the subject of raw log exports should be a topic of discussion.

It is important to note that the current spotted owl management crisis has had a substantial effect on certain private forest lands. Thus, any attempt to deal solely with the spotted owl will require a discussion of private forest land management

constraints and opportunities. In addition, during discussions with Members of the Congressional delegation, it became apparent that interest existed in dealing with salmon concerns, but not in extending the debate to include Idaho, Montana, and the associated Congressional delegations. As a potential compromise, one Member suggested that the Forest Summit deal with the salmon issue to the extent that it is affected by forest management practices in Oregon, Washington, and California -- i.e., deal with watersheds, but not water flows and the larger set of issues affecting salmonids in the region.

Format

The subject of format or process, generated a tremendous diversity of views. Comments on format included a limited economic summit type approach, to a prolonged, facilitated dialogue leading to a negotiated settlement. Perhaps the most enlightening part of the comments received on this subject was the recognition by many that the Forest Summit should not be viewed as a single activity, but rather as a process. As noted by Mark Rey of the American Forest and Paper Association,

"Ideally, the Forest Summit would serve as the starting point for a legislative resolution to the forestry crisis in the owl region."

In a similar vein, Nels Johnson of the World Resources Institute described the Forest Summit process as,

"[T]he first step in forging a sustainable development strategy for the Pacific Northwest. The Forest Summit must, therefore, be seen as part of a longer term process."

In an effort to synthesize the comments received on the process or format of the Forest Summit, a number of alternative approaches are identified and described in the discussions below. While these should not be viewed as the only alternatives that exist, they represent the range of the comments received.

Role of Science

The role of science has been, and remains, one of the more contentious issues in the debate over old-growth forests. This is, in part, a function of the workers' and communities' belief that determinations made by scientists -- in this case the owl biologists who have determined that the owl is threatened -- are wreaking havoc on their lives. Frustration and resentment have been directed at the owl, the Endangered Species Act, and the scientists who, under the ESA, made a biologically-based decision to recommend that the owl be listed as threatened.

However, additional angst toward scientists stems from a report commissioned in 1991 by the House Committees on Agriculture and Merchant Marine and Fisheries to identify options for managing Pacific Northwest and northern California forests. The resulting report on Old Growth/Late Successional Forest Ecosystems was met with praise by many, particularly those who had been advocating reductions in timber harvests and the protection of large blocks of remaining old growth. However, the timber industry and labor interests took the report and its authors to task.

Environmentalists continue to be strong advocates for a science-based and driven resolution to the issue and a process that places strong emphasis on scientific input. As stated by Bob Chlopak, representing the Ancient Forest Alliance,

"... [The blessing of scientific experts] would demonstrate that the White House is not only interested in action, but is committed to finding the right course."

However, the timber industry has made clear that any reference to the Gang of Four report would serve as the "litmus test" for the credibility of the Forest Summit process.

Key Members of Congress also expressed strong views on the issue of science in the Forest Summit. Chairman George Miller of the House Committee on Natural Resources commented that the Gang of Four report could not be refuted and that "nothing can be done to enhance [the Gang of Four] science." Re-opening the science issue, he commented, would "rekindle in the eyes of the carpenters that there is some other solution -- that there is some other science."

Some areas of science, in addition to the biological and ecological issues addressed to date, may warrant investigation. In particular, timber supply issues, economic and social impacts, and rural development and economic diversification are subjects of concern. A number of respondents strongly urged the use of task forces or working groups to aid in establishing the factual basis for the Forest Summit as it pertains to these issues. Others suggested that scientists serve the role of technical experts and advisors to the Forest Summit participants.

Products

By far, a legislative solution appears to be the preferred Forest Summit product among those who commented. However, others suggested that intermediate products, especially if the Forest Summit were structured to include a number of steps, would be appropriate.

For example, Peter DeFazio described a process that would result in a statement of principles following a Forest Summit meeting. This would then serve as the framework for legislation to be developed by the administration.

Some have expressed a desire to develop either an intermediate or longer-term set of administrative remedies for the old-growth issue. While some sort of intermediate, administrative steps may be warranted, few seem interested in leaving the implementation of the final outcome of the Forest Summit to the administration.

Congresswoman Elizabeth Furse best articulated the product (goal) that seemed to reflect the hope of many,

"The goal of the Forest Summit should be proposed legislation, revised administrative rules and Executive Orders, and a process for addressing forest and forest related issues in the future."

Forest Summit Alternatives

There were many different suggestions about how the Forest Summit should be set up. A general description of support or opposition to various alternatives was given in the previous section. This section attempts to provide some more detailed alternatives for formatting the Forest Summit -- along with some advantages and disadvantages to each alternative.

The alternative descriptions do not provide recommendations regarding who, what, when, and where. However, the alternatives attempt to provide some thoughts on some different ways to move forward.

Alternative 1 - Single Meeting

A very small number of people indicated an Economic Summit type meeting would provide a good model for the Forest Summit. The manner in which the Economic Summit was set up, moderated, and covered by the media was considered a success.

Under this approach, a one day meeting would be scheduled in the region. Individuals representing various interests would be invited to present their views on forest management issues and suggestions for solving problems in the region. There would be no formal Forest Summit follow-up.

A moderator who commands the respect of speakers and audiences is essential for limiting presentations and keeping order. Historically, public events -- hearings, rallies, and announcements -- have generated considerable protests from various

groups. Written comments could be solicited from those who are not invited to speak.

The objective would be to gain a basic understanding of the issue and to show people that the administration is committed to the Forest Summit.

Advantages of a Single Meeting-

- A singular event will focus public attention on the Forest Summit.
- Protests could be limited.
- Limited time commitment would be needed to fulfill the campaign pledge.
- A focused message could be delivered.

Disadvantages of a Single Meeting-

- The Economic Summit was successful because everybody agreed that the economy was in trouble, whereas, everybody disagrees about Forest Summit issues.
- There would be limited public involvement and fact resolution.
- No formal problem-solving process would be established to provide for a definitive solution.
- Without a resolution, the campaign pledge could be viewed as an empty promise.

Alternative 2 - Two Tier Process

Most people talked about a two-tier Forest Summit process that would first allow for public participation, followed by a formal decision-making process.

A two-tier process would consist of either a singular public meeting or a series of public meetings, hearings or panels. The process would, again, be used to get people's perspectives on forestry issues and problem solving. Such a meeting(s) could take place in a central location like Portland, Oregon or take place in each affected states' capitol. A series of "town meetings" could be set up to obtain a truly complete perspective of public attitudes.

The public involvement process would be followed by a decision-making process that would be announced ahead of time to demonstrate the administration's commitment to seeking a resolution. The decision-makers could be a group of private, non-profit, local, state, and/or federal elected officials, representatives, a commission, a cabinet level team, or the President himself.

The formal decision-making process could result in a set of administrative rules, policy principles, and/or legislation.

Advantages of a Two-Tier Process-

- Provides greater opportunities for public input and, therefore, greater ownership in the Forest Summit process.
- Regional forest management issues could be resolved -- at least from the administration's standpoint -- within a certain time.
- Depending on how the public involvement meetings were undertaken, the message and protests could still be controlled.

Disadvantages of a Two-Tier Process-

- While effective public involvement process could be undertaken, there would be limited scientific fact resolution opportunities.
- There is a greater likelihood that people will feel that they were heard and then ignored if final decisions do not go their way.
- Issue resolution would be a more time-consuming task for Forest Summit leadership.

Multi-Step Process

A multi-step process was supported by those who were most concerned with the social and scientific complexity of Pacific Northwest and northern California forestry issues. The objective would be to develop a process which addresses the multi-dimensional ecological, social, and political components of regional forest management problems and opportunities.

A multi-step process could be set up to receive public input and make decisions in much the same manner as was mentioned in the two-tier process. However, there would also be an attempt to include science -- ecological, social and economic -- to help resolve factual questions. Such fact resolution could be achieved by formulating scientific panels, advisory teams, or working groups. This process

could occur before, during, or after the public involvement process, and would certainly be an important part of any problem solving during the decision-making process.

Advantages of a Multi-Step Process-

- Provides the same advantages as those in the two-tier process.
- A formal fact resolution process could help differentiate between technical issues and issues of a social or political nature. This could:
 - narrow the scope of issues that would have to be resolved, and,
 - provide an agreed upon floor from which those unresolved issues could be debated.

Disadvantages of a Multi-Step Process-

- As in the two-tier process, there is a danger of the public feeling as if they were asked for their input and then ignored, and issue resolution would be a more time consuming task for Forest Summit leadership.
- Controlling messages would be more difficult since resolving scientific questions limits opportunities to move forward from both legal and public opinion perspectives.
- Fact resolution could be very time consuming.
- Agreeing on scientific facts could split interest groups apart instead of bringing them together.

Alternative 4 - Negotiated Settlement

A number of those who commented on the Forest Summit process expressed an interest in bringing affected parties together to seek a negotiated settlement to the dispute. Precedent exists for this approach in attempting to resolve natural resource issues in the region. For example, the "Timber-Fish-Wildlife Agreement", forged by representatives of the Washington State Department of Public Lands in 1989 was the product of a year-long negotiation among representatives of industry, labor, environmental, and school district representatives. A summary of this process is included in Appendix 8.

A facilitated negotiation would bring all parties together -- from beginning to end -
- to engage in a facilitated negotiating process designed to produce a solution to the Pacific Northwest and northern California forestry issues. The lengthiest portion of this process would be dedicated to facilitated negotiation among affected interest groups.

A number of organizations and experts around the country have expertise and experience in facilitating such negotiations. They range from groups like the Keystone Center and the Harvard Negotiation Project to individuals such as Susan Carpenter, Gail Bingham, or Orville Tice. Should a decision be made to use a facilitated process to resolve this issue, the expertise of these entities or individuals should be drawn upon.

Advantages of a Negotiated Settlement-

- Permits all interested parties to have a say in the final outcome.
- Allows for interaction among representatives of different viewpoints and development of common understanding of where "each is coming from."
- Allows participants to share ownership in the product of the negotiation.

Disadvantages of a Negotiated Settlement-

- It is difficult to limit parties participating in a negotiation. Those not permitted to participate may feel excluded and work to oppose any outcome.
- Relinquishes control over outcome of the negotiations, and thus less certainty that agreement can be reached.
- Failure to reach a negotiated settlement could be perceived as "gridlock" and a failure for the administration.
- Negotiations are very time consuming and could take over a year to complete.

Alternative 5 - Administrative Action

Some have argued that an administrative remedy be put in place to resolve the issue. They point out that the existing crisis is the result of the failure of the affected federal agencies to comply with existing environmental laws. These same advocates argue that the agencies should simply be directed to comply with the law and the requirements for lifting existing timber sale injunctions.

In fact, the Forest Service is currently working to develop a response to Judge Dwyer that would, in theory, lead to a lifting of the injunctions. In addition, a recovery plan for the spotted owl is pending at the Department of the Interior. This plan, based on a draft issued by the Lujan-appointed Spotted Owl Recovery Team, has been characterized as a means for addressing the needs of the owl and, to a more limited degree, the requirements for other old-growth-associated species.

Although an administrative remedy is proposed in lieu of legislation by some, others have suggested that an interim administrative remedy be a part of any Forest Summit process. The objective would be to provide short-term, interim relief to those in need of timber in the region while the larger and longer-term issues are addressed as a part of the "Forest Summit process".

Advantages of an Administrative Remedy-

- Actions taken within existing legislative authority by the administration limit the need to "negotiate" with affected Congressional committees.
- Administrative remedies can be implemented more quickly than those requiring legislation, thus expediting forest protection and relief to affected workers and communities.
- Implementation of administrative remedies can demonstrate the leadership of the administration and its capability to make government agencies "work together."
- If implemented as an interim solution, administrative action can demonstrate the desire of all parties to work toward a longer-term resolution.

Disadvantages of an Administrative Remedy-

- The alternative administrative remedies that exist without lifting the existing injunctions are limited and are not likely to provide a significant amount of timber relief.
- Parties who oppose the remedies may simply go to the courts to challenge the actions, thus further polarizing the issue. Strong distrust of the administering agencies exists, thus increasing the likelihood of challenges to any attempt to take administrative action.
- To limit the likelihood of challenge, negotiations would likely be needed simply to implement these interim measures.

-- A legislative remedy provides more "finality" to the issue. Many respondents appear to feel that legislation is necessary to "get the issue behind them."

Alternative Six - Combination of Alternatives

There are, of course, a wide range of combinations of the above alternatives that might be constructed to implement the Forest Summit process. A number of the respondents did, in fact, sketch out complete processes that included various measures to gather information, facilitate dialogue, coordinate administrative decisions-making, and promote legislative action.

Common elements included processes to;

- (1) gather legal, scientific, and technical information;
- (2) provide for testimony or input from the public and affected interest groups;
- (3) facilitate a decision, either by involving interest groups, Members of Congress, elected state officials, and/or Cabinet and subcabinet officials;
- (4) generate a product -- either a statement of principles, legislation, administration action, or some combination.

**REPORT TO THE
PRESIDENT AND VICE PRESIDENT
REGARDING
OPTIONS FOR CONVENING A FOREST SUMMIT**

February 4, 1993

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"Our entire society rests upon -- and is dependent upon -- our water, our land, our forests, and our minerals. How we use these resources influences our health, security, economy, and well-being. But if we fail to chart a proper course of conservation and development -- if we fail to use these blessings prudently -- we will be in trouble within a short time."

President John Fitzgerald Kennedy
Special Message to the Congress
on Natural Resources
February 23, 1961

REPORT TO THE PRESIDENT AND VICE PRESIDENT REGARDING OPTIONS FOR CONVENING A FOREST SUMMIT

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EXECUTIVE SUMMARY

Attached is the Forest Summit Transition Team's report on Forest Summit Options. The report includes a detailed discussion of the old-growth forest management issue, the Summit Transition Process, the results of our efforts to obtain input from interested and affected parties, and our analysis of how these comments affect decisions regarding how to proceed with the Forest Summit.

The Problem

Forestry issues in the Pacific Northwest and northern California are complex. Yet, they are all linked to a simple underlying question -- How should the public forests of the region be managed?

Key concerns include:

- o How many acres of old growth should be protected?
- o How many acres will remain available for timber production?
- o How will other species of fish and wildlife be dealt with?
- o What efforts will be made to assist the people and communities affected by changes in forest management?

The polarized nature of this issue is reflected in the repeated Congressional attempts over the last four years develop a legislative remedy.

It was within this context that candidate Clinton stated "If there is no resolution to this issue during [the 102nd Congress], early in my administration I will convene a summit to work out a legislative solution."

Forest Summit Transition Process

On December 18, 1992, a Forest Summit Transition Office was established to gather information on the best way to move the Forest Summit forward. Staff met with all but two Members of the Oregon, Washington, and northern California congressional delegations, staff to Senators from the region (and with Senator Patty Murray of Washington), and staff from the key Congressional committees involved in the debate. We also met with representatives of labor, industry, and environmental organizations and spoke, by telephone, with representatives of the three State governors' offices. Finally, letters were sent by transition staff on behalf of the President-elect and Vice President-elect to nearly 1500 representatives of state and county governments, Indian tribes in the region, academicians, and others included on lists provided by labor, industry, and the environmental community.

Over 400 responses allowed us to measure how people felt about a number of Summit questions including: Who should lead the summit?; When should it occur?; Where should it occur?; Who should be involved?; What process should be used?; Who should be involved?; What issues should be addressed?; What roles should the public and science play?; and What should result from the Forest Summit?

Results

Below is a brief summary of the responses we received:

Areas of Agreement:

- A process must begin as soon as possible.
- Leadership must come from the White House.
- The Forest Summit must be an inclusive process.
- Some component must take place in the affected region.
- Some form of negotiated decision making must take place, however, respondents differ on who should be involved.
- Forest management and community assistance must be addressed.

Areas of Disagreement:

- Some believe the Summit should consist of a single meeting like the Economic Summit. Others believe it should consist of several steps. Still others believe it should be a negotiated settlement.
- Some believe decisions should be made by the administration, others believe decisions should be jointly made by Congress and the administration.
- There are differences of opinion about whether President Clinton or Vice President Gore should lead the Summit.
- Some believe public involvement is needed. Others feel the public has been involved and the Summit should concentrate on making decisions.
- There are different perspectives about how the Summit should address issues related to geographic scope and the specific topics that should be discussed (e.g., whether or not to consider issues related to salmonid stocks).

Given the anticipation and enthusiasm that exists in the region for the Summit, it is clear that this transition effort must be followed closely by decisions regarding how to proceed. All those who commented were in clear agreement that leadership must be brought to this issue. They clearly look to the White House for that leadership. To fulfill the President's campaign promise, planning for the Forest Summit must begin immediately. As a part of this effort, those who are anxious to participate (or to simply help in some way) need to know that the Administration is committed to the Summit process, and is interested in and concerned about their views.

INTRODUCTION

Background on the Issues

Debate Over Old-Growth Forest Issues in the Pacific Northwest

For the past decade, debate has occurred over the protection of old-growth forests and the northern spotted owl (*Strix occidentalis caurina*) in the Pacific Northwest and northern California and the human costs of such protection. In recent years, this debate has escalated with the listing of the northern spotted owl as a Federally-listed threatened species, the proposed listing of the marbled murrelet (*Brachyramphus marmoratus*) as threatened, and the anticipated listing of various species of salmonids that spawn in the rivers and streams of the region.

The northern spotted owl inhabits old-growth forests in Oregon, Washington, and northern California. Old-growth forests, which are generally 200 years of age or older, also serve as important habitat for other animal and plant species that are threatened by the loss of these forests, primarily to logging. Many runs of salmon and trout in the region may also be threatened, in part, as a result of historical logging practices.

Reductions in logging in the region have already occurred as a result of a number of factors, including, but not limited to, reductions in market demand and court-ordered injunctions. The reduction in Federal timber sales has affected timber-dependent communities in two ways. First, timber-related employment, such as logging and milling jobs, has declined. Second, many communities that depend on receipts from logging on Federal lands to provide funding for community schools and roads, have seen their county budgets fall precipitously. This funding base is further endangered by future reductions in logging on Federal lands.

Little old-growth remains on private lands since these forest stands are highly valued for their timber. Until recently, most mills cut only old-growth in the area. The stands of old-growth that remain are largely on Federal forest land, and administered by the U.S. Forest Service and the Bureau of Land Management (BLM). Since private landowners (especially those in the forest products industry) have cut out their remaining old-growth, they have relied on these Federal forests for timber until their "second growth" forests reach harvestable age.

Unfortunately, this point is still some 15 to 20 years away, exacerbating the struggle over remaining old-growth forests.

At the heart of this issue is debate over the management of Federal forest lands in Washington, Oregon, and northern California, and the manner in which the

administering agencies, the BLM and the Forest Service, care for the public lands that they have been entrusted to manage.

Three agencies, the BLM, the Forest Service, and the Fish and Wildlife Service (FWS), have been involved with this issue. The following summarizes the activities of each, as well as some of the litigation that has affected the actions of the agencies and brought into question their ability to resolve the issue administratively.

An updated chronology of the actions and litigation associated with the northern spotted owl and old-growth forest issue, based on testimony received by the Subcommittee on Forests, Family Farms, and Energy in March 1992, is included in Appendix 1.

Actions of the Forest Service

The Forest Service manages about 25 million acres of Federal land in Washington and Oregon. In FY 1989, about half of all the timber harvested nationwide from Forest Service lands came from these two states, which produced a combined total of about 6 billion board feet (bbf) of timber.

The BLM and the Forest Service manage the majority of lands between the western coast of the United States and the Cascade Mountain Range, lands of primary concern with regard to the survival of the spotted owl. In addition, old-growth forests and spotted owl habitat occur in a number of the national forests in northern California.

The Forest Service is required by the Forest and Rangeland Renewable Resources Planning Act¹ (the 1974 Act) to prepare land management plans to guide timbering and other activities on each of the national forests. Among other things, Section 6 of the 1974 Act² requires that forest management plans "provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives." The Forest Service regulations to implement this provision of the 1974 Act further require that viable populations of a species be maintained throughout a planning area (36 C.F.R. 219.19).

In 1984, the Forest Service sought to provide guidance to forest planners in the Pacific Northwest region by issuing a regional guide which included a strategy for protecting spotted owl habitat. This strategy called for the establishment of Spotted Owl Habitat Areas (SOHAs) distributed throughout the national forests in the region to protect nesting owl pairs and provide for future habitat.

¹ (16 U.S.C. 1600 *et seq.*) .

² (16 U.S.C. 1604) .

The SOHA strategy and the adequacy of the guidance for protecting the spotted owl, which was designated by the Forest Service as an indicator species for the health of old-growth ecosystems, was challenged by the National Wildlife Federation. As a result of this challenge, the Forest Service agreed to review and revise its spotted owl management guidelines.

In 1988, the Forest Service produced a lengthy "Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide: Spotted Owl Guidelines" (Supplement). This approach was considered by environmentalists and most scientists to be inadequate in ensuring the long-term stability of owl populations. The timber industry also disliked the approach because it believed the approach would reduce harvest levels excessively. This document has been superseded by later events.

Several suits were brought against the Forest Service, based largely on the spotted owl guidelines prepared under the 1974 Act and its regulations. These were consolidated in Federal court (Seattle Audubon Society v. Robertson). Eventually, Congress intervened by enacting Section 318 in Public Law 101-121.

Under Section 318, the FY 1989-90 timber sale levels for Oregon and Washington were set for the Forest Service and for the BLM. Section 318(b) also directed the Forest Service (but not the BLM) to minimize fragmentation of old-growth habitat, and enlarged the areas that should be set aside for each owl territory.

In October 1988, the Forest Service, BLM, FWS, and National Park Service chartered the Interagency Scientific Committee (ISC) to prepare a conservation report on the northern spotted owl. This report, "A Conservation Strategy for the Northern Spotted Owl" (Strategy), generally has been regarded as the best scientific information available on the habitat, needs, and methods to protect the species. The Committee was composed of scientific experts from the participating agencies.

The owl and habitat preservation aspect of the Strategy centered around protection of blocks of habitat called Habitat Conservation Areas (HCAs). The ISC recommended that certain forest management activities within HCAs be curtailed.

The ISC Strategy also focused on management of the remaining forest lands outside the HCAs by recommending certain management requirements for those lands that were not already reserved from management and were suitable for growing timber. One of these requirements, the "50-11-40 rule", provided that for every quarter township (5,660 acres), timber harvest on Federal lands would be permitted only when 50% of the forest landscape consists of forest stands with an 11-inch mean diameter at breast height and a canopy closure of 40%. The final

ISC Report was delivered to the participating land management agencies in April, 1990.

The Forest Service initially planned to adopt the ISC Report recommendations, but was superseded by the administration's decision to initiate another study to develop an alternative to the ISC strategy for protecting the owl. The administration established a task force chaired by USDA Assistant Secretary James R. Moseley to develop a long-term strategy for the Forest Service. Forest Service actions for FY 1991 and beyond were to be developed and submitted by the administration's task force, along with legislative proposals to Congress, by September 1, 1990. A long-term strategy was not developed, however, nor was proposed legislation submitted.

On October 3, 1990, the Forest Service published a notice in the Federal Register, vacating the December 1988 Record of Decision (ROD) for the supplement to the Regional Guide which had proposed the SOHA plan. Instead it announced that for the immediate future, it would "conduct timber management activities in a manner not inconsistent with the Interagency Scientific Committee recommendations". However, U.S. District Court Judge Dwyer found this notice inadequate guidance to permit timber sales in owl habitat, enjoined proposed sales, and ordered the Forest Service to develop adequate guidance on management of the owl habitat by March 1992.³

In addition, the court held that the Forest Service's notice did not comport with the 1974 Act diversity requirements, nor was it promulgated in compliance with Forest Service viability regulations, or other regulations implementing the 1974 Act and the National Environmental Policy Act of 1969 (NEPA). The court also held that the awarding of timber sales by the Forest Service did not involve a "taking" of migratory birds within the meaning of the Migratory Bird Treaty Act. Finally, Judge Dwyer ruled that the diversity requirements of the 1974 Act, as implemented through the Forest Service regulations regarding viable species populations (36 C.F.R. 219.19), are not obviated once a species is listed under the Endangered Species Act (ESA).

Subsequently, on May 23, 1991, the court (Judge Dwyer) enjoined the Forest Service from auctioning or awarding timber sales in habitat suitable for the northern spotted owl until the Forest Service adopted standards and guidelines for the conservation of the owl, which the court ordered to be done by March 5, 1992.

³ Seattle Audubon Society v. Evans et al., C89-160 W.D. Wash., May 23, 1991.

The U.S. Court of Appeals for the Ninth Circuit affirmed Judge Dwyer's decision on December 23, 1991. In this same opinion, the court also held that claims under (NEPA)⁴ against BLM could be filed because the bar to such suits that was contained in an appropriations act had lapsed.

In response to the May 1991 order of Judge Dwyer, the Forest Service developed a new draft environmental impact statement (EIS) on management for the northern spotted owl in which the preferred alternative was the implementation of the ISC Report recommendations. That proposal was delivered to Judge Dwyer on March 5, 1992.

A new suit was filed, which challenged the adequacy of the new EIS and the associated ROD. The court issued an injunction on July 2, 1992 enjoining the Forest Service from auctioning sales in owl habitat until changes were made in the new EIS and ROD to address certain issues and new information in compliance with NEPA. Although the case has not yet gone beyond NEPA issues, the court also indicated reservations about the adequacy of the preferred alternative to protect old-growth associated species other than the northern spotted owl.

Actions of the Bureau of Land Management

The Bureau of Land Management (BLM) manages approximately 2.4 million acres in the Douglas-fir region of western Oregon and Northern California. Unlike other BLM lands which are managed for multiple uses according to the Federal Land Policy and Management Act of 1976⁵ (FLPMA), most of these lands also are managed according to the Oregon and California Grant Lands Act of 1937⁶ (O&C Act). The O&C Act focuses on timber production, under the principle of sustained yield to promote community stability. In cases where the two Acts conflict, the O&C Act prevails over FLPMA.⁷

The O&C lands have been extensively harvested. These timber harvests, in combination with the BLM's intermingled land ownership, have contributed to the problem of forest fragmentation, which has contributed to the decline of old-growth forest ecosystems.

⁴ (42 U.S.C. 4321 *et seq.*) .

⁵ (43 U.S.C. 1701) .

⁶ (43 U.S.C. 1181 *et seq.*) .

⁷ See section 701(b) of FLPMA.

The seven existing timber management plans for various parts of the O&C lands were prepared in the late 1970's and early 1980's. Collectively, these plans decreased the amount of commercial forest land available for timber production by 11%, but increased the allowable sale quantity (ASQ) to 1.185 bbf annually, and called for 18,210 acres of annual harvest area.

With respect to the northern spotted owl, the seven timber management plans provided 300 contiguous acres of old growth for each of 79 spotted owl sites. However, as new scientific information became available, the BLM did not update its owl protection plans.

In September 1983 (subsequent to publication of the timber management plans), the BLM and the Oregon Department of Fish and Wildlife signed an agreement which stated that BLM would maintain habitat to support a population of 90 pairs of spotted owls. No amendments were made to the timber management plans to reduce the ASQ commensurate with this additional protection of owl habitat.

In 1987, the Oregon Department of Fish and Wildlife succeeded in persuading the BLM to agree to guidelines protecting at least 2,200 acres of conifer forest over 80 years old at each of the 110 areas identified for spotted owl protection, resulting in protection for approximately 230,000 acres. However, no amendments were made to the timber management plans to reduce the ASQ of timber commensurate with this additional protection of owl habitat.

Section 318 of the FY 1990 Interior Appropriations Act directed the BLM to protect additional owl areas, bringing the number of protected BLM areas to 121. Section 318 also identified an aggregate sale level of 1.9 bbf for FY 1989 and FY 1990.

Environmentalists sued BLM over timber sales in owl habitat, but BLM argued that section 318 insulated it from lawsuits for sales in that fiscal year. Environmentalists argued that section 318 was unconstitutional.

The Ninth Circuit held part of Section 318, of P.L. 101-121 to be unconstitutional based on a violation of the separation of powers, but the Supreme Court held on March 25, 1992, that section 318 is constitutional. Challenges to some of the 1990 sales that had been allowed may now be reconsidered.

Following the decision in June 1990 to list the northern spotted owl as a threatened species, the BLM consulted with the FWS on 157 of 453 timber sales covered under Section 318. The FWS biological opinion stated that essentially all of the BLM's annual timber sale program was comprised of old growth and mature forest, that the 157 sales submitted for consultationn (covering 17,200 acres) would adversely affect the owl through loss of habitat and increased

fragmentation, but that none of the sales would jeopardize the continued existence of the owl. The BLM dropped or deferred awarding 118 million board feet (mmbf) that had been offered for sale in order to modify the sales as a result of the measures identified in the FWS biological opinion.

In its opinion, the FWS also stated it did not agree with BLM's claim that only 157 of the 453 sales may affect spotted owls, but BLM did not submit any additional sales for consultation. The FWS opinion recommended that the BLM adopt a number of conservation measures, including adoption of the ISC Report's recommendations on the northern spotted owl, as soon as possible.

Instead, in order to maintain a higher level of timber sales than would be possible under the ISC strategy, BLM adopted the so-called "Jamison Strategy." This plan proposed to sell timber at levels well above those that would be consistent with the ISC strategy by ignoring the ISC requirements of adhering to the "50-11-40" rule on lands outside those designated for owl conservation. Under the ISC strategy, the BLM would sell approximately 443 mmbf annually. Under the Jamison strategy, the BLM would sell 750 mmbf annually.

In April 1991, environmentalists sued BLM in Federal court for failure to consult with FWS on implementation of the Jamison Strategy. In September, Judge Jones ruled that BLM had violated the ESA, but could continue to sell timber.⁸

On January 10, 1992, three BLM employees testified that BLM was still using the Jamison Strategy. On March 4, 1992, the Ninth Circuit affirmed that BLM must consult on the "Jamison Strategy" or any other timber program guidance, and also held that timber sales could not go forward until consultation was completed.

In a separate suit, environmentalists charged that BLM failed to comply with NEPA by preparing an EIS for the Jamison strategy, and had failed to consider new information on the northern spotted owl. On February 19, 1992, Judge Frye blocked logging on BLM lands containing old-growth forests because the agency had failed to prepare the required EIS under NEPA. The injunction was later made permanent.

BLM's decision not to fully implement the ISC strategy was a factor in Judge Dwyer's decision in 1991 to impose an injunction on Forest Service timber sales in all national forest spotted owl habitat. The success of the ISC strategy in maintaining the viability of the owl was predicated on implementation of the plan by both the BLM and the Forest Service. Under terms of the Judge Dwyer's order

⁸ Lane County Audubon Society v. Jamison.

and the Record of Decision signed March 3, 1992, the Forest Service was restricted from offering any timber sales prior to April 10, 1992.

On June 17, 1991, the FWS concluded that 52 BLM timber sales were likely to jeopardize the owl. FWS concluded further that the sales should be deferred in whole or in part until BLM developed a long-term conservation strategy or adopted a recovery plan, and determined all sales to be consistent with either plan. Of these 52 timber sales, BLM modified 8 to comply with the ESA, but selected the remaining 44 and submitted an application for an exemption from the ESA. Secretary of the Interior Lujan then determined that BLM met the requirements for convening the Endangered Species Committee, the body to which applications for exemptions from the ESA are referred, and consequently accepted the application. The State Department further certified, as required by ESA, that no international agreement to which the United States is a party protected the spotted owl from the effects of the proposed sales.

After various delays, the Endangered Species Committee met, and on April 15, 1992, received Secretary Lujan's report on the application. The Endangered Species Committee's decision was issued on May 14, 1992, the same day the draft recovery plan required by the ESA, and an alternative plan were released.

After a review of background information, the Chair of the Committee, Secretary Lujan, proposed that 31 sales should not be exempted. He proposed to exempt the remaining 13.

Dr. John Knauss, administrator of the National Oceanic and Atmospheric Administration (and, ex officio, a member of the Endangered Species Committee) expressed strong reservations about the proposal, and offered an amendment to the Chairman's proposal. He argued that to prevent the reappearance of BLM timber sales before the Committee, it was necessary to adopt a long-range plan. By a vote of 5-2, the Committee accepted his amendment to (1) implement the final recovery plan⁹ as expeditiously as possible; (2) use the recovery plan as the basis for its 10-year plan, consistent with the best scientific and commercial data available (including the ISC report); (3) submit its 1993 and 10-year timber plans to FWS for consultation as a whole; and (4) cease offering timber sales "until the [10-year] plan has gone through a 60-day comment period and has been approved by [the Department of the Interior]".

If delays in approval of the plans beyond the control of the Department of the Interior occurred, then sales could be offered if consistent with the recovery plan.

⁹ See the section of this report entitle "Actions of the FWS" below.

The Endangered Species Committee adopted the Lujan proposal, as amended by the Knauss amendment, by a vote of 5-2.

A suit was filed on June 9, 1992, challenging the May 14, 1992 decision of the Endangered Species Committee. Attorneys for the plaintiffs sought subpoenas for White House documents, claiming that these would show inappropriate pressure on members of the Endangered Species Committee.

Actions of the Fish and Wildlife Service

The initial petition requesting listing of the northern spotted owl as threatened or endangered under the ESA was filed in 1987. At that time, the FWS decided not to list the owl.

A court case ensued in 1988, Northern Spotted Owl v. Hodel, in which Judge Zilly, of the U.S. District Court for the Western District of Washington, ruled that FWS's decision not to list was arbitrary and capricious and not supported by expert opinion.

FWS reconsidered, and on July 23, 1990, listed the northern spotted owl as threatened throughout its range. At the time of listing, the FWS did not designate critical habitat for the owl, stating that it was "not determinable."

Conservation groups filed a motion to require FWS to designate critical habitat for the spotted owl. On February 26, 1991, Judge Zilly ruled that FWS had "failed to discharge its obligations under the ESA and its own regulations [and] abused its discretion" and directed FWS to publish a critical habitat proposal no later than April 29, 1991.¹⁰

Released on May 6, 1991, the proposal recommended 11.6 million acres for designation in Forest Service, BLM, State, other Federal, tribal, and private lands. However, FWS did not specify what activities could be carried out in these areas. In addition, because of the requirements for legally defined boundaries (e.g., section lines), some areas appeared to be included that had no owl habitat in them. Environmentalists praised the proposal; timber interests condemned it. The proposal was revised on August 5, with a reduction in acreage to 8.2 million acres. The major change was the removal of private lands. The reduced proposal still met strong criticism from the timber industry. Under a court order, FWS produced a final rule designating 6.8 million acres as critical habitat in the three States. Again, the final rule was criticized as either inadequate or excessive, depending on the observer's point of view.

¹⁰ In Northern Spotted Owl v. Lujan (C88-5732, W.D. Wash. 1991)).

Under Section 4(f) of the ESA, FWS drafted a recovery plan for the owl. Most scientists agreed that the ISC report represented the best scientific effort to date to develop a plan for the owl's conservation, as well as an unrivalled review of the scientific literature available at that time. This report was, if not the result, the starting point of the recovery planning process.

A draft recovery plan was to have been available in January or February, 1992, but during various delays in the plan's release, Interior Secretary Lujan announced that the draft plan's possible resulting job loss was too great. Instead, the Secretary asked another team to come up with an alternate plan. In May, 1992, the Secretary released an alternative to the draft recovery plan for the northern spotted owl that would reduce projected job losses by one half, but would result in a greater likelihood of the owl's eventual extinction through most of its range.

The Department of the Interior acknowledged that the "preservation plan", as the alternative to the recovery plan has come to be called, did not meet the requirements of the ESA and certain other laws. Secretary Lujan would not characterize the administration as "recommending" the plan, and said that the administration would not send legislation to the Congress, but would be "willing to assist in drafting" legislation. A final recovery plan for the northern spotted owl has not been released.

In all, 11 judges have been involved in U.S. District or Circuit court rulings related to the actions of the Forest Service, Bureau of Land Management, and the FWS as they affect the northern spotted owl and the management of Federal forest lands in the Pacific Northwest and Northern California.

Consistently, these Federal agencies have been sued, and in decisions by these 11 judges, have been found to be in violation of one or more Federal laws or regulations affecting the management of Federal forests, the protection of endangered species, and compliance with procedures pursuant to NEPA or other statutes.

The comments of the following judges illustrate this point:

"More is involved here than a simple failure by an agency to comply with its governing statute. The most recent violation of the [1974 Act] exemplifies a deliberate and systematic refusal by the Forest Service and the FWS to comply with the laws protecting wildlife."¹¹

¹¹ U.S. District Judge William L. Dwyer, in Seattle Audubon Society v. Evans.

"Without a doubt, the Jamison Strategy is [an] action that 'may affect' the spotted owl. In implementing the Jamison Strategy before consultation with the FWS, the BLM has violated the ESA. The defendants are enjoined from implementing the Jamison Strategy until [it] has been submitted for consultation."¹²

The actions of the agencies often ran contrary to available science and the advice and recommendations of the agencies' own scientific experts. In addition, the actions of an individual agency, in particular the BLM and the Forest Service, were often inconsistent and antagonistic to the other agency's ability to take necessary and corrective action to bring their management of the forests into compliance with court rulings or applicable statutes. For example, the Forest Service, in finally deciding to adopt the ISC strategy to govern the management of its lands, was stymied by the decision of the BLM to implement its own alternative, the "Jamison Strategy".

The Forest Service and BLM have failed to fulfill obligations to develop an effective solution to these issues. Following the issuance of the report of the ISC, the administration established its own "blue ribbon" panel to develop an alternative spotted owl management plan. However, no plan was developed by the panel. The so-called "preservation plan", achieved its objective of reducing projected job losses, but failed to meet the legal requirements of ESA and certain other laws. Consequently, Congressional action would have been required for its implementation.

Congressional Efforts Toward a Resolution

A number of legislative proposals have been discussed and bills introduced in both the House of Representatives and the Senate to deal with issues associated with the northern spotted owl and old-growth forests. In addition, in May 1991, at the request of the Committee on Agriculture and the Committee on Merchant Marine and Fisheries of the United States House of Representatives, and appropriate subcommittees, a scientific panel of four well-known forestry and wildlife scientists was asked to provide options for management and protection of old-growth forests and species dependent upon old-growth forest ecosystems, in particular the northern spotted owl. The panel (which has come to be known as the "Gang of Four") was not asked for, nor did it provide, a recommended alternative. Their findings which were delivered to Congress on October 8, 1991, consisted of 14 interim alternatives, with increasing levels of ecosystem and species protection and beginning with a high timber yield alternative. Each of the last 11 alternatives also have 3 management options available, making a total

¹² U.S. District Judge Robert E. Jones, in Lane County Audubon Society v. Jamison.

number of 36 alternatives. The effects of each alternative are described in terms of changes to timber harvest levels, employment and personal income, and probability of retaining old-growth or late successional ecosystems and species.

Some of the focal points of the old-growth report included the following: a network of late successional forest reserves that would protect approximately 25% more spotted owl pairs than the ISC Strategy; areas to meet the standards and guidelines of the ISC Strategy for spotted owls in the alternatives with more likelihood of retention of viable species populations; a watershed and fish component to provide for the long-term maintenance and restoration of habitat for fish species and stocks at risk, riparian-dependent species and processes, and aquatic ecosystem integrity; and possible "de-listing" of the northern spotted owl as a threatened species over significant portions of its range if certain alternatives were implemented.

The Gang of Four report broke new ground in the northern spotted owl, old-growth forest debate. First, the old-growth report represented an independent assessment of the status of the management of the national forests and BLM districts in the region by four scientists with substantial expertise and knowledge of the issue. Second, the old-growth report resulted in a comprehensive assessment of remaining old growth forests in the region and an evaluation of the relative importance of retaining specific old-growth areas for sustaining old-growth forests and related resources. Third, the old-growth report included a risk analysis for each alternative to assess the effect, by alternative and management option, on the ability to ensure the viability of owl populations, old-growth ecosystems, marbled murrelet nesting habitat and habitat for other old-growth associated species, and sensitive fish species and stocks. Finally, the report made clear that current forest management practices, and even management in accordance with the proposed forest plans for the region, would result in substantial risk to the continued viability of the owl, sensitive fish species and stocks, and the old-growth forest ecosystem itself.

H.R. 4899, introduced by Chairmen de la Garza, Miller, and Studds and S. 2895, introduced by Senators Leahy and Adams, built upon the scientific framework provided by the old-growth report by using an alternative from that report as an interim strategy for protecting old-growth forest ecosystems and associated species of animal and plants (including fish). In addition, these bills included measures to assist affected timber workers, their families, and communities that would be impacted by the reductions in federal timber sales that would result from implementation of the old-growth protection strategies in each bill.

H.R. 4899, which was jointly referred to three House Committees, was reported by the Committee on Agriculture. However, action on the bill stalled in the Interior Committee (currently the Committee on Natural Resources). The bill was not

considered in the Merchant Marine and Fisheries Committee. At the close of the 102nd Congress, negotiations among the staffs of these three Committees and a representative of the Speaker's Office led to a tentative agreement on principles that might serve as the basis for a legislative solution to the old-growth issue. However, no new legislation was introduced or considered. No action was taken on S. 2895 prior to adjournment.

More than a dozen bills were introduced in the 102nd Congress that related to or sought to resolve the old-growth forest/northern spotted owl issue. None of these received consideration from a committee of jurisdiction with the exception of S. 1156, introduced by Senator Packwood. This measure, and its companion bill, H.R. 3263, introduced by Congressman Huckaby, were supported by the labor-industry coalition and focused on providing more certain timber supply by proposing changes to the administrative appeals process and judicial remedies process. The Senate Energy and Natural Resources Committee made two attempts to report this measure, only to fail to complete consideration prior to adjournment of the 102nd Congress.

Key Players

The key players in resolving the old-growth forest management issues confronting the Clinton administration can be categorized into seven groups:

Administrative Departments/Agencies

As noted above, the USDA Forest Service and the BLM in the Department of the Interior are key participants in the old-growth debate, having jurisdiction over the management of the forest lands that are at the center of the controversy. In addition, the Fish and Wildlife Service in the Department of the Interior, which is responsible for administration of the Endangered Species Act, has been directly involved. As species of salmonids become candidates for listing as threatened or endangered, the National Marine Fisheries Service in the Department of Commerce may also become a part of the dialogue. The Environmental Protection Agency (EPA) has also been a player in the current controversy, particularly as the Forest Service and BLM have attempted to implement administrative remedies, only to fall short of the requirements of NEPA. Other Departments and agencies may become involved depending on the scope of the issues addressed. For example, assistance to displaced workers, as envisioned in H.R. 4899 and S. 2895 in the 102nd Congress, might necessitate the involvement of the Department of Labor and/or the Department of Education depending on the nature of the assistance. Budget concerns resulting from reduced timber harvest levels and the cost of worker and community assistance programs will bring the Office of Management and Budget into the debate as well.

Congress

Substantial turnover has occurred in the California, Washington and Oregon Congressional delegations. Key players in the Washington delegation include Speaker Foley, Congressman Norm Dicks, and Congresswoman Jolene Unsoeld. In the Senate, Senator Slade Gorton took a strong position on forestry issues during the last Congress and authored a number of amendments and bills. Senator Gorton will face reelection in 1994. Senator Patty Murray, in her first term, has yet to make any public statements regarding her views on the issue.

The Oregon delegation includes several new Members as well. Key players will be Congressman Peter DeFazio, who led efforts to develop a legislative solution to the issue in the 102nd Congress, Mike Kopetski, who authored a key amendment to H.R. 4899 in the Committee on Agriculture, and Congressman Ron Wyden, the senior Member of the delegation. The only remaining Member from Oregon who sits on the Agriculture Committee is Congressman Bob Smith, who introduced companion legislation in the House to the Gorton bill. Senator Mark Hatfield, who engineered many of the past Congressional "fixes" to the old-growth issue through the Appropriations Committee, is likely to remain a key participant in the debate. What role Senator Packwood, who introduced legislation on behalf of the labor-industry coalition in the 102nd Congress, will play remains uncertain.

Only a few Members of the California delegation are directly affected by the issue. These Members are mostly Republicans and have taken positions in the past that are reflective of the views of the forest products industry. New to the debate this Congress will be Congressman Vic Fazio, whose new district includes some portions of the affected national forest lands, and first-term Member Dan Hamburg. The largest change in the California delegation is in the Senate, where Senators Diane Feinstein and Barbara Boxer could play a key role in moving old-growth legislation.

The House Committees on Agriculture, Merchant Marine and Fisheries, and Natural Resources have primary jurisdiction over this issue in the House. During the last Congress, the three worked closely in introducing H.R. 4899 and in attempting to negotiate a final resolution to the issue during the latter part of the session. In the Senate, committees of jurisdiction include the Committee on Agriculture, Nutrition, and Forestry; the Committee on Energy and Natural Resources; and the Committee on Environment and Public Works.

State and Local Government

State and local governments currently receive 25 percent of all gross revenues from federal timber sales (for sales from the Oregon and California Railroad Grant (O&C) Lands administered by the BLM, the revenue-share is 50 percent). In

Oregon, for the Forest Service alone, this totaled over \$200 million in 1990. These funds help support schools and road maintenance in each county and create a tremendous financial incentive to keep timber sale levels high.

Environmentalists

The environmental community has made a strong commitment to the protection of remaining old-growth forests. The "Ancient Forest Alliance", composed of many of the national and local environmental organizations with an interest in the issue, attempts to speak for the environmental community with one voice. However, differences between the national groups and grassroots environmental activists can sometimes be strong, making efforts to negotiate with a single representative difficult.

Labor

Labor and forest products industry management formed a "Timber Industry Labor-Management Committee" two years ago to fight against old-growth forest protection. While numerous worker assistance proposals were made, labor continued to side closely with efforts which demand higher timber harvest levels. Labor remains strongly committed to worker retraining and assistance programs as an element of a final solution.

Forest Products Industry

The industry has spoken largely with one voice. However, some differences remain between individual companies and the industry associations, and between large and small timber operators.

Key Issues

The substantive issues of concern in the debate over the future of old-growth forests vary with each interest group. The Forest Summit will send an early and clear signal to these groups regarding the administration's interest in their concerns and its commitment to resolution of the old-growth issue. Primary old-growth issues include the following:

"Ancient Forest" Protection

To some, the debate over old-growth or "ancient forests" centers on the protection of all remaining old-growth forests. Advocates of protection generally argue that only a small percentage of what constituted old-growth forests remains in the region. Often, this group rejects management as an option, and instead, proposes

to preserve all remaining old-growth forest through the establishment of reserve areas.

Ecosystem Management

Although the spotted owl has been blamed by many as the cause for this conundrum, other old-growth associated species have been brought into the debate. For example, the marbled murrelet has been listed as threatened in portions of the Pacific Northwest. Loss of nesting habitat -- primarily old-growth -- has been attributed to the murrelet's decline. The listing of several stocks of salmon as threatened has also been attributed, in part, to past logging practices and their impacts on watersheds and key salmonid habitat. To avoid dealing with the "endangered species a month" problem, as former Congressman Sid Morrison characterized it, some management strategies look beyond the needs of the owl to protecting the core components of the whole forest ecosystem. Opponents argue, however, that this expands debate beyond what is legally required and beyond the geographic scope of lands now under injunction from timber harvesting.

Management of Other Forest Lands

The spotted owl listing had a direct effect on the management of private forestlands in the region, requiring private landowners to avoid "taking" owls or destroying their habitat. Some assert that a resolution to this issue must consider remedies for private landowners in order to offer hope that they may be able to realize income from their property as well. Others view the issue as a federal land management problem.

Certainty of Timber Supply

The timber industry argues that for investment purposes, they must have some certainty regarding future wood supplies. They express frustration over final forest plans, drafted by the Forest Service to chart a course for future management of national forest lands, that offer more timber than can be harvested if the owl is to be protected. In addition, the industry and labor fear that appeals and litigation will continue to limit timber availability no matter what the resolution of the pending problem. They seek certainty of timber supplies -- either through a legislated level of timber production, limits on citizen access to the courts to challenge timber sales, or both.

Worker Assistance

Reductions in timber jobs seem an inevitable outcome of any old-growth agreements. Few people discount the reduction in timber sale levels that will result should a protection strategy for old-growth forests, spotted owls, and/or

other fish and wildlife species be put in place. Others recognize that a void will inevitably occur between the time when old-growth timber supplies dwindle and second-growth timber reaches a harvestable age. To soften the blow from the loss in timber jobs, worker assistance strategies -- from retraining, to education, to other resource-related employment -- have been proposed. This is an obvious concern to labor interests and organizations.

Community Assistance

To compensate for lost wages, tax revenues, and timber sale receipts, community assistance programs are sought by affected parties in the region. While this assistance can take the form of direct payments, others are seeking assistance of a rural development nature, to aid communities in expanding their economic base beyond timber. These attempts at economic diversification are seen as a key to reducing the boom and bust cycles that have characterized many timber-dependent communities in the Pacific Northwest and northern California.

Statements of Candidate Clinton

During the campaign, candidate Clinton made a number of statements regarding the old-growth issue. Complete transcripts of key statements and correspondence are included in Appendix 2. A summary follows:

On seeking compromise: "...[B]ecause there was no attempt to work this out in a reasonable compromise over the last five years, you've got all these timber tracts tied up in court, where some logging could occur. I would attempt to fashion -- and I believe this can be done without an amendment to the Endangered Species Act I would attempt to fashion a compromise based on real forest health and science that would permit reasonable logging, preserve a significant percentage of the old growth forest, accelerate replanting, accelerate modification of mills, and try to diversify the economies of the area." (Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

"...[T]he thing that has really bothered me about this whole deal is how, looking over the last four or five years, how the parties have gotten off in armed camps, and it's been like trains running at a steel wall, just waiting for the crash to occur. And now the whole thing has been thrown into the courts, and all these timber tracts are basically immune from any sort of activity because they're tied up in the courts."

(Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

On leadership to resolve the issue: "If I were president, let me say, I would be personally involved in trying to get all the parties together to try to work out a solution...." (Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

"Let me just point out what I think the president's role ought to be in all of this. I think ... we ought to have a Forest Summit after the election and come up here and get all the parties to sit down.... [W]e're going to have to decide what the national government position is between all these different bureaucracies. We've got to get the timber that ought to be cut out of court." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers", Portland, OR, September 14, 1992)

On log exports: "We know that unrestricted exports of raw logs has hurt both our environment and our economy. By depriving domestic mills of needed timber, it has driven many mills out of business and caused thousands of high wage mill jobs to be lost. At the same time, raw log exports have threatened important wildlife habitat and weakened the watersheds that protect us from flooding." (Source: The Seattle Times, May 18, 1992)

On the role of the federal government: "You're entitled to know that there is a coherent, consistent position from the national government about how these lands are going to be handled. The reason I called for this Forest Summit ... is that I think we're going to have to decide what the national government position is between all these different bureaucracies." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers", Portland, OR, September 14, 1992)

On jobs vs. the environment: "If national policy puts you out of a job, national policy ought to put you back in one. In other words, if we make a decision that we simply can't sustain 1980 yield levels but we want a constant yield so everybody can predict it. Then we ought to have a reinvestment policy in you that guarantees you that....

[W]e've got to have a no net job loss policy. It's going to say if we lose jobs in the mills, we lose jobs in the woods, we're going to put people back to work either rebuilding the forest or in incentives to retool the mills or adding value to the timber here at home or training them fully and completely to go back to work." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers" Portland, OR, September, 14, 1992)

On a commitment to convene a Forest Summit: "[I]f there is no resolution to this matter during this Congress, early in my administration I will convene a Pacific Northwest Forest Summit to work out a legislative solution. I will work with the Congress and all interest parties to help break the gridlock which has caused so much pain in our Pacific Northwest communities. It is time for us to all come together and seek common ground." (Source: Letter from Bill Clinton to Sigurd Lucassen, et al., United Brotherhood of Carpenters and Joiners of America, August 25, 1992)

FOREST SUMMIT TRANSITION PROCESS

Establishment and Purpose

The Forest Summit Transition Office was established on December 18, 1993, to gather information to guide the development and implementation of the Forest Summit. The press release is included in Appendix 3.

Information Collection

The Forest Summit Transition Office was co-directed by staff of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Two full time and three part time volunteer staff assisted the co-directors in their efforts. Through meetings, telephone conversations, and correspondence with interested and affected parties, the office gathered information and answers to key questions regarding the Forest Summit.

At the outset, meetings were held with representatives of forest products industry, labor, and environmental groups. These meetings provided preliminary information regarding key questions and concerns of each party. Each group was asked to provide, and submitted, a list of individuals to contact by telephone or mail for additional comments on how the Forest Summit process should move forward.

Additionally, staff met in person with all but two Members of the Congressional delegations from Oregon, Washington, and northern California. Follow-up telephone calls were made to those with whom a personal meeting could not be arranged. Meetings were also held with key staff from each of the Washington, Oregon, and California Senators' offices. A personal meeting with Senator Patty Murray was also arranged.

Separate meetings were held with the staff of key House and Senate committees with jurisdiction over the old-growth and spotted owl issues. Chairman George Miller of the House Committee on Natural Resources and Chairman Bruce Vento of the Subcommittee on National Parks, Forests, and Public Lands also met with the transition staff.

Telephone contact was made with the offices of Governor Wilson (CA), Roberts (OR), and Lowry (WA), and each provided a list of persons to be contacted by telephone or mail. Detailed proposals for conducting the Forest Summit were also received from Governor Roberts and Governor Lowry.

Finally, a mailing on behalf of the President-Elect and Vice President-Elect was sent to nearly 1,500 individuals identified on mailing lists provided by the forest products industry, labor, and environmental groups and the offices of the three governors. This mailing was also sent to the Congressional Representatives and Senators from each state, the State Senators and Representatives in each, as well as every county commissioner and elected school board officials or similar representatives. It also went to a list of presidents of regional universities and colleges, and to the affected Indian tribes in the region.

A copy of the letter is included in Appendix 4. A list of contacts who received letter is included in Appendix 5.

To guide the respondents, each was asked to provide answers to questions about who, what, where, when, and how the Forest Summit should be set up. Contacts were also told that the effort was primarily focused on process -- as opposed to policy -- questions.

While many comments on policy were received, they were not included in the analysis. Additionally, many respondents requested that they, and/or other individuals, participate in the Forest Summit. A list of these individuals who would like to participate in the Forest Summit is included in Appendix 6.

Operating under a limited time frame did not allow for follow-up contact. However, the response rate was good given the short period people had to respond. In addition, a good number of responses were received from individuals who had not been formally contacted.

Analysis of Responses

Letters and notes from meetings and telephone calls were summarized and all comments regarding the Forest Summit process were coded into nine categories as follows:

- Number of Signatures
- Scope of Issues
- Process
- Format
- Public Involvement
- The Role of Science
- Location
- Timing
- Final Product

The detailed code sheet and raw data are presented in Appendix 7.

The comment period was closed on Friday, January 29th at the close of business. Comments received after that date remain unopened and are located in the letter files.

Comments were sorted by group and tabulated by categorical column. No statistical analysis was completed because of the non-scientific nature of the data collection process. The limitations of this analysis are further described in the following section.

RESULTS

The results provide good descriptions about how various groups -- environmentalists, labor, industry, government officials and others -- think a Forest Summit should be put together. Specifically, the response rate was high and diverse enough to identify a number of trends, important decision variables, and areas of agreement and disagreement.

The results in both this and the following sections were compiled by combining the numerical analysis described in the previous section with general comments that were made through discussions or letters.

Limitations of Analysis

In reviewing the results it is important to understand that they have little statistical reliability. There are four reasons for the data's softness.

First, no attempt was made to undertake a scientific sample. Contacts were made by talking to primary constituency groups and requesting lists of "people we should contact". Contacts lists varied from the 30 forest products industry contacts to the 400 environmental contacts. This does not necessarily mean that industry cares less about the Forest Summit, but, that they may have wanted to speak in one voice. To try to get around this, data was sorted and analyzed by group.

Second, individual responses had to be subjectively analyzed because respondents gave us their views on the non-specific topics contained in the letter inviting their comments. This allowed for more creative responses, but also made coding very subjective. In other words, the results should not be construed as resulting from concrete answers to specific questions.

Third, the many non-responses to specific data collection categories are not measures of a respondent's support or opposition to that particular category. For example, only 9 of 83 timber-related industry respondents commented on log exports. Therefore, the results are based on the 6 respondents who said the Forest Summit should deal with log exports and the 3 respondents who said it should not. As we did not ask a specific question about log exports, there is no way to measure how the remaining 74 timber-related industry respondents feel about the issue.

Fourth, the short transition time frame did not allow an adequate period for individuals to respond. Moreover, the response rate was lowered because no attempt was made to make follow-up contact and bad weather slowed mail delivery throughout the region.

In closing, the staff recommends that a sample of individual responses should be reviewed to pick up a true feeling for how many people support the Forest Summit and to obtain more details on the many well thought out suggestions for running a Forest Summit.

Contacts Made and Analyzed

A total of 404 individuals provided input to the Forest Summit Transition Team through meetings, telephone conversations and written responses. Response rates for each organization category are as follows:

- 33% (15 of 33) of the academics;
- 24% (97 of 403) of the environmentalists;
- 83% (35 of 42) of timber-related industry representatives;
- 19% (136 of 711) of the elected officials;
- 22% (35 of 157) of the labor members;
- 67% (12 of 18) of non-timber-related industry representatives; and,
- 19% (13 of 69) of tribes.

Note that some letters had multiple signatures. Therefore, the calculations above underestimate total input.

In addition, responses were received from 43 citizens, 6 federal agency workers, 4 conservation group leaders, and 8 mediation/facilitation experts.

Key Questions

This section summarizes respondents' views toward nine key questions. It simply provides various perspectives about how people think a Forest Summit should be set up. The analysis does not exhaust all Forest Summit options, but attempts to show how the majority of respondents feel.

Leadership

The Forest Summit's leader will send an important signal -- real or perceived -- to all involved in this forestry debate. Moreover, an overwhelming majority of respondents strongly believe that the White House must take the lead.

Labor, timber-related industry, and local and state government respondents all stated that President Clinton must take the lead. Federal elected officials were basically split over their feelings about whether President Clinton or Vice President Gore should take the leadership role. A clear majority of environmentalists believe Vice President Gore should lead the Forest Summit, however, President Clinton received strong support as well.

A number of individuals said that Secretaries Babbitt, Espy, and Reich should help lead the Forest Summit.

A few respondents suggested that an independent facilitator/mediator be appointed to run the Forest Summit.

Participants

Overall, people recognized the need to be as inclusive as possible. This may signify the respondents' recognition that all sides must be heard if any workable solution is to be developed.

Not surprisingly, when respondents specifically identified Forest Summit participants, they made sure individuals representing their particular values or interests were recommended. Respondents also wanted to be sure their philosophical allies were recommended for Forest Summit participation. For example, the timber industry suggested that the Forest Summit include labor representatives, and environmentalists said non-timber-related industry representatives should be included. In addition, environmentalists suggested that biologists be included, timber-related industry respondents wanted economists to be included, and state and local governments wanted to be sure that rural residents were included.

Timing

Timing is one decision everybody agreed on. All respondents wanted the Forest Summit process to begin as soon as possible.

The dates most often mentioned for starting up were March, April and May. For labor and timber-related industry there is a real sense of urgency to develop a solution because timber stocks are expected to bottom out this year, unless injunctions are lifted. Environmentalists generally support a quick Forest Summit start up, but some were more concerned that a time table be established to assure an open and equitable Forest Summit process. Federal elected officials -- cognizant of legislative deadlines -- often spoke of completing the Forest Summit process either right before or right after the August recess so they would have an

opportunity to pass any needed legislation by the end of the 103rd Congress' first session.

Location

Most people believe the Forest Summit -- or some component of it -- should take place in the Pacific Northwest. A number of Californians were quick to point out that their state is caught up in the debate, and therefore, a component of the Forest Summit should take place in California.

Labor, timber-related industry, tribes, and local elected officials were split over whether the Forest Summit should take place in a rural or urban area. Most environmentalists, state elected officials, and academics thought the Forest Summit should take place in an urban area.

Most federal elected officials thought the Forest Summit should take place in the Pacific Northwest and northern California. A number of members indicated that some part of the Forest Summit process should take place in Washington, D.C. in recognition that this is a public lands issue of national concern.

There seems to be a general feeling that if a single meeting is held, that it should be in Portland, OR because it is centrally located and more easily accessible than other parts of the affected region. Yet, many felt strongly that a meeting should take place in each state, and a number of people mentioned that at least one meeting should take place in their home town.

Public Involvement

There were general comments about public involvement, but few gave concrete suggestions.

It appears that labor and local elected officials are more concerned about reaching a solution than making sure a public involvement process is carried out. These interests often stated that this issue has already been talked to death and that now is the time to make decisions. A number of local elected officials actually said there should be no public involvement.

Environmentalists believe a public involvement process is necessary to assure that citizens are not shut out. This perspective may result from their often stated belief that they were shut out of previous Forest Summit type efforts. Note, however, that a small number of environmentalists did support a limited public involvement effort.

A number of timber-related industries, state governments, academics, and tribes also supported the establishment of a public involvement process.

Scope of Issues:

There are many complicated issues to be tackled at the Forest Summit. Few question that issues such as old growth protection, forest management, timber supply, and community assistance should be discussed at the Forest Summit. Yet, some of the most contentious decisions will revolve around what parameters -- if any -- are set for discussion of the issues.

Region - Most respondents indicated that issues related to the Pacific Northwest and northern California should be addressed. However, few made the distinction between issues related to the west-side forests -- home of the spotted owl and court injunctions prohibiting timber harvest -- and east-side forests where forest health problems have led to a similar debate about how much timber should be harvested. Some labor and timber-related industry group leaders indicated that they want the Forest Summit limited to the west-side, and some environmental leaders indicated that they want the Forest Summit to address both east-side and west-side forests. Federal elected officials are looking to Speaker Foley to provide his views on this issue.

A few environmental and timber-related industry respondents said that the Forest Summit should address national forestry issues. These respondents indicate that problems similar to those in the Pacific Northwest and northern California exist in other parts of the nation and suggested they all be solved during the same Forest Summit session(s).

Some local elected officials wanted the Forest Summit to address forestry issues from a global context.

Public v. Private Land Base - Federal forest management is technically the most pressing problem. However, the manner in which federal forests are managed has a significant impact on private forest lands and their owners.

Within all groups there was a split between those who want the Forest Summit to deal with issues related to public land management only, and those who want the Forest Summit to deal with both public and private land issues. More labor respondents wanted to deal just with public lands. More environmental, timber-related industry, and local and national elected official respondents thought public and private lands should be addressed by the Forest Summit. State elected officials were split on their views.

Owls v. Associated Species - The existing timber harvest injunctions have been put in place to force federal agencies to manage for the northern spotted owl. Yet, there are a number of other species -- most notably salmon -- whose existence is tied to the management of old growth forests.

Labor, timber-related industry, and local and national elected official respondents were split between those who believe that only spotted owl issues should be addressed and those who believe that owl and associated species issues should be addressed. Environmentalists, state elected officials, academics, tribes, and non-timber-related industry representatives believe the Forest Summit should address owl and associated species management issues.

Exports - Nearly a third of the Pacific Northwest and northern California's timber harvests are exported. These exports all originate from private lands since it is against the law for logs to be exported from federal lands before domestic primary processing occurs.

There was overall support among the groups about discussing log export issues at the Forest Summit. Even the majority of timber-related industry respondents supported log export discussions. However, this masks the fact that most industry respondents were silent on this question, and that the respondents whose companies exported logs suggested that it not be discussed.

Changing Environmental Laws - The hammer in the Pacific Northwest and northern California has been forged by court decisions which found that the Reagan and Bush administrations failed to comply with the nation's environmental laws. Such court renderings have caused some to call for changes to those laws.

Labor, timber-related industry, and a few local and national elected officials would like the Forest Summit to address changes to the nation's environmental laws. Environmentalists feel strongly that there should be no discussion about changes to environmental laws.

Other Issues - In addition to these issues where process decisions must be made about how they are included in Forest Summit, there are a number of other issues that all parties either agree, or do not disagree, to address in a Forest Summit.

The majority of all group respondents agree that the Forest Summit should address community assistance and forest management. All but labor groups had respondents who supported discussions about forest management with particular emphasis on maintaining ecosystems.

Environmentalists, tribes, academics, non-timber-related industries, and local, state, and federal elected official respondents supported discussions about forest protection. To a lesser extent, labor and timber-related industries also had respondents who supported forest protection.

Labor, timber-related industry, and local, state, and federal elected official respondents feel that unemployment, worker retraining, and timber supply are particularly important issues for the Forest Summit to address.

Environmentalists, tribes, non-timber-related industries and state elected officials also want the Forest Summit to address management of forest watersheds.

Forest Summit Format

There were many different perspectives about how the Forest Summit should be set up. Clearly, many of the respondents gave a great deal of thought on how to best set up a Forest Summit. A review of the individual responses is recommended in order to pick up some excellent recommendations that cannot be learned through this numerical analysis.

A few respondents suggested that the entire Forest Summit -- from beginning to end -- be set up to develop a negotiated settlement among all interested and affected parties. A few others suggested that the Forest Summit simply mimic the Economic Summit's process.

Overall, the majority of respondents envisioned a multi-tier process whereby information would be gathered first and a decision-making process would follow. Listed below are some general views on how this multi-tier process might work.

Information Gathering - Most group respondents thought some form of hearings would be the best way to obtain people's views on regional forest management issues. A few respondents suggested that panels of invited speakers be established to gather information.

A number of environmentalists, timber-related industry respondents, non-timber-related industries, academics, and state elected officials also suggested that a "blue ribbon commission" should be established to gather information.

Decision-Making - Decision-making refers to suggestions about who should be involved in resolving regional forestry issues. This is contrasted to comments about leadership which focused on suggestions for individuals to run the entire Forest Summit effort. A few respondents felt that decisions should only be made by the White House. However, the majority of respondents all agreed that some

kind of negotiations should occur at some time during the decision-making process.

There were disagreements about who should participate in those negotiations. All groups had respondents who felt that they -- or their representatives -- should be involved in the decision-making process. Yet, the majority of respondents also felt that elected officials should be the primary decision makers.

Labor, timber-related industries, and tribes felt that the administration, Congress, and state elected officials should be involved in the decision-making.

Environmentalists, academics, and non-timber-related industries felt that the administration should be primarily involved in decision-making. Some environmentalists specifically indicated that regional Congressional delegations should not be involved in the decision-making process.

Federal elected officials were split between those who believed that representatives from the regional delegation should participate in decision-making and those who felt they should be kept away.

Role of Science

The report "Alternatives for Management of the Late Successional Forests of the Pacific Northwest," or "Gang of 4 Report," (summarized in the introduction) set a new standard for the role that science would play in public policy debates. The controversial conclusions did not make any recommendations, but outlined ten options for future forest management. The scientists found an inverse relationship between the amount of timber harvested and the long-term viability of the region's forests.

Environmentalists, academics, and local, state, and federal officials all believe that science should be involved in the Forest Summit. A number of environmentalists are particularly interested in having science used to resolve differences, and others want the Gang of 4 Report to serve as a basis for scientific input into the Forest Summit.

Few labor and timber-related industry respondents commented on the role of science. A few spokesmen adamantly opposed the use of the Gang of 4 report within the Forest Summit.

Forest Summit Products

Most groups felt -- or assumed -- that any long-term resolution to regional forestry issues would require legislation. Most timber-related industry respondents felt

that the Forest Summit should produce legislation. Academic respondents believed the Forest Summit should produce a set of policy principles. The remaining groups' respondents were split between those who felt that the Forest Summit should produce legislation and those who felt that the Forest Summit should end with the development of a set of detailed policy principles.

A few respondents in each category felt that the Forest Summit should produce a summary report that would be publicly released.

Another small group felt that the Forest Summit should produce a set of administrative actions that would solve regional forest management issues. However, many environmental and timber-related industry respondents did not think this approach was feasible or supportable.

DISCUSSION

The results outlined in the previous section show how individuals responded to each of the questions presented to them. In this section of the report, we attempt to offer some insight into the critical decisions that must be made regarding these key questions.

Areas of Agreement

There are a number of areas of agreement among respondents regarding the design of the Forest Summit. Below is a list of issues in which the majority of respondents agreed.

- The Forest Summit process should begin as soon as possible.
- Forest Summit leadership must come from the White House.
- The Forest Summit must be inclusive -- i.e., it must include all interested and affected parties if a workable solution is to be developed.
- Some component of the Forest Summit must take place in the Pacific Northwest and northern California.
- Some form of negotiated decision-making must take place, however, respondents differ on who should be involved.
- The Forest Summit should address issues related to forest management and assistance to affected workers and communities.

Key Decision Variables

From the key questions asked of all respondents come certain key decision variables that must be considered and addressed in the development of the Forest Summit. It is in dealing with the disagreement over these variables that the architects of the Forest Summit will first be able to demonstrate the kind of leadership and commitment they intend to provide in dealing with the old-growth forest/spotted owl issue.

Leadership

There was strong agreement that leadership of the Forest Summit must come from the White House. In fact, many in the forest products industry, labor, and the communities of the region are clearly looking to the President to fulfill the

commitment made during the campaign to return to the region to help resolve the old-growth forest issue. As stated by Mark Rey of the American Forest and Paper Association:

"Our strong preference would be for the President-elect to fulfill his campaign commitment by being directly involved in the proceedings."

Representatives of the forest products industry, in particular, expressed strong reservations regarding the involvement of the Vice President in the Forest Summit. As one industry official reflected, "In the Northwest, the Vice President is perceived to have an agenda." Others expressed similar concerns that perceptions of the Vice President in the region might impact negatively on the Forest Summit.

Others, however, strongly supported the notion that the Vice President lead the Forest Summit. In fact, some argued that Mr. Gore's knowledge of the issue and respect within the environmental community might serve to be advantageous in helping to broker a final solution to the issue. As stated by Chairman George Miller of the House Committee on Natural Resources, "Gore helps carry the ball across the goal line".

It is interesting to note that in the same letter in which the forest products industry expressed a preference for leadership by the President, they softened their previously hardline position in opposition to the Vice President's involvement:

"[I]t may be that the question of who leads the new administration's delegation to the Forest Summit is less important than: (1) the public perception that the person or persons have an open mind before they get to the Forest Summit; and (2) the President's personal endorsement of the outcome of the Forest Summit as an administration initiative."

Participants

Again, while there existed general agreement and a desire to ensure an inclusive process -- i.e., one that allowed all who were concerned to play a role -- respondents clearly recognized the need to limit the decision-makers in the process.

To some degree, determining who participates in the process is a function of the kind of process that is used. Generally, the environmental community has advocated a process that provides for a strong role for scientific experts and others in a fact-finding phase. They argue that, "[This approach] would demonstrate that the White House is not only interested in action, but is committed to finding the right course."

Others have sought to limit further information gathering and argued for a limited list of elected officials to make key decisions. For example, one local of the United Paperworkers International Union urged that participants be limited to

"our Northwest Congressional delegation, one representative from unions involved and affected, one representative from industry, one representative from grassroots groups, and one representative from environmental groups."

Many respondents clearly believed that the Forest Summit should, in the end, be structured to assist the administration in establishing a policy for dealing with old-growth forest issues. As stated by Jeffrey Rogers, Portland City Attorney, "The administration should listen; then lead, not follow."

Timing

Given the organization and coordination that must follow a decision on how to proceed, there is little disagreement that the Forest Summit should proceed as soon as possible. Clearly some have viewed the Forest Summit as an element to be included in the "100 days agenda". Others have stated that a Forest Summit in the spring of this year (March/April/May) would be timely.

Some respondents, particularly in the environmental community, have recommended that the Forest Summit process involve the creation of a blue ribbon commission or similar entity to gather and analyze relevant scientific and economic information. This dimension of a Forest Summit process could require additional time. The desirability of this approach was characterized by the following comments by Susan Saul, Coordinator for the Gifford Pinchot Task Force:

"The President should resist political pressure to rush forward with the Forest Summit. Since the final solution should be based on careful and thoughtful consideration of public input and sound science rather than political expediency, the President should take the time to develop a sound Forest Summit process and assemble the resources he needs to do it right before proceeding."

Probably the greatest concern regarding timing was expressed by members of the Oregon and Washington Congressional delegation. Recognizing that the eventual solution to this issue is likely to be, at best, reluctantly acceptable to the affected parties, the delegation expressed a strong desire to have the issue resolved this year. In order to do so, Members sketched out a timetable that necessitated the completion of the Forest Summit process, including the development of any legislative package that might result, by August. Should legislation be the result, Members differed on the advisability of introducing legislation before the

traditional August recess. Some cautioned that efforts to legislate a solution by former Congressmen Morrison and AuCoin were thwarted, in part, by strong public opposition to a bill that was introduced just prior to the recess without adequate opportunity for public discussion and review.

Location

As with timing, there was little disagreement that some facet of the Forest Summit process must occur in the Pacific Northwest. Only representatives of the environmental community expressed reservations that the Forest Summit occur in the region.

A related and more difficult question is where in the region the Forest Summit or elements of the Summit should convene. Portland was offered as the logical, geographic mid-point for convening a meeting. Others indicated a strong desire to bring the Forest Summit to the people and the communities affected by the old-growth issue. Also, northern Californians expressed some objections to having to go the Oregon or Washington to have their views heard.

One option presented by Kevin Lynch and Tom Imeson of PacifiCorp, was to convene three separate meetings in the region, one each in Olympia, Washington; Salem, Oregon; and Sacramento, California. If conducted over a week-long period, such a schedule would permit Forest Summit participants to hear from a broad range of individuals reflecting the unique nature of the problems faced in each State.

Public Involvement

As noted earlier, there exists a strong desire to be inclusive in the Forest Summit process. However, distinction is drawn between the information-gathering phase of a process -- which might include public hearings and/or a process similar to the Economic Summit convened in Little Rock -- and the decision-making process.

Regarding the former, environmentalists believe a public involvement process should be set up to assure that the public is not shut out. This perspective may result from their often mentioned belief that they were shut out of previous Forest Summit type efforts, most notably the Oregon state effort which led to the "Section 318" agreement. This is summarized in Appendix 8. Note, however, that a small number of environmentalists did support a limited public involvement effort.

However, more respondents, including labor and local elected officials, are more concerned about reaching a solution than making sure a public involvement

process is carried out. These interest groups stated often that this issue has already been discussed thoroughly, and that the time has come to make decisions.

The importance of public involvement in the process was best stated by Terry Supahan of the Karuk Tribe of California who stated:

"[I]n order for the Forest Summit to be successful, you will have to somehow bring all the participants toward a collective thinking on the causes of the crisis we face today.... Everyone who is interested should feel like they have had an opportunity to participate."

Scope of Issues

Perhaps one of the more complex and controversial elements of designing the Forest Summit will be deciding upon and clearly stating the objectives of the Forest Summit. This critical step is directly linked to a decision regarding the scope of the issues to be addressed.

Few respondents question that issues such as old growth protection, forest management, timber supply and community assistance need to be discussed at the Summit. However, others expressed serious reservations regarding the integrity of the Forest Summit process if it failed to deal with certain issues or included others. These concerns can be separated into issues of geographic scope and subject matter.

With regard to scope, there was clear agreement that the Forest Summit should cover, at a minimum, those national forests and BLM districts affected by the spotted owl issue. From there, disagreement begins. Forest industry representatives believe that this should be the entire scope of the topics addressed by the Forest Summit. Others argue that forest management issues affecting eastern Washington and Oregon should be included, as well as the management problems of the California Sierras. Some would extend the scope further to include Idaho and parts of Montana if the Forest Summit is to deal with issues affecting salmon in the region.

Disagreement over the subject matter to be addressed includes concern for whether or not to include salmon (and other species of old-growth-associated flora and fauna), whether to deal with private as well as public forestland management issues, and whether the subject of raw log exports should be a topic of discussion.

It is important to note that the current spotted owl management crisis has had a substantial effect on certain private forest lands. Thus, any attempt to deal solely with the spotted owl will require a discussion of private forest land management

constraints and opportunities. In addition, during discussions with Members of the Congressional delegation, it became apparent that interest existed in dealing with salmon concerns, but not in extending the debate to include Idaho, Montana, and the associated Congressional delegations. As a potential compromise, one Member suggested that the Forest Summit deal with the salmon issue to the extent that it is affected by forest management practices in Oregon, Washington, and California -- i.e., deal with watersheds, but not water flows and the larger set of issues affecting salmonids in the region.

Format

The subject of format or process, generated a tremendous diversity of views. Comments on format included a limited economic summit type approach, to a prolonged, facilitated dialogue leading to a negotiated settlement. Perhaps the most enlightening part of the comments received on this subject was the recognition by many that the Forest Summit should not be viewed as a single activity, but rather as a process. As noted by Mark Rey of the American Forest and Paper Association,

"Ideally, the Forest Summit would serve as the starting point for a legislative resolution to the forestry crisis in the owl region."

In a similar vein, Nels Johnson of the World Resources Institute described the Forest Summit process as,

"[T]he first step in forging a sustainable development strategy for the Pacific Northwest. The Forest Summit must, therefore, be seen as part of a longer term process."

In an effort to synthesize the comments received on the process or format of the Forest Summit, a number of alternative approaches are identified and described in the discussions below. While these should not be viewed as the only alternatives that exist, they represent the range of the comments received.

Role of Science

The role of science has been, and remains, one of the more contentious issues in the debate over old-growth forests. This is, in part, a function of the workers' and communities' belief that determinations made by scientists -- in this case the owl biologists who have determined that the owl is threatened -- are wreaking havoc on their lives. Frustration and resentment have been directed at the owl, the Endangered Species Act, and the scientists who, under the ESA, made a biologically-based decision to recommend that the owl be listed as threatened.

However, additional angst toward scientists stems from a report commissioned in 1991 by the House Committees on Agriculture and Merchant Marine and Fisheries to identify options for managing Pacific Northwest and northern California forests. The resulting report on Old Growth/Late Successional Forest Ecosystems was met with praise by many, particularly those who had been advocating reductions in timber harvests and the protection of large blocks of remaining old growth. However, the timber industry and labor interests took the report and its authors to task.

Environmentalists continue to be strong advocates for a science-based and driven resolution to the issue and a process that places strong emphasis on scientific input. As stated by Bob Chlopak, representing the Ancient Forest Alliance,

"... [The blessing of scientific experts] would demonstrate that the White House is not only interested in action, but is committed to finding the right course."

However, the timber industry has made clear that any reference to the Gang of Four report would serve as the "litmus test" for the credibility of the Forest Summit process.

Key Members of Congress also expressed strong views on the issue of science in the Forest Summit. Chairman George Miller of the House Committee on Natural Resources commented that the Gang of Four report could not be refuted and that "nothing can be done to enhance [the Gang of Four] science." Re-opening the science issue, he commented, would "rekindle in the eyes of the carpenters that there is some other solution -- that there is some other science."

Some areas of science, in addition to the biological and ecological issues addressed to date, may warrant investigation. In particular, timber supply issues, economic and social impacts, and rural development and economic diversification are subjects of concern. A number of respondents strongly urged the use of task forces or working groups to aid in establishing the factual basis for the Forest Summit as it pertains to these issues. Others suggested that scientists serve the role of technical experts and advisors to the Forest Summit participants.

Products

By far, a legislative solution appears to be the preferred Forest Summit product among those who commented. However, others suggested that intermediate products, especially if the Forest Summit were structured to include a number of steps, would be appropriate.

For example, Peter DeFazio described a process that would result in a statement of principles following a Forest Summit meeting. This would then serve as the framework for legislation to be developed by the administration.

Some have expressed a desire to develop either an intermediate or longer-term set of administrative remedies for the old-growth issue. While some sort of intermediate, administrative steps may be warranted, few seem interested in leaving the implementation of the final outcome of the Forest Summit to the administration.

Congresswoman Elizabeth Furse best articulated the product (goal) that seemed to reflect the hope of many,

"The goal of the Forest Summit should be proposed legislation, revised administrative rules and Executive Orders, and a process for addressing forest and forest related issues in the future."

Forest Summit Alternatives

There were many different suggestions about how the Forest Summit should be set up. A general description of support or opposition to various alternatives was given in the previous section. This section attempts to provide some more detailed alternatives for formatting the Forest Summit -- along with some advantages and disadvantages to each alternative.

The alternative descriptions do not provide recommendations regarding who, what, when, and where. However, the alternatives attempt to provide some thoughts on some different ways to move forward.

Alternative 1 - Single Meeting

A very small number of people indicated an Economic Summit type meeting would provide a good model for the Forest Summit. The manner in which the Economic Summit was set up, moderated, and covered by the media was considered a success.

Under this approach, a one day meeting would be scheduled in the region. Individuals representing various interests would be invited to present their views on forest management issues and suggestions for solving problems in the region. There would be no formal Forest Summit follow-up.

A moderator who commands the respect of speakers and audiences is essential for limiting presentations and keeping order. Historically, public events -- hearings, rallies, and announcements -- have generated considerable protests from various

groups. Written comments could be solicited from those who are not invited to speak.

The objective would be to gain a basic understanding of the issue and to show people that the administration is committed to the Forest Summit.

Advantages of a Single Meeting-

- A singular event will focus public attention on the Forest Summit.
- Protests could be limited.
- Limited time commitment would be needed to fulfill the campaign pledge.
- A focused message could be delivered.

Disadvantages of a Single Meeting-

- The Economic Summit was successful because everybody agreed that the economy was in trouble, whereas, everybody disagrees about Forest Summit issues.
- There would be limited public involvement and fact resolution.
- No formal problem-solving process would be established to provide for a definitive solution.
- Without a resolution, the campaign pledge could be viewed as an empty promise.

Alternative 2 - Two Tier Process

Most people talked about a two-tier Forest Summit process that would first allow for public participation, followed by a formal decision-making process.

A two-tier process would consist of either a singular public meeting or a series of public meetings, hearings or panels. The process would, again, be used to get people's perspectives on forestry issues and problem solving. Such a meeting(s) could take place in a central location like Portland, Oregon or take place in each affected states' capitol. A series of "town meetings" could be set up to obtain a truly complete perspective of public attitudes.

The public involvement process would be followed by a decision-making process that would be announced ahead of time to demonstrate the administration's commitment to seeking a resolution. The decision-makers could be a group of private, non-profit, local, state, and/or federal elected officials, representatives, a commission, a cabinet level team, or the President himself.

The formal decision-making process could result in a set of administrative rules, policy principles, and/or legislation.

Advantages of a Two-Tier Process-

- Provides greater opportunities for public input and, therefore, greater ownership in the Forest Summit process.
- Regional forest management issues could be resolved -- at least from the administration's standpoint -- within a certain time.
- Depending on how the public involvement meetings were undertaken, the message and protests could still be controlled.

Disadvantages of a Two-Tier Process-

- While effective public involvement process could be undertaken, there would be limited scientific fact resolution opportunities.
- There is a greater likelihood that people will feel that they were heard and then ignored if final decisions do not go their way.
- Issue resolution would be a more time-consuming task for Forest Summit leadership.

Multi-Step Process

A multi-step process was supported by those who were most concerned with the social and scientific complexity of Pacific Northwest and northern California forestry issues. The objective would be to develop a process which addresses the multi-dimensional ecological, social, and political components of regional forest management problems and opportunities.

A multi-step process could be set up to receive public input and make decisions in much the same manner as was mentioned in the two-tier process. However, there would also be an attempt to include science -- ecological, social and economic -- to help resolve factual questions. Such fact resolution could be achieved by formulating scientific panels, advisory teams, or working groups. This process

could occur before, during, or after the public involvement process, and would certainly be an important part of any problem solving during the decision-making process.

Advantages of a Multi-Step Process-

- Provides the same advantages as those in the two-tier process.
- A formal fact resolution process could help differentiate between technical issues and issues of a social or political nature. This could:
 - narrow the scope of issues that would have to be resolved, and,
 - provide an agreed upon floor from which those unresolved issues could be debated.

Disadvantages of a Multi-Step Process-

- As in the two-tier process, there is a danger of the public feeling as if they were asked for their input and then ignored, and issue resolution would be a more time consuming task for Forest Summit leadership.
- Controlling messages would be more difficult since resolving scientific questions limits opportunities to move forward from both legal and public opinion perspectives.
- Fact resolution could be very time consuming.
- Agreeing on scientific facts could split interest groups apart instead of bringing them together.

Alternative 4 - Negotiated Settlement

A number of those who commented on the Forest Summit process expressed an interest in bringing affected parties together to seek a negotiated settlement to the dispute. Precedent exists for this approach in attempting to resolve natural resource issues in the region. For example, the "Timber-Fish-Wildlife Agreement", forged by representatives of the Washington State Department of Public Lands in 1989 was the product of a year-long negotiation among representatives of industry, labor, environmental, and school district representatives. A summary of this process is included in Appendix 8.

A facilitated negotiation would bring all parties together -- from beginning to end -
- to engage in a facilitated negotiating process designed to produce a solution to the Pacific Northwest and northern California forestry issues. The lengthiest portion of this process would be dedicated to facilitated negotiation among affected interest groups.

A number of organizations and experts around the country have expertise and experience in facilitating such negotiations. They range from groups like the Keystone Center and the Harvard Negotiation Project to individuals such as Susan Carpenter, Gail Bingham, or Orville Tice. Should a decision be made to use a facilitated process to resolve this issue, the expertise of these entities or individuals should be drawn upon.

Advantages of a Negotiated Settlement-

- Permits all interested parties to have a say in the final outcome.
- Allows for interaction among representatives of different viewpoints and development of common understanding of where "each is coming from."
- Allows participants to share ownership in the product of the negotiation.

Disadvantages of a Negotiated Settlement-

- It is difficult to limit parties participating in a negotiation. Those not permitted to participate may feel excluded and work to oppose any outcome.
- Relinquishes control over outcome of the negotiations, and thus less certainty that agreement can be reached.
- Failure to reach a negotiated settlement could be perceived as "gridlock" and a failure for the administration.
- Negotiations are very time consuming and could take over a year to complete.

Alternative 5 - Administrative Action

Some have argued that an administrative remedy be put in place to resolve the issue. They point out that the existing crisis is the result of the failure of the affected federal agencies to comply with existing environmental laws. These same advocates argue that the agencies should simply be directed to comply with the law and the requirements for lifting existing timber sale injunctions.

In fact, the Forest Service is currently working to develop a response to Judge Dwyer that would, in theory, lead to a lifting of the injunctions. In addition, a recovery plan for the spotted owl is pending at the Department of the Interior. This plan, based on a draft issued by the Lujan-appointed Spotted Owl Recovery Team, has been characterized as a means for addressing the needs of the owl and, to a more limited degree, the requirements for other old-growth-associated species.

Although an administrative remedy is proposed in lieu of legislation by some, others have suggested that an interim administrative remedy be a part of any Forest Summit process. The objective would be to provide short-term, interim relief to those in need of timber in the region while the larger and longer-term issues are addressed as a part of the "Forest Summit process".

Advantages of an Administrative Remedy-

- Actions taken within existing legislative authority by the administration limit the need to "negotiate" with affected Congressional committees.
- Administrative remedies can be implemented more quickly than those requiring legislation, thus expediting forest protection and relief to affected workers and communities.
- Implementation of administrative remedies can demonstrate the leadership of the administration and its capability to make government agencies "work together."
- If implemented as an interim solution, administrative action can demonstrate the desire of all parties to work toward a longer-term resolution.

Disadvantages of an Administrative Remedy-

- The alternative administrative remedies that exist without lifting the existing injunctions are limited and are not likely to provide a significant amount of timber relief.
- Parties who oppose the remedies may simply go to the courts to challenge the actions, thus further polarizing the issue. Strong distrust of the administering agencies exists, thus increasing the likelihood of challenges to any attempt to take administrative action.
- To limit the likelihood of challenge, negotiations would likely be needed simply to implement these interim measures.

-- A legislative remedy provides more "finality" to the issue. Many respondents appear to feel that legislation is necessary to "get the issue behind them."

Alternative Six - Combination of Alternatives

There are, of course, a wide range of combinations of the above alternatives that might be constructed to implement the Forest Summit process. A number of the respondents did, in fact, sketch out complete processes that included various measures to gather information, facilitate dialogue, coordinate administrative decisions-making, and promote legislative action.

Common elements included processes to;

- (1) gather legal, scientific, and technical information;
- (2) provide for testimony or input from the public and affected interest groups;
- (3) facilitate a decision, either by involving interest groups, Members of Congress, elected state officials, and/or Cabinet and subcabinet officials;
- (4) generate a product -- either a statement of principles, legislation, administration action, or some combination.

**REPORT TO THE
PRESIDENT AND VICE PRESIDENT
REGARDING
OPTIONS FOR CONVENING A FOREST SUMMIT**

February 4, 1993

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"Our entire society rests upon -- and is dependent upon -- our water, our land, our forests, and our minerals. How we use these resources influences our health, security, economy, and well-being. But if we fail to chart a proper course of conservation and development -- if we fail to use these blessings prudently -- we will be in trouble within a short time."

President John Fitzgerald Kennedy
Special Message to the Congress
on Natural Resources
February 23, 1961

REPORT TO THE PRESIDENT AND VICE PRESIDENT REGARDING OPTIONS FOR CONVENING A FOREST SUMMIT

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EXECUTIVE SUMMARY

Attached is the Forest Summit Transition Team's report on Forest Summit Options. The report includes a detailed discussion of the old-growth forest management issue, the Summit Transition Process, the results of our efforts to obtain input from interested and affected parties, and our analysis of how these comments affect decisions regarding how to proceed with the Forest Summit.

The Problem

Forestry issues in the Pacific Northwest and northern California are complex. Yet, they are all linked to a simple underlying question -- How should the public forests of the region be managed?

Key concerns include:

- o How many acres of old growth should be protected?
- o How many acres will remain available for timber production?
- o How will other species of fish and wildlife be dealt with?
- o What efforts will be made to assist the people and communities affected by changes in forest management?

The polarized nature of this issue is reflected in the repeated Congressional attempts over the last four years develop a legislative remedy.

It was within this context that candidate Clinton stated "If there is no resolution to this issue during [the 102nd Congress], early in my administration I will convene a summit to work out a legislative solution."

Forest Summit Transition Process

On December 18, 1992, a Forest Summit Transition Office was established to gather information on the best way to move the Forest Summit forward. Staff met with all but two Members of the Oregon, Washington, and northern California congressional delegations, staff to Senators from the region (and with Senator Patty Murray of Washington), and staff from the key Congressional committees involved in the debate. We also met with representatives of labor, industry, and environmental organizations and spoke, by telephone, with representatives of the three State governors' offices. Finally, letters were sent by transition staff on behalf of the President-elect and Vice President-elect to nearly 1500 representatives of state and county governments, Indian tribes in the region, academicians, and others included on lists provided by labor, industry, and the environmental community.

Over 400 responses allowed us to measure how people felt about a number of Summit questions including: Who should lead the summit?; When should it occur?; Where should it occur?; Who should be involved?; What process should be used?; Who should be involved?; What issues should be addressed?; What roles should the public and science play?; and What should result from the Forest Summit?

Results

Below is a brief summary of the responses we received:

Areas of Agreement:

- A process must begin as soon as possible.
- Leadership must come from the White House.
- The Forest Summit must be an inclusive process.
- Some component must take place in the affected region.
- Some form of negotiated decision making must take place, however, respondents differ on who should be involved.
- Forest management and community assistance must be addressed.

Areas of Disagreement:

- Some believe the Summit should consist of a single meeting like the Economic Summit. Others believe it should consist of several steps. Still others believe it should be a negotiated settlement.
- Some believe decisions should be made by the administration, others believe decisions should be jointly made by Congress and the administration.
- There are differences of opinion about whether President Clinton or Vice President Gore should lead the Summit.
- Some believe public involvement is needed. Others feel the public has been involved and the Summit should concentrate on making decisions.
- There are different perspectives about how the Summit should address issues related to geographic scope and the specific topics that should be discussed (e.g., whether or not to consider issues related to salmonid stocks).

Given the anticipation and enthusiasm that exists in the region for the Summit, it is clear that this transition effort must be followed closely by decisions regarding how to proceed. All those who commented were in clear agreement that leadership must be brought to this issue. They clearly look to the White House for that leadership. To fulfill the President's campaign promise, planning for the Forest Summit must begin immediately. As a part of this effort, those who are anxious to participate (or to simply help in some way) need to know that the Administration is committed to the Summit process, and is interested in and concerned about their views.

INTRODUCTION

Background on the Issues

Debate Over Old-Growth Forest Issues in the Pacific Northwest

For the past decade, debate has occurred over the protection of old-growth forests and the northern spotted owl (*Strix occidentalis caurina*) in the Pacific Northwest and northern California and the human costs of such protection. In recent years, this debate has escalated with the listing of the northern spotted owl as a Federally-listed threatened species, the proposed listing of the marbled murrelet (*Brachyramphus marmoratus*) as threatened, and the anticipated listing of various species of salmonids that spawn in the rivers and streams of the region.

The northern spotted owl inhabits old-growth forests in Oregon, Washington, and northern California. Old-growth forests, which are generally 200 years of age or older, also serve as important habitat for other animal and plant species that are threatened by the loss of these forests, primarily to logging. Many runs of salmon and trout in the region may also be threatened, in part, as a result of historical logging practices.

Reductions in logging in the region have already occurred as a result of a number of factors, including, but not limited to, reductions in market demand and court-ordered injunctions. The reduction in Federal timber sales has affected timber-dependent communities in two ways. First, timber-related employment, such as logging and milling jobs, has declined. Second, many communities that depend on receipts from logging on Federal lands to provide funding for community schools and roads, have seen their county budgets fall precipitously. This funding base is further endangered by future reductions in logging on Federal lands.

Little old-growth remains on private lands since these forest stands are highly valued for their timber. Until recently, most mills cut only old-growth in the area. The stands of old-growth that remain are largely on Federal forest land, and administered by the U.S. Forest Service and the Bureau of Land Management (BLM). Since private landowners (especially those in the forest products industry) have cut out their remaining old-growth, they have relied on these Federal forests for timber until their "second growth" forests reach harvestable age. Unfortunately, this point is still some 15 to 20 years away, exacerbating the struggle over remaining old-growth forests.

At the heart of this issue is debate over the management of Federal forest lands in Washington, Oregon, and northern California, and the manner in which the

administering agencies, the BLM and the Forest Service, care for the public lands that they have been entrusted to manage.

Three agencies, the BLM, the Forest Service, and the Fish and Wildlife Service (FWS), have been involved with this issue. The following summarizes the activities of each, as well as some of the litigation that has affected the actions of the agencies and brought into question their ability to resolve the issue administratively.

An updated chronology of the actions and litigation associated with the northern spotted owl and old-growth forest issue, based on testimony received by the Subcommittee on Forests, Family Farms, and Energy in March 1992, is included in Appendix 1.

Actions of the Forest Service

The Forest Service manages about 25 million acres of Federal land in Washington and Oregon. In FY 1989, about half of all the timber harvested nationwide from Forest Service lands came from these two states, which produced a combined total of about 6 billion board feet (bbf) of timber.

The BLM and the Forest Service manage the majority of lands between the western coast of the United States and the Cascade Mountain Range, lands of primary concern with regard to the survival of the spotted owl. In addition, old-growth forests and spotted owl habitat occur in a number of the national forests in northern California.

The Forest Service is required by the Forest and Rangeland Renewable Resources Planning Act¹ (the 1974 Act) to prepare land management plans to guide timbering and other activities on each of the national forests. Among other things, Section 6 of the 1974 Act² requires that forest management plans "provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives." The Forest Service regulations to implement this provision of the 1974 Act further require that viable populations of a species be maintained throughout a planning area (36 C.F.R. 219.19).

In 1984, the Forest Service sought to provide guidance to forest planners in the Pacific Northwest region by issuing a regional guide which included a strategy for protecting spotted owl habitat. This strategy called for the establishment of Spotted Owl Habitat Areas (SOHAs) distributed throughout the national forests in the region to protect nesting owl pairs and provide for future habitat.

¹ (16 U.S.C. 1600 *et seq.*) .

² (16 U.S.C. 1604) .

The SOHA strategy and the adequacy of the guidance for protecting the spotted owl, which was designated by the Forest Service as an indicator species for the health of old-growth ecosystems, was challenged by the National Wildlife Federation. As a result of this challenge, the Forest Service agreed to review and revise its spotted owl management guidelines.

In 1988, the Forest Service produced a lengthy "Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide: Spotted Owl Guidelines" (Supplement). This approach was considered by environmentalists and most scientists to be inadequate in ensuring the long-term stability of owl populations. The timber industry also disliked the approach because it believed the approach would reduce harvest levels excessively. This document has been superseded by later events.

Several suits were brought against the Forest Service, based largely on the spotted owl guidelines prepared under the 1974 Act and its regulations. These were consolidated in Federal court (Seattle Audubon Society v. Robertson). Eventually, Congress intervened by enacting Section 318 in Public Law 101-121.

Under Section 318, the FY 1989-90 timber sale levels for Oregon and Washington were set for the Forest Service and for the BLM. Section 318(b) also directed the Forest Service (but not the BLM) to minimize fragmentation of old-growth habitat, and enlarged the areas that should be set aside for each owl territory.

In October 1988, the Forest Service, BLM, FWS, and National Park Service chartered the Interagency Scientific Committee (ISC) to prepare a conservation report on the northern spotted owl. This report, "A Conservation Strategy for the Northern Spotted Owl" (Strategy), generally has been regarded as the best scientific information available on the habitat, needs, and methods to protect the species. The Committee was composed of scientific experts from the participating agencies.

The owl and habitat preservation aspect of the Strategy centered around protection of blocks of habitat called Habitat Conservation Areas (HCAs). The ISC recommended that certain forest management activities within HCAs be curtailed.

The ISC Strategy also focused on management of the remaining forest lands outside the HCAs by recommending certain management requirements for those lands that were not already reserved from management and were suitable for growing timber. One of these requirements, the "50-11-40 rule", provided that for every quarter township (5,660 acres), timber harvest on Federal lands would be permitted only when 50% of the forest landscape consists of forest stands with an 11-inch mean diameter at breast height and a canopy closure of 40%. The final

ISC Report was delivered to the participating land management agencies in April, 1990.

The Forest Service initially planned to adopt the ISC Report recommendations, but was superseded by the administration's decision to initiate another study to develop an alternative to the ISC strategy for protecting the owl. The administration established a task force chaired by USDA Assistant Secretary James R. Moseley to develop a long-term strategy for the Forest Service. Forest Service actions for FY 1991 and beyond were to be developed and submitted by the administration's task force, along with legislative proposals to Congress, by September 1, 1990. A long-term strategy was not developed, however, nor was proposed legislation submitted.

On October 3, 1990, the Forest Service published a notice in the Federal Register, vacating the December 1988 Record of Decision (ROD) for the supplement to the Regional Guide which had proposed the SOHA plan. Instead it announced that for the immediate future, it would "conduct timber management activities in a manner not inconsistent with the Interagency Scientific Committee recommendations". However, U.S. District Court Judge Dwyer found this notice inadequate guidance to permit timber sales in owl habitat, enjoined proposed sales, and ordered the Forest Service to develop adequate guidance on management of the owl habitat by March 1992.³

In addition, the court held that the Forest Service's notice did not comport with the 1974 Act diversity requirements, nor was it promulgated in compliance with Forest Service viability regulations, or other regulations implementing the 1974 Act and the National Environmental Policy Act of 1969 (NEPA). The court also held that the awarding of timber sales by the Forest Service did not involve a "taking" of migratory birds within the meaning of the Migratory Bird Treaty Act. Finally, Judge Dwyer ruled that the diversity requirements of the 1974 Act, as implemented through the Forest Service regulations regarding viable species populations (36 C.F.R. 219.19), are not obviated once a species is listed under the Endangered Species Act (ESA).

Subsequently, on May 23, 1991, the court (Judge Dwyer) enjoined the Forest Service from auctioning or awarding timber sales in habitat suitable for the northern spotted owl until the Forest Service adopted standards and guidelines for the conservation of the owl, which the court ordered to be done by March 5, 1992.

³ Seattle Audubon Society v. Evans et al., C89-160 W.D. Wash., May 23, 1991.

The U.S. Court of Appeals for the Ninth Circuit affirmed Judge Dwyer's decision on December 23, 1991. In this same opinion, the court also held that claims under (NEPA)⁴ against BLM could be filed because the bar to such suits that was contained in an appropriations act had lapsed.

In response to the May 1991 order of Judge Dwyer, the Forest Service developed a new draft environmental impact statement (EIS) on management for the northern spotted owl in which the preferred alternative was the implementation of the ISC Report recommendations. That proposal was delivered to Judge Dwyer on March 5, 1992.

A new suit was filed, which challenged the adequacy of the new EIS and the associated ROD. The court issued an injunction on July 2, 1992 enjoining the Forest Service from auctioning sales in owl habitat until changes were made in the new EIS and ROD to address certain issues and new information in compliance with NEPA. Although the case has not yet gone beyond NEPA issues, the court also indicated reservations about the adequacy of the preferred alternative to protect old-growth associated species other than the northern spotted owl.

Actions of the Bureau of Land Management

The Bureau of Land Management (BLM) manages approximately 2.4 million acres in the Douglas-fir region of western Oregon and Northern California. Unlike other BLM lands which are managed for multiple uses according to the Federal Land Policy and Management Act of 1976⁵ (FLPMA), most of these lands also are managed according to the Oregon and California Grant Lands Act of 1937⁶ (O&C Act). The O&C Act focuses on timber production, under the principle of sustained yield to promote community stability. In cases where the two Acts conflict, the O&C Act prevails over FLPMA.⁷

The O&C lands have been extensively harvested. These timber harvests, in combination with the BLM's intermingled land ownership, have contributed to the problem of forest fragmentation, which has contributed to the decline of old-growth forest ecosystems.

⁴ (42 U.S.C. 4321 *et seq.*) .

⁵ (43 U.S.C. 1701) .

⁶ (43 U.S.C. 1181 *et seq.*) .

⁷ See section 701(b) of FLPMA.

The seven existing timber management plans for various parts of the O&C lands were prepared in the late 1970's and early 1980's. Collectively, these plans decreased the amount of commercial forest land available for timber production by 11%, but increased the allowable sale quantity (ASQ) to 1.185 bbf annually, and called for 18,210 acres of annual harvest area.

With respect to the northern spotted owl, the seven timber management plans provided 300 contiguous acres of old growth for each of 79 spotted owl sites. However, as new scientific information became available, the BLM did not update its owl protection plans.

In September 1983 (subsequent to publication of the timber management plans), the BLM and the Oregon Department of Fish and Wildlife signed an agreement which stated that BLM would maintain habitat to support a population of 90 pairs of spotted owls. No amendments were made to the timber management plans to reduce the ASQ commensurate with this additional protection of owl habitat.

In 1987, the Oregon Department of Fish and Wildlife succeeded in persuading the BLM to agree to guidelines protecting at least 2,200 acres of conifer forest over 80 years old at each of the 110 areas identified for spotted owl protection, resulting in protection for approximately 230,000 acres. However, no amendments were made to the timber management plans to reduce the ASQ of timber commensurate with this additional protection of owl habitat.

Section 318 of the FY 1990 Interior Appropriations Act directed the BLM to protect additional owl areas, bringing the number of protected BLM areas to 121. Section 318 also identified an aggregate sale level of 1.9 bbf for FY 1989 and FY 1990.

Environmentalists sued BLM over timber sales in owl habitat, but BLM argued that section 318 insulated it from lawsuits for sales in that fiscal year. Environmentalists argued that section 318 was unconstitutional.

The Ninth Circuit held part of Section 318, of P.L. 101-121 to be unconstitutional based on a violation of the separation of powers, but the Supreme Court held on March 25, 1992, that section 318 is constitutional. Challenges to some of the 1990 sales that had been allowed may now be reconsidered.

Following the decision in June 1990 to list the northern spotted owl as a threatened species, the BLM consulted with the FWS on 157 of 453 timber sales covered under Section 318. The FWS biological opinion stated that essentially all of the BLM's annual timber sale program was comprised of old growth and mature forest, that the 157 sales submitted for consultationn (covering 17,200 acres) would adversely affect the owl through loss of habitat and increased

fragmentation, but that none of the sales would jeopardize the continued existence of the owl. The BLM dropped or deferred awarding 118 million board feet (mmbf) that had been offered for sale in order to modify the sales as a result of the measures identified in the FWS biological opinion.

In its opinion, the FWS also stated it did not agree with BLM's claim that only 157 of the 453 sales may affect spotted owls, but BLM did not submit any additional sales for consultation. The FWS opinion recommended that the BLM adopt a number of conservation measures, including adoption of the ISC Report's recommendations on the northern spotted owl, as soon as possible.

Instead, in order to maintain a higher level of timber sales than would be possible under the ISC strategy, BLM adopted the so-called "Jamison Strategy." This plan proposed to sell timber at levels well above those that would be consistent with the ISC strategy by ignoring the ISC requirements of adhering to the "50-11-40" rule on lands outside those designated for owl conservation. Under the ISC strategy, the BLM would sell approximately 443 mmbf annually. Under the Jamison strategy, the BLM would sell 750 mmbf annually.

In April 1991, environmentalists sued BLM in Federal court for failure to consult with FWS on implementation of the Jamison Strategy. In September, Judge Jones ruled that BLM had violated the ESA, but could continue to sell timber.⁸

On January 10, 1992, three BLM employees testified that BLM was still using the Jamison Strategy. On March 4, 1992, the Ninth Circuit affirmed that BLM must consult on the "Jamison Strategy" or any other timber program guidance, and also held that timber sales could not go forward until consultation was completed.

In a separate suit, environmentalists charged that BLM failed to comply with NEPA by preparing an EIS for the Jamison strategy, and had failed to consider new information on the northern spotted owl. On February 19, 1992, Judge Frye blocked logging on BLM lands containing old-growth forests because the agency had failed to prepare the required EIS under NEPA. The injunction was later made permanent.

BLM's decision not to fully implement the ISC strategy was a factor in Judge Dwyer's decision in 1991 to impose an injunction on Forest Service timber sales in all national forest spotted owl habitat. The success of the ISC strategy in maintaining the viability of the owl was predicated on implementation of the plan by both the BLM and the Forest Service. Under terms of the Judge Dwyer's order

⁸ Lane County Audubon Society v. Jamison.

and the Record of Decision signed March 3, 1992, the Forest Service was restricted from offering any timber sales prior to April 10, 1992.

On June 17, 1991, the FWS concluded that 52 BLM timber sales were likely to jeopardize the owl. FWS concluded further that the sales should be deferred in whole or in part until BLM developed a long-term conservation strategy or adopted a recovery plan, and determined all sales to be consistent with either plan. Of these 52 timber sales, BLM modified 8 to comply with the ESA, but selected the remaining 44 and submitted an application for an exemption from the ESA. Secretary of the Interior Lujan then determined that BLM met the requirements for convening the Endangered Species Committee, the body to which applications for exemptions from the ESA are referred, and consequently accepted the application. The State Department further certified, as required by ESA, that no international agreement to which the United States is a party protected the spotted owl from the effects of the proposed sales.

After various delays, the Endangered Species Committee met, and on April 15, 1992, received Secretary Lujan's report on the application. The Endangered Species Committee's decision was issued on May 14, 1992, the same day the draft recovery plan required by the ESA, and an alternative plan were released.

After a review of background information, the Chair of the Committee, Secretary Lujan, proposed that 31 sales should not be exempted. He proposed to exempt the remaining 13.

Dr. John Knauss, administrator of the National Oceanic and Atmospheric Administration (and, ex officio, a member of the Endangered Species Committee) expressed strong reservations about the proposal, and offered an amendment to the Chairman's proposal. He argued that to prevent the reappearance of BLM timber sales before the Committee, it was necessary to adopt a long-range plan. By a vote of 5-2, the Committee accepted his amendment to (1) implement the final recovery plan⁹ as expeditiously as possible; (2) use the recovery plan as the basis for its 10-year plan, consistent with the best scientific and commercial data available (including the ISC report); (3) submit its 1993 and 10-year timber plans to FWS for consultation as a whole; and (4) cease offering timber sales "until the [10-year] plan has gone through a 60-day comment period and has been approved by [the Department of the Interior]".

If delays in approval of the plans beyond the control of the Department of the Interior occurred, then sales could be offered if consistent with the recovery plan.

⁹ See the section of this report entitle "Actions of the FWS" below.

The Endangered Species Committee adopted the Lujan proposal, as amended by the Knauss amendment, by a vote of 5-2.

A suit was filed on June 9, 1992, challenging the May 14, 1992 decision of the Endangered Species Committee. Attorneys for the plaintiffs sought subpoenas for White House documents, claiming that these would show inappropriate pressure on members of the Endangered Species Committee.

Actions of the Fish and Wildlife Service

The initial petition requesting listing of the northern spotted owl as threatened or endangered under the ESA was filed in 1987. At that time, the FWS decided not to list the owl.

A court case ensued in 1988, Northern Spotted Owl v. Hodel, in which Judge Zilly, of the U.S. District Court for the Western District of Washington, ruled that FWS's decision not to list was arbitrary and capricious and not supported by expert opinion.

FWS reconsidered, and on July 23, 1990, listed the northern spotted owl as threatened throughout its range. At the time of listing, the FWS did not designate critical habitat for the owl, stating that it was "not determinable."

Conservation groups filed a motion to require FWS to designate critical habitat for the spotted owl. On February 26, 1991, Judge Zilly ruled that FWS had "failed to discharge its obligations under the ESA and its own regulations [and] abused its discretion" and directed FWS to publish a critical habitat proposal no later than April 29, 1991.¹⁰

Released on May 6, 1991, the proposal recommended 11.6 million acres for designation in Forest Service, BLM, State, other Federal, tribal, and private lands. However, FWS did not specify what activities could be carried out in these areas. In addition, because of the requirements for legally defined boundaries (e.g., section lines), some areas appeared to be included that had no owl habitat in them. Environmentalists praised the proposal; timber interests condemned it. The proposal was revised on August 5, with a reduction in acreage to 8.2 million acres. The major change was the removal of private lands. The reduced proposal still met strong criticism from the timber industry. Under a court order, FWS produced a final rule designating 6.8 million acres as critical habitat in the three States. Again, the final rule was criticized as either inadequate or excessive, depending on the observer's point of view.

¹⁰ In Northern Spotted Owl v. Lujan (C88-5732, W.D. Wash. 1991)).

Under Section 4(f) of the ESA, FWS drafted a recovery plan for the owl. Most scientists agreed that the ISC report represented the best scientific effort to date to develop a plan for the owl's conservation, as well as an unrivalled review of the scientific literature available at that time. This report was, if not the result, the starting point of the recovery planning process.

A draft recovery plan was to have been available in January or February, 1992, but during various delays in the plan's release, Interior Secretary Lujan announced that the draft plan's possible resulting job loss was too great. Instead, the Secretary asked another team to come up with an alternate plan. In May, 1992, the Secretary released an alternative to the draft recovery plan for the northern spotted owl that would reduce projected job losses by one half, but would result in a greater likelihood of the owl's eventual extinction through most of its range.

The Department of the Interior acknowledged that the "preservation plan", as the alternative to the recovery plan has come to be called, did not meet the requirements of the ESA and certain other laws. Secretary Lujan would not characterize the administration as "recommending" the plan, and said that the administration would not send legislation to the Congress, but would be "willing to assist in drafting" legislation. A final recovery plan for the northern spotted owl has not been released.

In all, 11 judges have been involved in U.S. District or Circuit court rulings related to the actions of the Forest Service, Bureau of Land Management, and the FWS as they affect the northern spotted owl and the management of Federal forest lands in the Pacific Northwest and Northern California.

Consistently, these Federal agencies have been sued, and in decisions by these 11 judges, have been found to be in violation of one or more Federal laws or regulations affecting the management of Federal forests, the protection of endangered species, and compliance with procedures pursuant to NEPA or other statutes.

The comments of the following judges illustrate this point:

"More is involved here than a simple failure by an agency to comply with its governing statute. The most recent violation of the [1974 Act] exemplifies a deliberate and systematic refusal by the Forest Service and the FWS to comply with the laws protecting wildlife."¹¹

¹¹ U.S. District Judge William L. Dwyer, in Seattle Audubon Society v. Evans.

"Without a doubt, the Jamison Strategy is [an] action that 'may affect' the spotted owl. In implementing the Jamison Strategy before consultation with the FWS, the BLM has violated the ESA. The defendants are enjoined from implementing the Jamison Strategy until [it] has been submitted for consultation."¹²

The actions of the agencies often ran contrary to available science and the advice and recommendations of the agencies' own scientific experts. In addition, the actions of an individual agency, in particular the BLM and the Forest Service, were often inconsistent and antagonistic to the other agency's ability to take necessary and corrective action to bring their management of the forests into compliance with court rulings or applicable statutes. For example, the Forest Service, in finally deciding to adopt the ISC strategy to govern the management of its lands, was stymied by the decision of the BLM to implement its own alternative, the "Jamison Strategy".

The Forest Service and BLM have failed to fulfill obligations to develop an effective solution to these issues. Following the issuance of the report of the ISC, the administration established its own "blue ribbon" panel to develop an alternative spotted owl management plan. However, no plan was developed by the panel. The so-called "preservation plan", achieved its objective of reducing projected job losses, but failed to meet the legal requirements of ESA and certain other laws. Consequently, Congressional action would have been required for its implementation.

Congressional Efforts Toward a Resolution

A number of legislative proposals have been discussed and bills introduced in both the House of Representatives and the Senate to deal with issues associated with the northern spotted owl and old-growth forests. In addition, in May 1991, at the request of the Committee on Agriculture and the Committee on Merchant Marine and Fisheries of the United States House of Representatives, and appropriate subcommittees, a scientific panel of four well-known forestry and wildlife scientists was asked to provide options for management and protection of old-growth forests and species dependent upon old-growth forest ecosystems, in particular the northern spotted owl. The panel (which has come to be known as the "Gang of Four") was not asked for, nor did it provide, a recommended alternative. Their findings which were delivered to Congress on October 8, 1991, consisted of 14 interim alternatives, with increasing levels of ecosystem and species protection and beginning with a high timber yield alternative. Each of the last 11 alternatives also have 3 management options available, making a total

¹² U.S. District Judge Robert E. Jones, in Lane County Audubon Society v. Jamison.

number of 36 alternatives. The effects of each alternative are described in terms of changes to timber harvest levels, employment and personal income, and probability of retaining old-growth or late successional ecosystems and species.

Some of the focal points of the old-growth report included the following: a network of late successional forest reserves that would protect approximately 25% more spotted owl pairs than the ISC Strategy; areas to meet the standards and guidelines of the ISC Strategy for spotted owls in the alternatives with more likelihood of retention of viable species populations; a watershed and fish component to provide for the long-term maintenance and restoration of habitat for fish species and stocks at risk, riparian-dependent species and processes, and aquatic ecosystem integrity; and possible "de-listing" of the northern spotted owl as a threatened species over significant portions of its range if certain alternatives were implemented.

The Gang of Four report broke new ground in the northern spotted owl, old-growth forest debate. First, the old-growth report represented an independent assessment of the status of the management of the national forests and BLM districts in the region by four scientists with substantial expertise and knowledge of the issue. Second, the old-growth report resulted in a comprehensive assessment of remaining old growth forests in the region and an evaluation of the relative importance of retaining specific old-growth areas for sustaining old-growth forests and related resources. Third, the old-growth report included a risk analysis for each alternative to assess the effect, by alternative and management option, on the ability to ensure the viability of owl populations, old-growth ecosystems, marbled murrelet nesting habitat and habitat for other old-growth associated species, and sensitive fish species and stocks. Finally, the report made clear that current forest management practices, and even management in accordance with the proposed forest plans for the region, would result in substantial risk to the continued viability of the owl, sensitive fish species and stocks, and the old-growth forest ecosystem itself.

H.R. 4899, introduced by Chairmen de la Garza, Miller, and Studds and S. 2895, introduced by Senators Leahy and Adams, built upon the scientific framework provided by the old-growth report by using an alternative from that report as an interim strategy for protecting old-growth forest ecosystems and associated species of animal and plants (including fish). In addition, these bills included measures to assist affected timber workers, their families, and communities that would be impacted by the reductions in federal timber sales that would result from implementation of the old-growth protection strategies in each bill.

H.R. 4899, which was jointly referred to three House Committees, was reported by the Committee on Agriculture. However, action on the bill stalled in the Interior Committee (currently the Committee on Natural Resources). The bill was not

considered in the Merchant Marine and Fisheries Committee. At the close of the 102nd Congress, negotiations among the staffs of these three Committees and a representative of the Speaker's Office led to a tentative agreement on principles that might serve as the basis for a legislative solution to the old-growth issue. However, no new legislation was introduced or considered. No action was taken on S. 2895 prior to adjournment.

More than a dozen bills were introduced in the 102nd Congress that related to or sought to resolve the old-growth forest/northern spotted owl issue. None of these received consideration from a committee of jurisdiction with the exception of S. 1156, introduced by Senator Packwood. This measure, and its companion bill, H.R. 3263, introduced by Congressman Huckaby, were supported by the labor-industry coalition and focused on providing more certain timber supply by proposing changes to the administrative appeals process and judicial remedies process. The Senate Energy and Natural Resources Committee made two attempts to report this measure, only to fail to complete consideration prior to adjournment of the 102nd Congress.

Key Players

The key players in resolving the old-growth forest management issues confronting the Clinton administration can be categorized into seven groups:

Administrative Departments/Agencies

As noted above, the USDA Forest Service and the BLM in the Department of the Interior are key participants in the old-growth debate, having jurisdiction over the management of the forest lands that are at the center of the controversy. In addition, the Fish and Wildlife Service in the Department of the Interior, which is responsible for administration of the Endangered Species Act, has been directly involved. As species of salmonids become candidates for listing as threatened or endangered, the National Marine Fisheries Service in the Department of Commerce may also become a part of the dialogue. The Environmental Protection Agency (EPA) has also been a player in the current controversy, particularly as the Forest Service and BLM have attempted to implement administrative remedies, only to fall short of the requirements of NEPA. Other Departments and agencies may become involved depending on the scope of the issues addressed. For example, assistance to displaced workers, as envisioned in H.R. 4899 and S. 2895 in the 102nd Congress, might necessitate the involvement of the Department of Labor and/or the Department of Education depending on the nature of the assistance. Budget concerns resulting from reduced timber harvest levels and the cost of worker and community assistance programs will bring the Office of Management and Budget into the debate as well.

Congress

Substantial turnover has occurred in the California, Washington and Oregon Congressional delegations. Key players in the Washington delegation include Speaker Foley, Congressman Norm Dicks, and Congresswoman Jolene Unsoeld. In the Senate, Senator Slade Gorton took a strong position on forestry issues during the last Congress and authored a number of amendments and bills. Senator Gorton will face reelection in 1994. Senator Patty Murray, in her first term, has yet to make any public statements regarding her views on the issue.

The Oregon delegation includes several new Members as well. Key players will be Congressman Peter DeFazio, who led efforts to develop a legislative solution to the issue in the 102nd Congress, Mike Kopetski, who authored a key amendment to H.R. 4899 in the Committee on Agriculture, and Congressman Ron Wyden, the senior Member of the delegation. The only remaining Member from Oregon who sits on the Agriculture Committee is Congressman Bob Smith, who introduced companion legislation in the House to the Gorton bill. Senator Mark Hatfield, who engineered many of the past Congressional "fixes" to the old-growth issue through the Appropriations Committee, is likely to remain a key participant in the debate. What role Senator Packwood, who introduced legislation on behalf of the labor-industry coalition in the 102nd Congress, will play remains uncertain.

Only a few Members of the California delegation are directly affected by the issue. These Members are mostly Republicans and have taken positions in the past that are reflective of the views of the forest products industry. New to the debate this Congress will be Congressman Vic Fazio, whose new district includes some portions of the affected national forest lands, and first-term Member Dan Hamburg. The largest change in the California delegation is in the Senate, where Senators Diane Feinstein and Barbara Boxer could play a key role in moving old-growth legislation.

The House Committees on Agriculture, Merchant Marine and Fisheries, and Natural Resources have primary jurisdiction over this issue in the House. During the last Congress, the three worked closely in introducing H.R. 4899 and in attempting to negotiate a final resolution to the issue during the latter part of the session. In the Senate, committees of jurisdiction include the Committee on Agriculture, Nutrition, and Forestry; the Committee on Energy and Natural Resources; and the Committee on Environment and Public Works.

State and Local Government

State and local governments currently receive 25 percent of all gross revenues from federal timber sales (for sales from the Oregon and California Railroad Grant (O&C) Lands administered by the BLM, the revenue-share is 50 percent). In

Oregon, for the Forest Service alone, this totaled over \$200 million in 1990. These funds help support schools and road maintenance in each county and create a tremendous financial incentive to keep timber sale levels high.

Environmentalists

The environmental community has made a strong commitment to the protection of remaining old-growth forests. The "Ancient Forest Alliance", composed of many of the national and local environmental organizations with an interest in the issue, attempts to speak for the environmental community with one voice. However, differences between the national groups and grassroots environmental activists can sometimes be strong, making efforts to negotiate with a single representative difficult.

Labor

Labor and forest products industry management formed a "Timber Industry Labor-Management Committee" two years ago to fight against old-growth forest protection. While numerous worker assistance proposals were made, labor continued to side closely with efforts which demand higher timber harvest levels. Labor remains strongly committed to worker retraining and assistance programs as an element of a final solution.

Forest Products Industry

The industry has spoken largely with one voice. However, some differences remain between individual companies and the industry associations, and between large and small timber operators.

Key Issues

The substantive issues of concern in the debate over the future of old-growth forests vary with each interest group. The Forest Summit will send an early and clear signal to these groups regarding the administration's interest in their concerns and its commitment to resolution of the old-growth issue. Primary old-growth issues include the following:

"Ancient Forest" Protection

To some, the debate over old-growth or "ancient forests" centers on the protection of all remaining old-growth forests. Advocates of protection generally argue that only a small percentage of what constituted old-growth forests remains in the region. Often, this group rejects management as an option, and instead, proposes

to preserve all remaining old-growth forest through the establishment of reserve areas.

Ecosystem Management

Although the spotted owl has been blamed by many as the cause for this conundrum, other old-growth associated species have been brought into the debate. For example, the marbled murrelet has been listed as threatened in portions of the Pacific Northwest. Loss of nesting habitat -- primarily old-growth -- has been attributed to the murrelet's decline. The listing of several stocks of salmon as threatened has also been attributed, in part, to past logging practices and their impacts on watersheds and key salmonid habitat. To avoid dealing with the "endangered species a month" problem, as former Congressman Sid Morrison characterized it, some management strategies look beyond the needs of the owl to protecting the core components of the whole forest ecosystem. Opponents argue, however, that this expands debate beyond what is legally required and beyond the geographic scope of lands now under injunction from timber harvesting.

Management of Other Forest Lands

The spotted owl listing had a direct effect on the management of private forestlands in the region, requiring private landowners to avoid "taking" owls or destroying their habitat. Some assert that a resolution to this issue must consider remedies for private landowners in order to offer hope that they may be able to realize income from their property as well. Others view the issue as a federal land management problem.

Certainty of Timber Supply

The timber industry argues that for investment purposes, they must have some certainty regarding future wood supplies. They express frustration over final forest plans, drafted by the Forest Service to chart a course for future management of national forest lands, that offer more timber than can be harvested if the owl is to be protected. In addition, the industry and labor fear that appeals and litigation will continue to limit timber availability no matter what the resolution of the pending problem. They seek certainty of timber supplies -- either through a legislated level of timber production, limits on citizen access to the courts to challenge timber sales, or both.

Worker Assistance

Reductions in timber jobs seem an inevitable outcome of any old-growth agreements. Few people discount the reduction in timber sale levels that will result should a protection strategy for old-growth forests, spotted owls, and/or

other fish and wildlife species be put in place. Others recognize that a void will inevitably occur between the time when old-growth timber supplies dwindle and second-growth timber reaches a harvestable age. To soften the blow from the loss in timber jobs, worker assistance strategies -- from retraining, to education, to other resource-related employment -- have been proposed. This is an obvious concern to labor interests and organizations.

Community Assistance

To compensate for lost wages, tax revenues, and timber sale receipts, community assistance programs are sought by affected parties in the region. While this assistance can take the form of direct payments, others are seeking assistance of a rural development nature, to aid communities in expanding their economic base beyond timber. These attempts at economic diversification are seen as a key to reducing the boom and bust cycles that have characterized many timber-dependent communities in the Pacific Northwest and northern California.

Statements of Candidate Clinton

During the campaign, candidate Clinton made a number of statements regarding the old-growth issue. Complete transcripts of key statements and correspondence are included in Appendix 2. A summary follows:

On seeking compromise: "...[B]ecause there was no attempt to work this out in a reasonable compromise over the last five years, you've got all these timber tracts tied up in court, where some logging could occur. I would attempt to fashion -- and I believe this can be done without an amendment to the Endangered Species Act ...-- I would attempt to fashion a compromise based on real forest health and science that would permit reasonable logging, preserve a significant percentage of the old growth forest, accelerate replanting, accelerate modification of mills, and try to diversify the economies of the area." (Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

"...[T]he thing that has really bothered me about this whole deal is how, looking over the last four or five years, how the parties have gotten off in armed camps, and it's been like trains running at a steel wall, just waiting for the crash to occur. And now the whole thing has been thrown into the courts, and all these timber tracts are basically immune from any sort of activity because they're tied up in the courts."

(Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

On leadership to resolve the issue: "If I were president, let me say, I would be personally involved in trying to get all the parties together to try to work out a solution...." (Source: Prime Time Town Hall with Bill Clinton, July 25, 1992)

"Let me just point out what I think the president's role ought to be in all of this. I think ... we ought to have a Forest Summit after the election and come up here and get all the parties to sit down.... [W]e're going to have to decide what the national government position is between all these different bureaucracies. We've got to get the timber that ought to be cut out of court." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers", Portland, OR, September 14, 1992)

On log exports: "We know that unrestricted exports of raw logs has hurt both our environment and our economy. By depriving domestic mills of needed timber, it has driven many mills out of business and caused thousands of high wage mill jobs to be lost. At the same time, raw log exports have threatened important wildlife habitat and weakened the watersheds that protect us from flooding." (Source: The Seattle Times, May 18, 1992)

On the role of the federal government: "You're entitled to know that there is a coherent, consistent position from the national government about how these lands are going to be handled. The reason I called for this Forest Summit ... is that I think we're going to have to decide what the national government position is between all these different bureaucracies." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers", Portland, OR, September 14, 1992)

On jobs vs. the environment: "If national policy puts you out of a job, national policy ought to put you back in one. In other words, if we make a decision that we simply can't sustain 1980 yield levels but we want a constant yield so everybody can predict it. Then we ought to have a reinvestment policy in you that guarantees you that....

[W]e've got to have a no net job loss policy. It's going to say if we lose jobs in the mills, we lose jobs in the woods, we're going to put people back to work either rebuilding the forest or in incentives to retool the mills or adding value to the timber here at home or training them fully and completely to go back to work." (Source: Remarks by Governor Bill Clinton, "A Conversation with Timber Family Workers" Portland, OR, September, 14, 1992)

On a commitment to convene a Forest Summit: "[I]f there is no resolution to this matter during this Congress, early in my administration I will convene a Pacific Northwest Forest Summit to work out a legislative solution. I will work with the Congress and all interest parties to help break the gridlock which has caused so much pain in our Pacific Northwest communities. It is time for us to all come together and seek common ground." (Source: Letter from Bill Clinton to Sigurd Lucassen, et al., United Brotherhood of Carpenters and Joiners of America, August 25, 1992)

FOREST SUMMIT TRANSITION PROCESS

Establishment and Purpose

The Forest Summit Transition Office was established on December 18, 1993, to gather information to guide the development and implementation of the Forest Summit. The press release is included in Appendix 3.

Information Collection

The Forest Summit Transition Office was co-directed by staff of the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. Two full time and three part time volunteer staff assisted the co-directors in their efforts. Through meetings, telephone conversations, and correspondence with interested and affected parties, the office gathered information and answers to key questions regarding the Forest Summit.

At the outset, meetings were held with representatives of forest products industry, labor, and environmental groups. These meetings provided preliminary information regarding key questions and concerns of each party. Each group was asked to provide, and submitted, a list of individuals to contact by telephone or mail for additional comments on how the Forest Summit process should move forward.

Additionally, staff met in person with all but two Members of the Congressional delegations from Oregon, Washington, and northern California. Follow-up telephone calls were made to those with whom a personal meeting could not be arranged. Meetings were also held with key staff from each of the Washington, Oregon, and California Senators' offices. A personal meeting with Senator Patty Murray was also arranged.

Separate meetings were held with the staff of key House and Senate committees with jurisdiction over the old-growth and spotted owl issues. Chairman George Miller of the House Committee on Natural Resources and Chairman Bruce Vento of the Subcommittee on National Parks, Forests, and Public Lands also met with the transition staff.

Telephone contact was made with the offices of Governor Wilson (CA), Roberts (OR), and Lowry (WA), and each provided a list of persons to be contacted by telephone or mail. Detailed proposals for conducting the Forest Summit were also received from Governor Roberts and Governor Lowry.

Finally, a mailing on behalf of the President-Elect and Vice President-Elect was sent to nearly 1,500 individuals identified on mailing lists provided by the forest products industry, labor, and environmental groups and the offices of the three governors. This mailing was also sent to the Congressional Representatives and Senators from each state, the State Senators and Representatives in each, as well as every county commissioner and elected school board officials or similar representatives. It also went to a list of presidents of regional universities and colleges, and to the affected Indian tribes in the region.

A copy of the letter is included in Appendix 4. A list of contacts who received letter is included in Appendix 5.

To guide the respondents, each was asked to provide answers to questions about who, what, where, when, and how the Forest Summit should be set up. Contacts were also told that the effort was primarily focused on process -- as opposed to policy -- questions.

While many comments on policy were received, they were not included in the analysis. Additionally, many respondents requested that they, and/or other individuals, participate in the Forest Summit. A list of these individuals who would like to participate in the Forest Summit is included in Appendix 6.

Operating under a limited time frame did not allow for follow-up contact. However, the response rate was good given the short period people had to respond. In addition, a good number of responses were received from individuals who had not been formally contacted.

Analysis of Responses

Letters and notes from meetings and telephone calls were summarized and all comments regarding the Forest Summit process were coded into nine categories as follows:

- Number of Signatures
- Scope of Issues
- Process
- Format
- Public Involvement
- The Role of Science
- Location
- Timing
- Final Product

The detailed code sheet and raw data are presented in Appendix 7.

The comment period was closed on Friday, January 29th at the close of business. Comments received after that date remain unopened and are located in the letter files.

Comments were sorted by group and tabulated by categorical column. No statistical analysis was completed because of the non-scientific nature of the data collection process. The limitations of this analysis are further described in the following section.

RESULTS

The results provide good descriptions about how various groups -- environmentalists, labor, industry, government officials and others -- think a Forest Summit should be put together. Specifically, the response rate was high and diverse enough to identify a number of trends, important decision variables, and areas of agreement and disagreement.

The results in both this and the following sections were compiled by combining the numerical analysis described in the previous section with general comments that were made through discussions or letters.

Limitations of Analysis

In reviewing the results it is important to understand that they have little statistical reliability. There are four reasons for the data's softness.

First, no attempt was made to undertake a scientific sample. Contacts were made by talking to primary constituency groups and requesting lists of "people we should contact". Contacts lists varied from the 30 forest products industry contacts to the 400 environmental contacts. This does not necessarily mean that industry cares less about the Forest Summit, but, that they may have wanted to speak in one voice. To try to get around this, data was sorted and analyzed by group.

Second, individual responses had to be subjectively analyzed because respondents gave us their views on the non-specific topics contained in the letter inviting their comments. This allowed for more creative responses, but also made coding very subjective. In other words, the results should not be construed as resulting from concrete answers to specific questions.

Third, the many non-responses to specific data collection categories are not measures of a respondent's support or opposition to that particular category. For example, only 9 of 83 timber-related industry respondents commented on log exports. Therefore, the results are based on the 6 respondents who said the Forest Summit should deal with log exports and the 3 respondents who said it should not. As we did not ask a specific question about log exports, there is no way to measure how the remaining 74 timber-related industry respondents feel about the issue.

Fourth, the short transition time frame did not allow an adequate period for individuals to respond. Moreover, the response rate was lowered because no attempt was made to make follow-up contact and bad weather slowed mail delivery throughout the region.

In closing, the staff recommends that a sample of individual responses should be reviewed to pick up a true feeling for how many people support the Forest Summit and to obtain more details on the many well thought out suggestions for running a Forest Summit.

Contacts Made and Analyzed

A total of 404 individuals provided input to the Forest Summit Transition Team through meetings, telephone conversations and written responses. Response rates for each organization category are as follows:

- 33% (15 of 33) of the academics;
- 24% (97 of 403) of the environmentalists;
- 83% (35 of 42) of timber-related industry representatives;
- 19% (136 of 711) of the elected officials;
- 22% (35 of 157) of the labor members;
- 67% (12 of 18) of non-timber-related industry representatives; and,
- 19% (13 of 69) of tribes.

Note that some letters had multiple signatures. Therefore, the calculations above underestimate total input.

In addition, responses were received from 43 citizens, 6 federal agency workers, 4 conservation group leaders, and 8 mediation/facilitation experts.

Key Questions

This section summarizes respondents' views toward nine key questions. It simply provides various perspectives about how people think a Forest Summit should be set up. The analysis does not exhaust all Forest Summit options, but attempts to show how the majority of respondents feel.

Leadership

The Forest Summit's leader will send an important signal -- real or perceived -- to all involved in this forestry debate. Moreover, an overwhelming majority of respondents strongly believe that the White House must take the lead.

Labor, timber-related industry, and local and state government respondents all stated that President Clinton must take the lead. Federal elected officials were basically split over their feelings about whether President Clinton or Vice President Gore should take the leadership role. A clear majority of environmentalists believe Vice President Gore should lead the Forest Summit, however, President Clinton received strong support as well.

A number of individuals said that Secretaries Babbitt, Espy, and Reich should help lead the Forest Summit.

A few respondents suggested that an independent facilitator/mediator be appointed to run the Forest Summit.

Participants

Overall, people recognized the need to be as inclusive as possible. This may signify the respondents' recognition that all sides must be heard if any workable solution is to be developed.

Not surprisingly, when respondents specifically identified Forest Summit participants, they made sure individuals representing their particular values or interests were recommended. Respondents also wanted to be sure their philosophical allies were recommended for Forest Summit participation. For example, the timber industry suggested that the Forest Summit include labor representatives, and environmentalists said non-timber-related industry representatives should be included. In addition, environmentalists suggested that biologists be included, timber-related industry respondents wanted economists to be included, and state and local governments wanted to be sure that rural residents were included.

Timing

Timing is one decision everybody agreed on. All respondents wanted the Forest Summit process to begin as soon as possible.

The dates most often mentioned for starting up were March, April and May. For labor and timber-related industry there is a real sense of urgency to develop a solution because timber stocks are expected to bottom out this year, unless injunctions are lifted. Environmentalists generally support a quick Forest Summit start up, but some were more concerned that a time table be established to assure an open and equitable Forest Summit process. Federal elected officials -- cognizant of legislative deadlines -- often spoke of completing the Forest Summit process either right before or right after the August recess so they would have an

opportunity to pass any needed legislation by the end of the 103rd Congress' first session.

Location

Most people believe the Forest Summit -- or some component of it -- should take place in the Pacific Northwest. A number of Californians were quick to point out that their state is caught up in the debate, and therefore, a component of the Forest Summit should take place in California.

Labor, timber-related industry, tribes, and local elected officials were split over whether the Forest Summit should take place in a rural or urban area. Most environmentalists, state elected officials, and academics thought the Forest Summit should take place in an urban area.

Most federal elected officials thought the Forest Summit should take place in the Pacific Northwest and northern California. A number of members indicated that some part of the Forest Summit process should take place in Washington, D.C. in recognition that this is a public lands issue of national concern.

There seems to be a general feeling that if a single meeting is held, that it should be in Portland, OR because it is centrally located and more easily accessible than other parts of the affected region. Yet, many felt strongly that a meeting should take place in each state, and a number of people mentioned that at least one meeting should take place in their home town.

Public Involvement

There were general comments about public involvement, but few gave concrete suggestions.

It appears that labor and local elected officials are more concerned about reaching a solution than making sure a public involvement process is carried out. These interests often stated that this issue has already been talked to death and that now is the time to make decisions. A number of local elected officials actually said there should be no public involvement.

Environmentalists believe a public involvement process is necessary to assure that citizens are not shut out. This perspective may result from their often stated belief that they were shut out of previous Forest Summit type efforts. Note, however, that a small number of environmentalists did support a limited public involvement effort.

A number of timber-related industries, state governments, academics, and tribes also supported the establishment of a public involvement process.

Scope of Issues:

There are many complicated issues to be tackled at the Forest Summit. Few question that issues such as old growth protection, forest management, timber supply, and community assistance should be discussed at the Forest Summit. Yet, some of the most contentious decisions will revolve around what parameters -- if any -- are set for discussion of the issues.

Region - Most respondents indicated that issues related to the Pacific Northwest and northern California should be addressed. However, few made the distinction between issues related to the west-side forests -- home of the spotted owl and court injunctions prohibiting timber harvest -- and east-side forests where forest health problems have led to a similar debate about how much timber should be harvested. Some labor and timber-related industry group leaders indicated that they want the Forest Summit limited to the west-side, and some environmental leaders indicated that they want the Forest Summit to address both east-side and west-side forests. Federal elected officials are looking to Speaker Foley to provide his views on this issue.

A few environmental and timber-related industry respondents said that the Forest Summit should address national forestry issues. These respondents indicate that problems similar to those in the Pacific Northwest and northern California exist in other parts of the nation and suggested they all be solved during the same Forest Summit session(s).

Some local elected officials wanted the Forest Summit to address forestry issues from a global context.

Public v. Private Land Base - Federal forest management is technically the most pressing problem. However, the manner in which federal forests are managed has a significant impact on private forest lands and their owners.

Within all groups there was a split between those who want the Forest Summit to deal with issues related to public land management only, and those who want the Forest Summit to deal with both public and private land issues. More labor respondents wanted to deal just with public lands. More environmental, timber-related industry, and local and national elected official respondents thought public and private lands should be addressed by the Forest Summit. State elected officials were split on their views.

Owls v. Associated Species - The existing timber harvest injunctions have been put in place to force federal agencies to manage for the northern spotted owl. Yet, there are a number of other species -- most notably salmon -- whose existence is tied to the management of old growth forests.

Labor, timber-related industry, and local and national elected official respondents were split between those who believe that only spotted owl issues should be addressed and those who believe that owl and associated species issues should be addressed. Environmentalists, state elected officials, academics, tribes, and non-timber-related industry representatives believe the Forest Summit should address owl and associated species management issues.

Exports - Nearly a third of the Pacific Northwest and northern California's timber harvests are exported. These exports all originate from private lands since it is against the law for logs to be exported from federal lands before domestic primary processing occurs.

There was overall support among the groups about discussing log export issues at the Forest Summit. Even the majority of timber-related industry respondents supported log export discussions. However, this masks the fact that most industry respondents were silent on this question, and that the respondents whose companies exported logs suggested that it not be discussed.

Changing Environmental Laws - The hammer in the Pacific Northwest and northern California has been forged by court decisions which found that the Reagan and Bush administrations failed to comply with the nation's environmental laws. Such court renderings have caused some to call for changes to those laws.

Labor, timber-related industry, and a few local and national elected officials would like the Forest Summit to address changes to the nation's environmental laws. Environmentalists feel strongly that there should be no discussion about changes to environmental laws.

Other Issues - In addition to these issues where process decisions must be made about how they are included in Forest Summit, there are a number of other issues that all parties either agree, or do not disagree, to address in a Forest Summit.

The majority of all group respondents agree that the Forest Summit should address community assistance and forest management. All but labor groups had respondents who supported discussions about forest management with particular emphasis on maintaining ecosystems.

Environmentalists, tribes, academics, non-timber-related industries, and local, state, and federal elected official respondents supported discussions about forest protection. To a lesser extent, labor and timber-related industries also had respondents who supported forest protection.

Labor, timber-related industry, and local, state, and federal elected official respondents feel that unemployment, worker retraining, and timber supply are particularly important issues for the Forest Summit to address.

Environmentalists, tribes, non-timber-related industries and state elected officials also want the Forest Summit to address management of forest watersheds.

Forest Summit Format

There were many different perspectives about how the Forest Summit should be set up. Clearly, many of the respondents gave a great deal of thought on how to best set up a Forest Summit. A review of the individual responses is recommended in order to pick up some excellent recommendations that cannot be learned through this numerical analysis.

A few respondents suggested that the entire Forest Summit -- from beginning to end -- be set up to develop a negotiated settlement among all interested and affected parties. A few others suggested that the Forest Summit simply mimic the Economic Summit's process.

Overall, the majority of respondents envisioned a multi-tier process whereby information would be gathered first and a decision-making process would follow. Listed below are some general views on how this multi-tier process might work.

Information Gathering - Most group respondents thought some form of hearings would be the best way to obtain people's views on regional forest management issues. A few respondents suggested that panels of invited speakers be established to gather information.

A number of environmentalists, timber-related industry respondents, non-timber-related industries, academics, and state elected officials also suggested that a "blue ribbon commission" should be established to gather information.

Decision-Making - Decision-making refers to suggestions about who should be involved in resolving regional forestry issues. This is contrasted to comments about leadership which focused on suggestions for individuals to run the entire Forest Summit effort. A few respondents felt that decisions should only be made by the White House. However, the majority of respondents all agreed that some

kind of negotiations should occur at some time during the decision-making process.

There were disagreements about who should participate in those negotiations. All groups had respondents who felt that they -- or their representatives -- should be involved in the decision-making process. Yet, the majority of respondents also felt that elected officials should be the primary decision makers.

Labor, timber-related industries, and tribes felt that the administration, Congress, and state elected officials should be involved in the decision-making.

Environmentalists, academics, and non-timber-related industries felt that the administration should be primarily involved in decision-making. Some environmentalists specifically indicated that regional Congressional delegations should not be involved in the decision-making process.

Federal elected officials were split between those who believed that representatives from the regional delegation should participate in decision-making and those who felt they should be kept away.

Role of Science

The report "Alternatives for Management of the Late Successional Forests of the Pacific Northwest," or "Gang of 4 Report," (summarized in the introduction) set a new standard for the role that science would play in public policy debates. The controversial conclusions did not make any recommendations, but outlined ten options for future forest management. The scientists found an inverse relationship between the amount of timber harvested and the long-term viability of the region's forests.

Environmentalists, academics, and local, state, and federal officials all believe that science should be involved in the Forest Summit. A number of environmentalists are particularly interested in having science used to resolve differences, and others want the Gang of 4 Report to serve as a basis for scientific input into the Forest Summit.

Few labor and timber-related industry respondents commented on the role of science. A few spokesmen adamantly opposed the use of the Gang of 4 report within the Forest Summit.

Forest Summit Products

Most groups felt -- or assumed -- that any long-term resolution to regional forestry issues would require legislation. Most timber-related industry respondents felt

that the Forest Summit should produce legislation. Academic respondents believed the Forest Summit should produce a set of policy principles. The remaining groups' respondents were split between those who felt that the Forest Summit should produce legislation and those who felt that the Forest Summit should end with the development of a set of detailed policy principles.

A few respondents in each category felt that the Forest Summit should produce a summary report that would be publicly released.

Another small group felt that the Forest Summit should produce a set of administrative actions that would solve regional forest management issues. However, many environmental and timber-related industry respondents did not think this approach was feasible or supportable.

DISCUSSION

The results outlined in the previous section show how individuals responded to each of the questions presented to them. In this section of the report, we attempt to offer some insight into the critical decisions that must be made regarding these key questions.

Areas of Agreement

There are a number of areas of agreement among respondents regarding the design of the Forest Summit. Below is a list of issues in which the majority of respondents agreed.

- The Forest Summit process should begin as soon as possible.
- Forest Summit leadership must come from the White House.
- The Forest Summit must be inclusive -- i.e., it must include all interested and affected parties if a workable solution is to be developed.
- Some component of the Forest Summit must take place in the Pacific Northwest and northern California.
- Some form of negotiated decision-making must take place, however, respondents differ on who should be involved.
- The Forest Summit should address issues related to forest management and assistance to affected workers and communities.

Key Decision Variables

From the key questions asked of all respondents come certain key decision variables that must be considered and addressed in the development of the Forest Summit. It is in dealing with the disagreement over these variables that the architects of the Forest Summit will first be able to demonstrate the kind of leadership and commitment they intend to provide in dealing with the old-growth forest/spotted owl issue.

Leadership

There was strong agreement that leadership of the Forest Summit must come from the White House. In fact, many in the forest products industry, labor, and the communities of the region are clearly looking to the President to fulfill the

commitment made during the campaign to return to the region to help resolve the old-growth forest issue. As stated by Mark Rey of the American Forest and Paper Association:

"Our strong preference would be for the President-elect to fulfill his campaign commitment by being directly involved in the proceedings."

Representatives of the forest products industry, in particular, expressed strong reservations regarding the involvement of the Vice President in the Forest Summit. As one industry official reflected, "In the Northwest, the Vice President is perceived to have an agenda." Others expressed similar concerns that perceptions of the Vice President in the region might impact negatively on the Forest Summit.

Others, however, strongly supported the notion that the Vice President lead the Forest Summit. In fact, some argued that Mr. Gore's knowledge of the issue and respect within the environmental community might serve to be advantageous in helping to broker a final solution to the issue. As stated by Chairman George Miller of the House Committee on Natural Resources, "Gore helps carry the ball across the goal line".

It is interesting to note that in the same letter in which the forest products industry expressed a preference for leadership by the President, they softened their previously hardline position in opposition to the Vice President's involvement:

"[I]t may be that the question of who leads the new administration's delegation to the Forest Summit is less important than: (1) the public perception that the person or persons have an open mind before they get to the Forest Summit; and (2) the President's personal endorsement of the outcome of the Forest Summit as an administration initiative."

Participants

Again, while there existed general agreement and a desire to ensure an inclusive process -- i.e., one that allowed all who were concerned to play a role -- respondents clearly recognized the need to limit the decision-makers in the process.

To some degree, determining who participates in the process is a function of the kind of process that is used. Generally, the environmental community has advocated a process that provides for a strong role for scientific experts and others in a fact-finding phase. They argue that, "[This approach] would demonstrate that the White House is not only interested in action, but is committed to finding the right course."

Others have sought to limit further information gathering and argued for a limited list of elected officials to make key decisions. For example, one local of the United Paperworkers International Union urged that participants be limited to

"our Northwest Congressional delegation, one representative from unions involved and affected, one representative from industry, one representative from grassroots groups, and one representative from environmental groups."

Many respondents clearly believed that the Forest Summit should, in the end, be structured to assist the administration in establishing a policy for dealing with old-growth forest issues. As stated by Jeffrey Rogers, Portland City Attorney, "The administration should listen; then lead, not follow."

Timing

Given the organization and coordination that must follow a decision on how to proceed, there is little disagreement that the Forest Summit should proceed as soon as possible. Clearly some have viewed the Forest Summit as an element to be included in the "100 days agenda". Others have stated that a Forest Summit in the spring of this year (March/April/May) would be timely.

Some respondents, particularly in the environmental community, have recommended that the Forest Summit process involve the creation of a blue ribbon commission or similar entity to gather and analyze relevant scientific and economic information. This dimension of a Forest Summit process could require additional time. The desirability of this approach was characterized by the following comments by Susan Saul, Coordinator for the Gifford Pinchot Task Force:

"The President should resist political pressure to rush forward with the Forest Summit. Since the final solution should be based on careful and thoughtful consideration of public input and sound science rather than political expediency, the President should take the time to develop a sound Forest Summit process and assemble the resources he needs to do it right before proceeding."

Probably the greatest concern regarding timing was expressed by members of the Oregon and Washington Congressional delegation. Recognizing that the eventual solution to this issue is likely to be, at best, reluctantly acceptable to the affected parties, the delegation expressed a strong desire to have the issue resolved this year. In order to do so, Members sketched out a timetable that necessitated the completion of the Forest Summit process, including the development of any legislative package that might result, by August. Should legislation be the result, Members differed on the advisability of introducing legislation before the

traditional August recess. Some cautioned that efforts to legislate a solution by former Congressmen Morrison and AuCoin were thwarted, in part, by strong public opposition to a bill that was introduced just prior to the recess without adequate opportunity for public discussion and review.

Location

As with timing, there was little disagreement that some facet of the Forest Summit process must occur in the Pacific Northwest. Only representatives of the environmental community expressed reservations that the Forest Summit occur in the region.

A related and more difficult question is where in the region the Forest Summit or elements of the Summit should convene. Portland was offered as the logical, geographic mid-point for convening a meeting. Others indicated a strong desire to bring the Forest Summit to the people and the communities affected by the old-growth issue. Also, northern Californians expressed some objections to having to go the Oregon or Washington to have their views heard.

One option presented by Kevin Lynch and Tom Imeson of PacifiCorp, was to convene three separate meetings in the region, one each in Olympia, Washington; Salem, Oregon; and Sacramento, California. If conducted over a week-long period, such a schedule would permit Forest Summit participants to hear from a broad range of individuals reflecting the unique nature of the problems faced in each State.

Public Involvement

As noted earlier, there exists a strong desire to be inclusive in the Forest Summit process. However, distinction is drawn between the information-gathering phase of a process -- which might include public hearings and/or a process similar to the Economic Summit convened in Little Rock -- and the decision-making process.

Regarding the former, environmentalists believe a public involvement process should be set up to assure that the public is not shut out. This perspective may result from their often mentioned belief that they were shut out of previous Forest Summit type efforts, most notably the Oregon state effort which led to the "Section 318" agreement. This is summarized in Appendix 8. Note, however, that a small number of environmentalists did support a limited public involvement effort.

However, more respondents, including labor and local elected officials, are more concerned about reaching a solution than making sure a public involvement

process is carried out. These interest groups stated often that this issue has already been discussed thoroughly, and that the time has come to make decisions.

The importance of public involvement in the process was best stated by Terry Supahan of the Karuk Tribe of California who stated:

"[I]n order for the Forest Summit to be successful, you will have to somehow bring all the participants toward a collective thinking on the causes of the crisis we face today.... Everyone who is interested should feel like they have had an opportunity to participate."

Scope of Issues

Perhaps one of the more complex and controversial elements of designing the Forest Summit will be deciding upon and clearly stating the objectives of the Forest Summit. This critical step is directly linked to a decision regarding the scope of the issues to be addressed.

Few respondents question that issues such as old growth protection, forest management, timber supply and community assistance need to be discussed at the Summit. However, others expressed serious reservations regarding the integrity of the Forest Summit process if it failed to deal with certain issues or included others. These concerns can be separated into issues of geographic scope and subject matter.

With regard to scope, there was clear agreement that the Forest Summit should cover, at a minimum, those national forests and BLM districts affected by the spotted owl issue. From there, disagreement begins. Forest industry representatives believe that this should be the entire scope of the topics addressed by the Forest Summit. Others argue that forest management issues affecting eastern Washington and Oregon should be included, as well as the management problems of the California Sierras. Some would extend the scope further to include Idaho and parts of Montana if the Forest Summit is to deal with issues affecting salmon in the region.

Disagreement over the subject matter to be addressed includes concern for whether or not to include salmon (and other species of old-growth-associated flora and fauna), whether to deal with private as well as public forestland management issues, and whether the subject of raw log exports should be a topic of discussion.

It is important to note that the current spotted owl management crisis has had a substantial effect on certain private forest lands. Thus, any attempt to deal solely with the spotted owl will require a discussion of private forest land management

constraints and opportunities. In addition, during discussions with Members of the Congressional delegation, it became apparent that interest existed in dealing with salmon concerns, but not in extending the debate to include Idaho, Montana, and the associated Congressional delegations. As a potential compromise, one Member suggested that the Forest Summit deal with the salmon issue to the extent that it is affected by forest management practices in Oregon, Washington, and California -- i.e., deal with watersheds, but not water flows and the larger set of issues affecting salmonids in the region.

Format

The subject of format or process, generated a tremendous diversity of views. Comments on format included a limited economic summit type approach, to a prolonged, facilitated dialogue leading to a negotiated settlement. Perhaps the most enlightening part of the comments received on this subject was the recognition by many that the Forest Summit should not be viewed as a single activity, but rather as a process. As noted by Mark Rey of the American Forest and Paper Association,

"Ideally, the Forest Summit would serve as the starting point for a legislative resolution to the forestry crisis in the owl region."

In a similar vein, Nels Johnson of the World Resources Institute described the Forest Summit process as,

"[T]he first step in forging a sustainable development strategy for the Pacific Northwest. The Forest Summit must, therefore, be seen as part of a longer term process."

In an effort to synthesize the comments received on the process or format of the Forest Summit, a number of alternative approaches are identified and described the discussions below. While these should not be viewed as the only alternatives that exist, they represent the range of the comments received.

Role of Science

The role of science has been, and remains, one of the more contentious issues in the debate over old-growth forests. This is, in part, a function of the workers' and communities' belief that determinations made by scientists -- in this case the owl biologists who have determined that the owl is threatened -- are wreaking havoc on their lives. Frustration and resentment have been directed at the owl, the Endangered Species Act, and the scientists who, under the ESA, made a biologically-based decision to recommend that the owl be listed as threatened.

However, additional angst toward scientists stems from a report commissioned in 1991 by the House Committees on Agriculture and Merchant Marine and Fisheries to identify options for managing Pacific Northwest and northern California forests. The resulting report on Old Growth/Late Successional Forest Ecosystems was met with praise by many, particularly those who had been advocating reductions in timber harvests and the protection of large blocks of remaining old growth. However, the timber industry and labor interests took the report and its authors to task.

Environmentalists continue to be strong advocates for a science-based and driven resolution to the issue and a process that places strong emphasis on scientific input. As stated by Bob Chlopak, representing the Ancient Forest Alliance,

"... [The blessing of scientific experts] would demonstrate that the White House is not only interested in action, but is committed to finding the right course."

However, the timber industry has made clear that any reference to the Gang of Four report would serve as the "litmus test" for the credibility of the Forest Summit process.

Key Members of Congress also expressed strong views on the issue of science in the Forest Summit. Chairman George Miller of the House Committee on Natural Resources commented that the Gang of Four report could not be refuted and that "nothing can be done to enhance [the Gang of Four] science." Re-opening the science issue, he commented, would "rekindle in the eyes of the carpenters that there is some other solution -- that there is some other science."

Some areas of science, in addition to the biological and ecological issues addressed to date, may warrant investigation. In particular, timber supply issues, economic and social impacts, and rural development and economic diversification are subjects of concern. A number of respondents strongly urged the use of task forces or working groups to aid in establishing the factual basis for the Forest Summit as it pertains to these issues. Others suggested that scientists serve the role of technical experts and advisors to the Forest Summit participants.

Products

By far, a legislative solution appears to be the preferred Forest Summit product among those who commented. However, others suggested that intermediate products, especially if the Forest Summit were structured to include a number of steps, would be appropriate.

For example, Peter DeFazio described a process that would result in a statement of principles following a Forest Summit meeting. This would then serve as the framework for legislation to be developed by the administration.

Some have expressed a desire to develop either an intermediate or longer-term set of administrative remedies for the old-growth issue. While some sort of intermediate, administrative steps may be warranted, few seem interested in leaving the implementation of the final outcome of the Forest Summit to the administration.

Congresswoman Elizabeth Furse best articulated the product (goal) that seemed to reflect the hope of many,

"The goal of the Forest Summit should be proposed legislation, revised administrative rules and Executive Orders, and a process for addressing forest and forest related issues in the future."

Forest Summit Alternatives

There were many different suggestions about how the Forest Summit should be set up. A general description of support or opposition to various alternatives was given in the previous section. This section attempts to provide some more detailed alternatives for formatting the Forest Summit -- along with some advantages and disadvantages to each alternative.

The alternative descriptions do not provide recommendations regarding who, what, when, and where. However, the alternatives attempt to provide some thoughts on some different ways to move forward.

Alternative 1 - Single Meeting

A very small number of people indicated an Economic Summit type meeting would provide a good model for the Forest Summit. The manner in which the Economic Summit was set up, moderated, and covered by the media was considered a success.

Under this approach, a one day meeting would be scheduled in the region. Individuals representing various interests would be invited to present their views on forest management issues and suggestions for solving problems in the region. There would be no formal Forest Summit follow-up.

A moderator who commands the respect of speakers and audiences is essential for limiting presentations and keeping order. Historically, public events -- hearings, rallies, and announcements -- have generated considerable protests from various

groups. Written comments could be solicited from those who are not invited to speak.

The objective would be to gain a basic understanding of the issue and to show people that the administration is committed to the Forest Summit.

Advantages of a Single Meeting-

- A singular event will focus public attention on the Forest Summit.
- Protests could be limited.
- Limited time commitment would be needed to fulfill the campaign pledge.
- A focused message could be delivered.

Disadvantages of a Single Meeting-

- The Economic Summit was successful because everybody agreed that the economy was in trouble, whereas, everybody disagrees about Forest Summit issues.
- There would be limited public involvement and fact resolution.
- No formal problem-solving process would be established to provide for a definitive solution.
- Without a resolution, the campaign pledge could be viewed as an empty promise.

Alternative 2 - Two Tier Process

Most people talked about a two-tier Forest Summit process that would first allow for public participation, followed by a formal decision-making process.

A two-tier process would consist of either a singular public meeting or a series of public meetings, hearings or panels. The process would, again, be used to get people's perspectives on forestry issues and problem solving. Such a meeting(s) could take place in a central location like Portland, Oregon or take place in each affected states' capitol. A series of "town meetings" could be set up to obtain a truly complete perspective of public attitudes.

The public involvement process would be followed by a decision-making process that would be announced ahead of time to demonstrate the administration's commitment to seeking a resolution. The decision-makers could be a group of private, non-profit, local, state, and/or federal elected officials, representatives, a commission, a cabinet level team, or the President himself.

The formal decision-making process could result in a set of administrative rules, policy principles, and/or legislation.

Advantages of a Two-Tier Process-

- Provides greater opportunities for public input and, therefore, greater ownership in the Forest Summit process.
- Regional forest management issues could be resolved -- at least from the administration's standpoint -- within a certain time.
- Depending on how the public involvement meetings were undertaken, the message and protests could still be controlled.

Disadvantages of a Two-Tier Process-

- While effective public involvement process could be undertaken, there would be limited scientific fact resolution opportunities.
- There is a greater likelihood that people will feel that they were heard and then ignored if final decisions do not go their way.
- Issue resolution would be a more time-consuming task for Forest Summit leadership.

Multi-Step Process

A multi-step process was supported by those who were most concerned with the social and scientific complexity of Pacific Northwest and northern California forestry issues. The objective would be to develop a process which addresses the multi-dimensional ecological, social, and political components of regional forest management problems and opportunities.

A multi-step process could be set up to receive public input and make decisions in much the same manner as was mentioned in the two-tier process. However, there would also be an attempt to include science -- ecological, social and economic -- to help resolve factual questions. Such fact resolution could be achieved by formulating scientific panels, advisory teams, or working groups. This process

could occur before, during, or after the public involvement process, and would certainly be an important part of any problem solving during the decision-making process.

Advantages of a Multi-Step Process-

- Provides the same advantages as those in the two-tier process.
- A formal fact resolution process could help differentiate between technical issues and issues of a social or political nature. This could:
 - narrow the scope of issues that would have to be resolved, and,
 - provide an agreed upon floor from which those unresolved issues could be debated.

Disadvantages of a Multi-Step Process-

- As in the two-tier process, there is a danger of the public feeling as if they were asked for their input and then ignored, and issue resolution would be a more time consuming task for Forest Summit leadership.
- Controlling messages would be more difficult since resolving scientific questions limits opportunities to move forward from both legal and public opinion perspectives.
- Fact resolution could be very time consuming.
- Agreeing on scientific facts could split interest groups apart instead of bringing them together.

Alternative 4 - Negotiated Settlement

A number of those who commented on the Forest Summit process expressed an interest in bringing affected parties together to seek a negotiated settlement to the dispute. Precedent exists for this approach in attempting to resolve natural resource issues in the region. For example, the "Timber-Fish-Wildlife Agreement", forged by representatives of the Washington State Department of Public Lands in 1989 was the product of a year-long negotiation among representatives of industry, labor, environmental, and school district representatives. A summary of this process is included in Appendix 8.

A facilitated negotiation would bring all parties together -- from beginning to end - to engage in a facilitated negotiating process designed to produce a solution to the Pacific Northwest and northern California forestry issues. The lengthiest portion of this process would be dedicated to facilitated negotiation among affected interest groups.

A number of organizations and experts around the country have expertise and experience in facilitating such negotiations. They range from groups like the Keystone Center and the Harvard Negotiation Project to individuals such as Susan Carpenter, Gail Bingham, or Orville Tice. Should a decision be made to use a facilitated process to resolve this issue, the expertise of these entities or individuals should be drawn upon.

Advantages of a Negotiated Settlement-

- Permits all interested parties to have a say in the final outcome.
- Allows for interaction among representatives of different viewpoints and development of common understanding of where "each is coming from."
- Allows participants to share ownership in the product of the negotiation.

Disadvantages of a Negotiated Settlement-

- It is difficult to limit parties participating in a negotiation. Those not permitted to participate may feel excluded and work to oppose any outcome.
- Relinquishes control over outcome of the negotiations, and thus less certainty that agreement can be reached.
- Failure to reach a negotiated settlement could be perceived as "gridlock" and a failure for the administration.
- Negotiations are very time consuming and could take over a year to complete.

Alternative 5 - Administrative Action

Some have argued that an administrative remedy be put in place to resolve the issue. They point out that the existing crisis is the result of the failure of the affected federal agencies to comply with existing environmental laws. These same advocates argue that the agencies should simply be directed to comply with the law and the requirements for lifting existing timber sale injunctions.

In fact, the Forest Service is currently working to develop a response to Judge Dwyer that would, in theory, lead to a lifting of the injunctions. In addition, a recovery plan for the spotted owl is pending at the Department of the Interior. This plan, based on a draft issued by the Lujan-appointed Spotted Owl Recovery Team, has been characterized as a means for addressing the needs of the owl and, to a more limited degree, the requirements for other old-growth-associated species.

Although an administrative remedy is proposed in lieu of legislation by some, others have suggested that an interim administrative remedy be a part of any Forest Summit process. The objective would be to provide short-term, interim relief to those in need of timber in the region while the larger and longer-term issues are addressed as a part of the "Forest Summit process".

Advantages of an Administrative Remedy-

- Actions taken within existing legislative authority by the administration limit the need to "negotiate" with affected Congressional committees.
- Administrative remedies can be implemented more quickly than those requiring legislation, thus expediting forest protection and relief to affected workers and communities.
- Implementation of administrative remedies can demonstrate the leadership of the administration and its capability to make government agencies "work together."
- If implemented as an interim solution, administrative action can demonstrate the desire of all parties to work toward a longer-term resolution.

Disadvantages of an Administrative Remedy-

- The alternative administrative remedies that exist without lifting the existing injunctions are limited and are not likely to provide a significant amount of timber relief.
- Parties who oppose the remedies may simply go to the courts to challenge the actions, thus further polarizing the issue. Strong distrust of the administering agencies exists, thus increasing the likelihood of challenges to any attempt to take administrative action.
- To limit the likelihood of challenge, negotiations would likely be needed simply to implement these interim measures.

-- A legislative remedy provides more "finality" to the issue. Many respondents appear to feel that legislation is necessary to "get the issue behind them."

Alternative Six - Combination of Alternatives

There are, of course, a wide range of combinations of the above alternatives that might be constructed to implement the Forest Summit process. A number of the respondents did, in fact, sketch out complete processes that included various measures to gather information, facilitate dialogue, coordinate administrative decisions-making, and promote legislative action.

Common elements included processes to;

- (1) gather legal, scientific, and technical information;
- (2) provide for testimony or input from the public and affected interest groups;
- (3) facilitate a decision, either by involving interest groups, Members of Congress, elected state officials, and/or Cabinet and subcabinet officials;
- (4) generate a product -- either a statement of principles, legislation, administration action, or some combination.

TAB 1 —

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A Chronology of Key Actions Associated with the
Northern Spotted Owl, Old-Growth Forest Issue¹

<u>March 1984</u>	The Forest Service adopts guidelines for managing northern spotted owl habitat on national forests in Washington and Oregon. The guidelines were developed to fulfill the biodiversity requirements of the 1974 Act.
<u>June 1985</u>	An administrative appeal of the Forest Service spotted owl management guidelines and accompanying EIS is upheld by the Department of Agriculture, based on the guidelines' failure to meet with biodiversity requirements of the 1974 Act and with the NEPA mandate to disclose the environmental impact of logging on the owl.
<u>Jan. 1987</u>	Initial petition filed for listing the northern spotted owl under the ESA.
<u>July 1987</u>	FWS initiates a Status Review of the spotted owl and requests public comment.
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Dec. 1991 In a letter to BLM's Oregon State Director, and in testimony prepared for the fact-finding hearing, the Environmental Protection Agency declares that the BLM has not complied with NEPA in preparing its timber sale program.

January 1992 Three BLM witnesses in the Endangered Species Committee fact-finding hearing state that BLM is still implementing the Jamison Strategy in spite of Judge Jones' September 1991 injunction against doing so.

January 1991 Judge Frye temporarily bars BLM from selling any timber in owl habitat because it has not prepared an environmental impact statement analyzing the impacts of its timber program on spotted owls and their habitat.

February 1992 Judge Frye continues the ban on BLM timber sales in owl habitat by issuing a preliminary injunction.

February 1992 In response to the draft Recovery Plan required under the ESA, Interior Secretary Lujan appoints a new work group to develop another set of "spotted owl management options."

March 1992 The Ninth Circuit upholds Judge Jones' September 1991 ruling that "without a doubt" the BLM violated the ESA by refusing to consult with FWS on the Jamison Strategy. The court also enjoins any future BLM timber sales until the Bureau consults with FWS on the individual sales, on the Jamison Strategy, and on any other owl

conservation plan, including the existing timber management plans.

March 1992

Agriculture Secretary Edward Madigan proposes to eliminate administrative appeals of all proposed Forest Service timber sales, oil and gas leases, and other forest management decisions.

March 1992

The USDA signs a Record of Decision (ROD), as ordered by Judge Dwyer in May 1991. The ROD is intended to comply with the National Forest Management Act to maintain viability of spotted owls and other old growth dependent species.

March 1992

Judge Dwyer closes the first phase of the Robertson case.

March 1992

A new lawsuit is filed in federal district court in Washington challenging the Record of Decision issued by the Forest Service on grounds that the agency failed to comply with the 1974 Act and NEPA (Robertson II).

May 1992

The House Agriculture Subcommittee on Forests, Family Farms, and Energy reports H.R. 4899 to the full Committee. Its version of the bill provides for a level of protection for old-growth forests of the Pacific Northwest approximately equivalent to alternative 8, management option A of the old-growth report.

May 1992

The House Interior Subcommittee on National Parks and Public Lands reports H.R. 4899, but with a significantly higher level of protection, which approximates alternative 12, management option C of the Scientific Panel.

May 1992

The Senate Environment and Public Works Subcommittee holds a public hearing on the ESA and spotted owl.

May 1992

The Endangered Species Committee grants an exemption for 13 of the 44 BLM timber sales at issue on the condition that the BLM abide by the spotted owl recovery plan until it adopts its new 10-year owl forest management plans. Despite the exemption, the 13 sales cannot be sold until BLM complies with the requirements of certain court orders.

May 1992

The Department of Interior releases its draft recovery plan for the northern spotted owl as required by the ESA. Simultaneously, Secretary Lujan releases a "preservation" plan for the owl

which would require enactment by Congress before it could take effect.

May 1992

Judge Dwyer rules in Robertson II that the FS violated NEPA. The next day Judge Dwyer issues a preliminary injunction against new Forest Service timber sales in spotted owl forests.

June 1992

U.S. District Court Judge Norma Holloway upholds FWS guidelines to protect the spotted owl.

June 1992

Judge Frye rules in Portland Audubon Society that BLM violated NEPA by refusing to update its forest management plans to reflect the impact of logging on the owl and its habitat. A permanent injunction is issued that halts all new BLM timber sales in owl habitat in Oregon until the agency updates its plans.

June 1992

Ten environmental groups file a lawsuit seeking to overturn the Endangered Species Committee's decision to exempt 13 timber sales in Oregon.

June 1992

The House Agriculture Committee reports an amended version of H.R. 4899, with a level of protection approximately equivalent to Alternative 8A of the Scientific Panel report.

June 1992

Regional officials of the FWS recommend listing the marbled murrelet, a seabird that nests in coastal old growth forests, as threatened under the ESA in Washington, Oregon, and northern California. The FWS had formally proposed listing it as threatened in June 1991.

July 1992

Judge Dwyer issues a permanent injunction in Robertson II barring any new Forest Service timber sales in owl habitat in Regions 5 and 6 until revised standards and guidelines complying with NEPA and the 1974 Act are in effect.

July 1992

Interior Secretary Lujan announces that the decision whether to protect the marbled murrelet under the ESA will be postponed until December 1992.

July 1992

Environmental groups ask the Ninth Circuit to allow an inquiry into press reports that senior White House officials improperly attempted to influence the outcome of the Endangered Species Committee's vote to exempt BLM timber sales from the ESA.

August 1992

Judge Dwyer rejects a Forest Service request to

lift the injunction barring logging of spotted owl habitat and orders it to complete a new plan by August 10, 1993 and to provide the court with quarterly compliance reports.

Sept. 1992

U.S. District Judge Barbara Rothstein rules that the Interior Department's refusal to meet its deadline for listing the marbled murrelet under the ESA was "arbitrary and capricious" because "it lacks any rational basis."

Sept. 1992

Judge Rothstein issues a temporary restraining order barring logging in murrelet habitat on the grounds that there is a "strong likelihood" that the Forest Service's land management plans do not comply with the 1974 Act's requirement to protect the murrelet and its habitat.

Sept. 1992

The Ninth Circuit briefly extends Judge Rothstein's deadline for the FWS to decide whether to list the marbled murrelet under the ESA. The government is given an additional four days to provide the court with any evidence supporting its contention that further delaying the listing decision is warranted and will not harm the murrelet.

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The Ninth Circuit upholds Judge Rothstein's order directing the FWS to make a decision whether or not to list the marbled murrelet.

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A Chronology of Key Actions Associated with the
Northern Spotted Owl, Old-Growth Forest Issue¹

<u>March 1984</u>	The Forest Service adopts guidelines for managing northern spotted owl habitat on national forests in Washington and Oregon. The guidelines were developed to fulfill the biodiversity requirements of the 1974 Act.
<u>June 1985</u>	An administrative appeal of the Forest Service spotted owl management guidelines and accompanying EIS is upheld by the Department of Agriculture, based on the guidelines' failure to meet with biodiversity requirements of the 1974 Act and with the NEPA mandate to disclose the environmental impact of logging on the owl.
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- June 1992 Judge Frye rules in Portland Audubon Society that BLM violated NEPA by refusing to update its forest management plans to reflect the impact of logging on the owl and its habitat. A permanent injunction is issued that halts all new BLM timber sales in owl habitat in Oregon until the agency updates its plans.
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- July 1992 Judge Dwyer issues a permanent injunction in Robertson II barring any new Forest Service timber sales in owl habitat in Regions 5 and 6 until revised standards and guidelines complying with NEPA and the 1974 Act are in effect.
- July 1992 Interior Secretary Lujan announces that the decision whether to protect the marbled murrelet under the ESA will be postponed until December 1992.
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A Chronology of Key Actions Associated with the
Northern Spotted Owl, Old-Growth Forest Issue¹

<u>March 1984</u>	The Forest Service adopts guidelines for managing northern spotted owl habitat on national forests in Washington and Oregon. The guidelines were developed to fulfill the biodiversity requirements of the 1974 Act.
<u>June 1985</u>	An administrative appeal of the Forest Service spotted owl management guidelines and accompanying EIS is upheld by the Department of Agriculture, based on the guidelines' failure to meet with biodiversity requirements of the 1974 Act and with the NEPA mandate to disclose the environmental impact of logging on the owl.
<u>Jan. 1987</u>	Initial petition filed for listing the northern spotted owl under the ESA.
<u>July 1987</u>	FWS initiates a Status Review of the spotted owl and requests public comment.
<u>Oct. 1987</u>	Lawsuit filed in District Court in Portland, Oregon alleging the BLM's practices in Oregon and California violate NEPA, the O&C Act, FLPMA, and the Migratory Bird Treaty Act (MBTA). (<u>Portland Audubon Society v. Hodel</u>).
<u>Dec. 1987</u>	FWS announces results of its Status Review; listing the owl as endangered is not warranted at this time.
<u>Dec. 1987</u>	Congress enacts Section 314 of the FY 1988 Interior Appropriations Act to prohibit judicial review of BLM timber plans that do not incorporate new information.
<u>April 1988</u>	U.S. District Court Judge Helen Frye dismisses the Portland Audubon Society lawsuit on the grounds that it constitutes a "new information" claim of the type Section 314 prohibits.
<u>May 1988</u>	The U.S. Court of Appeals for the Ninth Circuit issues a temporary injunction against BLM sales of timber that is more than 200 years old pending the

¹ Adapted from testimony presented to the Subcommittee on Forests, Family Farms, and Energy, March, 1992, and subsequently updated on September 28, 1992.

outcome of an appeal of Judge Frye's April, 1988 ruling.

May 1988

25 environmental groups file suit in federal court alleging that the Department of the Interior's decision not to list the spotted owl violates the ESA. (Northern Spotted Owl v. Hodel).

Sept. 1988

Congress reenacts Section 314 without change in the FY 1989 Interior Appropriations Act.

Nov. 1988

U.S. District Judge Thomas Zilly rules in Northern Spotted Owl v. Hodel that the FWS listing decision is contrary to law. The Court gives FWS until May 1, 1989 to reconsider its decision.

Dec. 1988

The Forest Service issues its new Record of Decision (ROD) with standards and guidelines for managing spotted owl habitat on national forests in Washington and Oregon. The plan embraces a Spotted Owl Habitat Area (SOHA) approach.

Dec. 1988

Both the timber industry and the environmental groups file administrative appeals of the new Forest Service owl management plan. The timber industry claims that it overly restricts logging on the national forests. The environmental groups maintain that the plan violates NEPA and the 1974 Act.

Jan. 1989

The Secretary of Agriculture rejects both the timber industry's and environmental groups's administrative appeals of the December, 1988 owl management plan.

Jan. 1989

The U.S. Court of Appeals for the Ninth Circuit reverses Judge Frye's April, 1988 ruling in Portland Audubon Society and sends it back to her for further proceedings.

Feb. 1989

The General Accounting Office (GAO) issues a report criticizing the FWS for its handling of the owl listing petitions.

Feb. 1989

Judge Frye issues a temporary restraining order stopping six BLM timber sales in owl habitat.

Feb. 1989

Two lawsuits are filed in U.S. District Court--one by the timber industry and one by environmental groups--against the Forest Service's December 1988 owl management plan. Seattle Audubon Society v. Robertson and Washington Contract Loggers Assn. v. Robertson (collectively, Robertson).

March 1989 U.S. District Judge William Dwyer issues a preliminary injunction against the Forest Service because its owl management plan (the SOHA strategy) likely violates the 1974 Act and NEPA.

April 1989 FWS announces that it will propose listing the owl as threatened throughout its range.

May 1989 Judge Frye issues her ruling on the merits in the Portland Audubon Society case; BLM violated NEPA by failing to consider new, significant information about the possible extinction of the spotted owl. However, since Section 314 prohibits claims based on "new information" Judge Frye refuses to enter a judgment against BLM.

Judge Frye also rules that the non-NEPA claims (under the O&C Act, FLPMA, and MBTA) are barred because they are untimely.

June 1989 The Ninth Circuit allows five BLM timber sales to proceed but temporarily enjoins further sales within 2.1 miles of an owl nest site until the court has an opportunity to hear an appeal of Judge Frye's May, 1989 ruling in the Portland Audubon Society case.

June 1989 The FWS proposes to list the owl as threatened in accordance with its April announcement. It does not propose critical habitat stating that such habitat is "non-determinable."

Aug. 1989 The Forest Service asks Judge Dwyer (in the Robertson case) to modify the preliminary injunction and to allow 11 timber sales in owl habitat to proceed.

Sept. 1989 The Ninth Circuit affirms Judge Frye's ruling in Portland Audubon Society that Section 314 does, in fact strip the courts of the ability to hear any NEPA challenge to the BLM's timber sale program. However, it reverses Judge Frye's ruling regarding non-NEPA claims, dissolves the temporary injunction pending appeal, and sends the case back to her for further proceedings.

Sept. 1989 Judge Dwyer denies the Forest Service's August request to sell the 11 spotted owl habitat timber sales.

Oct. 1989 Congress adopts Section 318 of the FY 1990 Interior Appropriations Act, which attempts, among other things, to insulate Forest Service and BLM

timber sales from judicial review. The Forest Service is ordered to revise its owl protection plan by September 30, 1990. Section 312 of the Interior Appropriations Act contains the same language that was in Section 314 of the FY 1988 and 1989 Acts.

- Oct. 1989 The Forest Service and BLM ask Judges Dwyer and Frye respectively to dismiss the Robertson and Portland Audubon Society cases on the grounds that section 318 of the FY 1990 Interior Appropriations Act effectively suspends the 1974 Act, NEPA, and other laws that were at issue in the two cases.
- Nov. 1989 In response to this request, Judge Dwyer vacates the preliminary injunction in the Robertson case, but retains jurisdiction.
- Dec. 1989 Judge Frye also dismisses the Portland Audubon Society suit.
- Feb. 1990 The Ninth Circuit rules that even challenges to individual timber sales are barred by Section 312.
- April 1990 An Interagency Scientific Committee (ISC), known popularly as the Thomas Committee, releases its report and recommendations for conserving the spotted owl.
- June 1990 FWS formally lists the owl as threatened. The agency refuses, however, to simultaneously designate "critical habitat" for the owl.
- June 1990 The Administration announces it is convening a new interagency panel (the "Yeutter Task Force") to develop an alternative to the ISC report.
- Aug. 1990 Environmental groups ask Judge Zilly to order FWS to designate critical habitat, as mandated by the ESA for the northern spotted owl.
- Sept. 1990 The U.S. Court of Appeals for the Ninth Circuit rules that Section 318(b)(6)(A) of the FY 1990 Interior Appropriations Act is unconstitutional because it impermissibly interferes in ongoing litigation by telling the courts how to rule in two specific cases involving Forest Service and BLM management of the spotted owl.
- Sept. 1990 The "Yeutter Task Force" that was created in June releases its "response" to the owl's listing under ESA. Consisting of a two and a half page press release, it requests that Congress exempt the Forest Service and BLM from having to comply with

forest management laws.

- Sept. 1990 The BLM announces a two-year spotted owl plan, the "Jamison Strategy", which allows higher logging levels that would be permitted by the ISC.
- Sept. 1990 The Forest Service attempts to comply with Congress's Section 318 directive by vacating its old guidelines for managing owl habitat and announcing its intent to "conduct timber management activities in a manner not inconsistent" with the ISC report.
- October 1990 Three national forest timber sales are enjoined for failing to comply with the minimum fragmentation of old growth requirements of Section 318.
- October 1990 Judge Dwyer is asked by conservation groups to order the Forest Service to formally adopt an owl management plan rather than simply stating an intention to follow the ISC guidelines.
- October 1990 Senator Packwood attempts to attach a rider to the FY 91 Interior Appropriations Act on the Senate floor to effectuate an immediate convening of the Endangered Species Committee. The proposal is defeated.
- Dec. 1990 The Department of the Interior proposes to convene a special team to develop a recovery plan for the owl.
- Dec. 1990 Judge Dwyer halts 12 Forest Service timber sales offered in late FY 1990 until the agency can show compliance with applicable environmental laws.
- Feb. 1991 The The Department of the Interior announces its spotted owl recovery team.
- Feb. 1991 Judge Zilly rules that the FWS abused its discretion, acted arbitrarily and capriciously, and violated the ESA, when it refused to designate critical habitat concurrent with its listing of the owl as threatened. FWS is put on a timetable for complying.
- March 1991 Judge Dwyer rules that the Forest Service acted arbitrarily and capriciously and violated the 1974 Act when it promised to act "not inconsistent" with the ISC plan.
- April 1991 U.S. Department of Justice asks the Supreme Court to review the Ninth Circuit's ruling that a key

provision of Section 318 that limited judicial review is unconstitutional.

April 1991

A lawsuit is filed in U.S. District Court in Eugene, Oregon challenging the BLM's failure to consult with the FWS regarding the spotted owl impacts of its two-year timber sale plan, called the "Jamison Strategy," as required by the Endangered Species Act, Lane County Audubon Society v. Jamison (Lane County)

May 1991

U.S. House of Representatives Committee on Agriculture and Committee on Merchant Marine and Fisheries requests assistance of scientific panel to identify alternative strategies for protection of old growth forest ecosystems and the northern spotted owl.

May 1991

FWS proposes critical habitat designations. Two public comment and agency review periods will be provided prior to a final critical habitat designation, 17 months after the ESA deadline.

May 1991

Judge Dwyer rules that:

"...a deliberate and systematic refusal by the Forest Service and the FWS to comply with the laws protecting wildlife...[demonstrates] a remarkable series of violations of the environmental laws."

As a result, Judge Dwyer issues an injunction temporarily barring timber sales in owl habitat on 17 national forests in Washington, Oregon, and northern California until the agency adopts a legal plan for protecting the owl. The Judge orders the agency to implement the new plan by March 5, 1992.

June 1991

The Supreme Court agrees to review the Ninth Circuit's ruling that a key provision of Section 318 is unconstitutional.

July 1991

Judge Frye rules in Portland Audubon Society that Section 312 of the FY 1990 Interior Appropriations Act remains in effect, despite the fact that it was part of an annual spending bill and had not been reenacted by Congress for FY 1991. As a result, she finds that the Society is barred from raising a "new information" claim against BLM under NEPA.

August 1991

The FWS issues its second draft critical habitat proposal, which eliminates some 3 million acres of

mostly private lands that had been included in the May version.

- Sept. 1991 U.S. District Judge Robert Jones rules in Lane County that the BLM violated the ESA by failing to consult with FWS on the Jamison Strategy. The BLM is barred from implementing the Strategy until it consults with FWS regarding its impact on the spotted owl.
- Sept. 1991 On the same day, BLM asks Interior Secretary Lujan to convene the Endangered Species Committee in order to exempt 44 timber sales in western Oregon from the requirements of the ESA.
- Sept. 1991 Interior Secretary Lujan accepts the BLM's application and convenes the Endangered Species Committee.
- Sept. 1991 The Forest Service releases its draft EIS and owl management plan as required by the 1974 Act and NEPA, and as ordered by Judge Dwyer in May 1991.
- Oct. 1991 Scientific Panel on Late-Successional Forest Ecosystems briefs Congressional Committees on final report, entitled "Alternatives for Management of Late-Successional Forests of the Pacific Northwest" (old-growth report).
- Nov. 1991 Interior Secretary Lujan appoints Administrative Law Judge Harvey C. Sweitzer to preside over a fact-finding hearing regarding the BLM's application to exempt 44 timber sales from the ESA.
- Dec. 1991 The Supreme Court hears oral argument in the Government's appeal of the Ninth Circuit's ruling that a key provision of Section 318 violates the separation of powers doctrine of the U.S. Constitution.
- Dec. 1991 The FWS asks ALJ Sweitzer to terminate the exemption proceeding because the BLM did not carry out the statutory prerequisites of consulting on the Jamison Strategy and consulting "in good faith" on the 44 timber sales for which it seeks an exemption.
- Dec. 1991 ALJ Sweitzer issues an order preventing FWS or others from presenting evidence regarding BLM's failure to consult on the Jamison Strategy because such evidence is "irrelevant" to the Endangered Species Committee decision.

Dec. 1991 Judge Zilly denies the FWS request to further delay designating critical habitat for the spotted owl.

Dec. 1991 The Ninth Circuit upholds Judge Dwyer's May 1991 ruling and injunction in the Robertson case:

"[The Forest Service's] systematic refusal to follow the law in the past, as chronicled by the district court, is not an excuse for avoiding the concurrent requirements of the 1974 Act and ESA in the future."

The Ninth Circuit also reverses Judge Frye's July 1991 ruling in Portland Audubon Society that Section 314 is still in effect. The court sends the case back to Judge Frye to consider whether BLM has complied with NEPA in preparing its timber sale program.

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