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* Editorials

Adams, Senate turn back on jobs

The U.S. Dream Team basketball squad only looks invincible. It hasn't had to play the Northern Spotted Owl.

Once again people, jobs and reason have been bested by the owl and those environmentalists who refuse to consider any compromise when dealing with our national forests. The latest injustice involves a reasoned proposal in the U.S. Senate to allow harvesting of dead and dying timber — called blowdowns — in Washington, Oregon and Northern California.

Mind you, we're not talking about indiscriminate axe-swinging or any clear-cutting of our old-growth forests.

We're not even talking of any significant damage to the owl's habitat. Instead, the measure,

backed by Northwest Republicans, including Sen. Slade Gorton, would provide a way for timber companies to clean out 150 million board feet of timber for wood-starved mills in the region.

Instead, the Senate, through a 60-35 vote that included the "no" vote of Sen. Brock Adams, turned its backs on hundreds of jobs that would be created by allowing the harvest. As Gorton rightly observed, "we're talking about the survival of people and communities."

In urging rejection, Adams called the proposal "a slash-and-grab" job that could harm the ecological health of the Northwest's old-growth forests. "Slash" might be the operable word. By leaving the dead timber on the ground, the Senate has in fact set the stage for potentially devastating forest fires in this tinder-dry year. One wonders how the owls will benefit from the conflagration when it comes.

Once again
people, jobs and
reason have
been bested by
the owl and
environmentalists

NEWSPAPER: Journal American
DATE: Aug 31, 1992

PAGE: 821
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FOLD: ABOVE BELOW

NEWS

United Brotherhood
of Carpenters and
Joiners of America

Western Council of
Industrial Workers

International
Woodworkers
of America, U.S.

FOR IMMEDIATE RELEASE:

August 25, 1992

FOR MORE INFORMATION CONTACT:

Jeff Joseph 202-452-9431
Robin Shapiro 503-228-0235

MEDIA ADVISORY

WHAT: Oregon labor leaders will release and discuss a letter from Democratic Presidential Nominee Bill Clinton announcing his approach to resolving the ongoing federal forest management crisis. The letter from Governor Clinton is a response to a letter sent to him earlier this summer by representatives of labor unions in the forest products industry.

WHEN: Wednesday, August 26, 1992
2:30 p.m.

WHERE: Portland Hilton
Director's Suite
921 SW Sixth Avenue
Portland, OR
503/226-1611

WHO: Irvin Fletcher, president, Oregon AFL-CIO
Mike Draper, executive secretary, Western
Council of Industrial Workers*
Wilson Hubbell, president, International
Woodworkers of America, U.S.

* via satellite.

P.O. Box 33246
Washington, D.C.
20033-0246

EMBARGOED FOR RELEASE

August 26, 1992

2:30 p.m. PST

CONTACT:

Robin Shapiro 503/228-0235

Jeff Joseph 202/452-9431

**LABOR LEADERS APPLAUD CLINTON'S SUPPORT OF INITIATIVE TO
CONVENE BI-PARTISAN PACIFIC NORTHWEST FOREST SUMMIT
TO RESOLVE TIMBER SUPPLY CRISIS****Clinton Agrees To Visit Timber Family
During Future Visit To The Pacific Northwest**

(Portland, OR) -- Oregon labor leaders today announced their support of Democratic Presidential Nominee Bill Clinton's process for solving the ongoing federal forest management crisis in the Pacific Northwest.

In a letter to labor leaders of the timber industry released today, Governor Clinton promised, if elected, to convene a Pacific Northwest Forest summit with the appropriate congressional delegations to solve the devastating timber supply crisis that has caused hundreds of mills to close and has cost thousands of timber jobs. In addition, Clinton agreed to visit with a timber family during a future trip to the region.

The summit was initially proposed in a letter sent to Governor Clinton earlier this summer from leaders of labor unions in the forest products industry representing workers in Oregon, Washington and California.

"Governor Clinton's call for a Northwest summit if he is elected deserves the full support of all affected parties," said Mike Draper, executive secretary of the Western Council of Industrial Workers. "The Governor's positive response to our proposal makes it clear that he agrees with our belief that a resolution to this crisis must originate in the region and protect people, forests and wildlife. This is a position -- and a candidate -- that forest products workers can rally around and be excited about."

"Governor Clinton has demonstrated that 'People First' is more than a campaign slogan -- it's a commitment," continued Draper. "The Governor is willing to cut through the political rhetoric and posturing that has long characterized the current gridlock."

"We have long indicated our willingness to work constructively with others so inclined to reach a solution to the crisis," Draper added. "Today, we proudly stand with Governor Clinton and his promise to take a 'constructive, hands-on role' in resolving this crisis."

-- more --

The letter from Governor Clinton was released at a news conference held today by Oregon AFL-CIO President Irv Fletcher; International Woodworkers of America, U.S. President Wilson Hubbell; and Draper.

"In our timber communities," noted President Fletcher, "we need a president who is worried about our family values and our families' survival -- Bill Clinton's initiative does just that."

"This summit is a realistic approach to a balanced solution and deserves the full support of the people of the Northwest," said Fletcher. "We have confidence that Governor Clinton will be able to break the cycle of rhetoric without results that has forced working men and women in the Northwest to suffer for far too long."

Woodworkers President Hubbell echoed the positive reaction by the other labor leaders. "This is truly a strong and exciting signal from the Clinton campaign. Empty rhetoric will not work in Oregon in 1992. We need a 'solutions president.' Bill Clinton is a leader capable of providing real solutions."

Draper also applauded Governor Clinton's decision to accept the invitation to visit a timber family during one of his next campaign trips to the Northwest. "This decision exemplifies Governor Clinton's support of our theme, 'People Count, 100,' said Draper.

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BOOTH GARDNER
GOVERNOR

**Remarks by Governor Gardner
State Labor Council
26 August 1992**

I don't get angry easily. But I've spent too much time listening to Republicans during the last week and half.

I'm not angry at them for beating up on Congress, or for congratulating themselves on foreign policy, or for taking the wrong position on a woman's right to choose.

What I'm angry about is their attempts to divide the American people at a time when unity is so urgently needed. Their vicious attacks on Hillary Clinton are dividing women in the workforce and women who stay home. Their misuse of the term "family values" divides the self-righteous from the rest of us. Their economic policies divide rich and poor, and their rhetoric divides us by race.

And then, as if that weren't enough, President Bush says that the Democratic platform is missing "three simple letters: G - O - D." I just couldn't figure out why a President would imply that Democrats are godless because we don't wear our religious convictions on our sleeves. But then it came to me -- he wanted us to know he could spell.

But this election campaign isn't about spelling. It ought to be about pulling

the American people together to confront the problems of our economy, our schools, our streets, and our health care system,

Next week, President Bush will be in our state. He's coming here to divide us again -- and this time, he intends to deepen the division between timber workers and environmentalists, and to pit the environment and the economy against each other.

He knows perfectly well that what's at issue here is the need for a balanced solution that ends the management of our forests by court injunction.

He has had four years to bring everyone to the table and craft such a solution. But neither the plight of our people nor the danger to our forests was important enough to the Bush administration to warrant real leadership. He hasn't even gotten his own people -- from the Fish and Wildlife Service, the Forest Service, and the Bureau of Land Management -- to sit down together. Each one of these Bush administration agencies has gone off in its own direction, and the result has been confusion and division even within Bush's own team.

His agencies have flaunted the law so flagrantly that our forests have been tied up in the courts for 33 out of the 48 months that this administration has been in office. And that total would have been 45 months if it hadn't been for the Dicks-AuCoin amendment that at least allowed a few timber sales for 12 months.

And while this administration has ignored its responsibilities to find a solution, they opposed aid to the very families who were being devastated by federal inaction and incompetence. Here in Washington, we believe that family values mean that we value every family -- not just our own.

We begged this administration for a stable timber supply, extended

unemployment, for job training for timber workers, and for measures that would require that all of us share the burden of protecting our forests. But the Bush administration has made the families in our timber communities pawns in a cynical political game.

They didn't even answer our letters.

For their own political reasons, they want to make this an either/or question: either we protect our forests, or we protect our jobs and families. Either we have jobs today, or we have forests tomorrow.

But this isn't an either/or question -- it's an and/and question. We need jobs today and forests for tomorrow. We need protection for our families and protection for our forests. And we could have that if we had a national leader who cared enough. We could find the balance, we could solve the problem, and we could move ahead instead of falling further and further behind.

We need to make a resolution: When President Bush comes here next week to divide us all over again, we just can't let him do it. We need to stand together, and we need to stand up to the Bush administration and just say no.

No, we will not be used. No, we will not be divided. And no, we will not let our timber families be used as pawns in this cynical game.

We do have an alternative -- and his name is Bill Clinton.

On August 4, a group of northwest labor leaders wrote him a letter asking that he spend time with a timber family, and asking him if he would call a timber summit to work out a compromise that would get our forests out from under court injunctions.

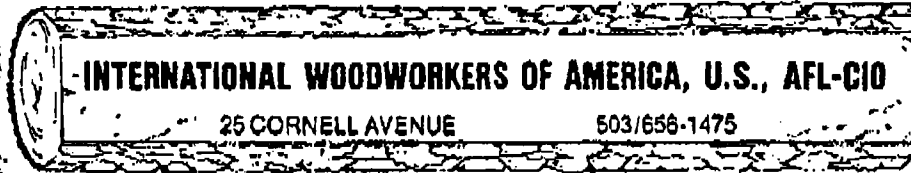
On August 25, Bill Clinton responded. He said yes -- yes he will spend time with a timber family next time he is in the Northwest, and yes, his administration would make it a priority to get everyone to the table to solve this problem. I have his letter with me, and I want to share it with representatives from the Carpenters' Union, the IWA, and the Lumber and Sawmill Workers Union.

But before I do that, I just want to conclude by driving this point home: We don't have any more time to waste. This is not 1980, and it is not morning in America. This is 1992, and this is the morning after in America.

It's time for all of us to face the reality that our country is headed in the wrong direction, and we need to change. We need a leader who brings us together, and we need citizens who are willing to take personal responsibility for making democracy work again.

And this year, we have that opportunity. It's up to us to use it or lose it.

Thank you.



GLADSTONE, OREGON 97027

STATEMENT BY WILSON HUBBELL, PRESIDENT, INTERNATIONAL WOODWORKERS OF AMERICA, U.S., REGARDING GOV. BILL CLINTON'S PLAN TO RESOLVE TIMBER SUPPLY CRISIS

August 26, 1992

FIRST, LET ME SAY ON BEHALF OF THE INTERNATIONAL WOODWORKERS OF AMERICA, U.S., THAT WE ARE VERY GRATEFUL TO GOVERNOR CLINTON FOR HIS PERSONAL INTERVENTION AND EXPRESSIONS OF SUPPORT FOR THE SUFFERING TIMBER-DEPENDENT COMMUNITIES IN THE NORTHWEST.

GOVERNOR CLINTON AGAIN HAS PROVEN HIMSELF AS A FRIEND OF THE WORKING FAMILIES OF THIS STATE, THE NORTHWEST REGION, AND THE ENTIRE COUNTRY. THAT'S WHY OUR UNION HAS ENDORSED BILL CLINTON TO BE THE NEXT PRESIDENT OF THE UNITED STATES.

WHAT WE DO HERE IN THE NORTHWEST BETTER THAN ANYWHERE ELSE IN THE COUNTRY IS PRODUCE LUMBER -- ONE OF THE MOST IMPORTANT COMPONENTS OF THE AMERICAN DREAM -- OWNING A HOME TO PROVIDE SHELTER AND COMFORT TO ONE'S FAMILY. BUT THE ONGOING SUPPLY CRISIS HAS PLACED THE LIVELIHOODS OF OUR MEMBERS AT GREAT RISK. ALREADY I HAVE SEEN THOUSANDS OF FAMILIES THROWN ONTO THE UNEMPLOYMENT LINES DUE TO THIS DEVASTATING CRISIS. WE CAN SUPPLY NO LONGER. WE NEED A SOLUTION TODAY.

WE ARE PLEASED TO LEARN THAT GOVERNOR CLINTON HAS ACCEPTED OUR INVITATION TO VISIT A TIMBER-DEPENDENT FAMILY DURING ONE OF HIS NEXT CAMPAIGN TRIPS TO THIS REGION. BY DOING SO, BILL CLINTON WILL BE ABLE TO SEE BEYOND THE COLD STATISTICS OF HIGH UNEMPLOYMENT AND UNDERFUNDED SOCIAL SERVICES IN SO MANY TIMBER COMMUNITIES.

WE TRUST THAT BILL CLINTON'S VISION OF AMERICA INCLUDES THE PEOPLE HE WILL MEET AND THE FAMILY HE WILL VISIT IN A TOWN LIKE ROSEBURG, GRANTS PASS OR MILL CITY. WE BELIEVE THAT BILL CLINTON CAN FILL A VOID IN LEADERSHIP AND RESOLVE THE FEDERAL FOREST MANAGEMENT CRISIS AS PRESIDENT OF THE UNITED STATES. AND DURING HIS NEXT VISIT AND AGAIN AS PRESIDENT, WE BELIEVE THAT HE WILL ALSO RESTORE SOMETHING ELSE TO THE TIMBER FAMILIES OF THE NORTHWEST -- HOPE FOR THE FUTURE. THANK YOU.

**WCIW EXECUTIVE SECRETARY MIKE DRAPER STATEMENT REGARDING LETTER
FROM BILL CLINTON TO LABOR LEADERS
AUGUST 26, 1992**

"FOR MORE THAN TWO YEARS, OUR MEMBERS HAVE BEEN SUFFERING FROM THE JOB LOSS, ECONOMIC DEVASTATION AND SOCIAL DISPLACEMENT THAT HAS CHARACTERIZED THE ONGOING TIMBER SUPPLY CRISIS. THIS CRISIS HAS PLACED TENS OF THOUSANDS OF WORKING MEN AND WOMEN IN OREGON, WASHINGTON AND NORTHERN CALIFORNIA ON THE UNEMPLOYMENT LINE; HAS LEFT TENS OF THOUSANDS OF FAMILIES UNSURE ABOUT THEIR FUTURE; AND HAS CREATED CHAOS IN MANY TIMBER-DEPENDENT COMMUNITIES. A SOLUTION TO THIS CRISIS IS LONG PAST DUE.

"WE HAVE LONG SAID THAT WE WILL WORK WITH ALL PARTIES INTERESTED IN DEVELOPING A COMPREHENSIVE AND BALANCED SOLUTION TO THE FEDERAL FOREST MANAGEMENT CRISIS. TODAY, WE PROUDLY STAND WITH GOVERNOR CLINTON AND HIS PROMISE TO TAKE A 'CONSTRUCTIVE, HANDS-ON ROLE' IN RESOLVING THIS CRISIS. THE GOVERNOR'S POSITIVE RESPONSE TO OUR PROPOSAL MAKES IT CLEAR THAT HE AGREES WITH OUR BELIEF THAT A RESOLUTION TO THIS CRISIS MUST ORIGINATE IN THE REGION AND PROTECT PEOPLE, FORESTS AND WILDLIFE. THIS IS A POSITION -- AND A CANDIDATE -- THAT FOREST PRODUCTS WORKERS CAN RALLY AROUND AND BE EXCITED ABOUT.

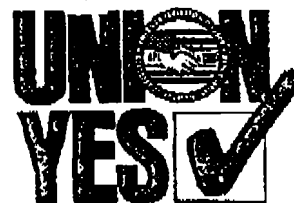
"BY AGREEING TO CONVENE A PACIFIC NORTHWEST FOREST SUMMIT -- IF ELECTED -- TO RESOLVE THE ONGOING FEDERAL FOREST MANAGEMENT CRISIS IN THE REGION, GOVERNOR CLINTON HAS DEMONSTRATED THAT 'PEOPLE FIRST' IS MORE THAN A CAMPAIGN SLOGAN, IT'S A COMMITMENT. THE GOVERNOR IS WILLING TO CUT THROUGH THE POLITICAL RHETORIC AND POSTURING THAT HAS LONG CHARACTERIZED THIS DEBATE.

"WE FULLY BELIEVE THAT GOVERNOR CLINTON, IN COOPERATION WITH THE PACIFIC NORTHWEST CONGRESSIONAL DELEGATION, CAN HELP MOVE THE CRISIS FROM THE LONG-STANDING DEADLOCK. WE RECOGNIZE THAT ACHIEVING A NEGOTIATED PACT WILL NOT BE EASY. IT WILL REQUIRE COMPROMISE ON THE PART OF ALL PARTIES, INCLUDING OURSELVES. BUT WE HAVE INDICATED OUR WILLINGNESS THROUGHOUT THE LIFE OF THIS CRISIS TO WORK TOWARDS A BALANCED, NEGOTIATED SOLUTION. WE STAND READY TO WORK WITH GOVERNOR CLINTON TO REACH THAT GOAL."



IRVIN H. FLETCHER, PRESIDENT

1900 HINES STREET S.E., SALEM, OREGON 97302



TELEPHONE: 585-6320
FROM PORTLAND DIAL 224-3160

**STATEMENT BY OREGON AFL-CIO PRESIDENT IRV FLETCHER REGARDING
GOVERNOR CLINTON'S PROPOSED SOLUTION TO THE TIMBER SUPPLY CRISIS
AUGUST 26, 1992**

"We are here today to announce our support of Governor Clinton's proposed initiative to convene, if elected, a bi-partisan Pacific Northwest Forest Summit with the appropriate congressional delegations to resolve the ongoing timber supply crisis.

"This summit is a realistic approach to a balanced solution and deserves the full support of the people of the Pacific Northwest.

By agreeing to call a summit, Governor Clinton has shown he understands ~~and supports~~ organized labor's position that a solution to the supply crisis must protect jobs, families and communities as well as forests and wildlife. Governor Clinton recognizes that structured, reasonable negotiation with the appropriate congressional delegations is the key to finding a resolution to the current legislative gridlock.

"In our timber communities, we need a commitment to family values and our families' survival -- Bill Clinton's initiative does just that. Governor Clinton knows that supporting family values means standing-up for real families with real concerns. Concerns such as those shared by the tens of thousands of forest products workers who worry about losing their jobs while they wait for a solution to the supply crisis.

"Governor Clinton understands working people in a way George Bush does not. He knows ~~that supporting workers does not mean watering~~ workers rights and family leave legislation or backing striker replacement bills. As evidenced by his proposed initiative, Governor Clinton truly wants to 'Put People First.'

"That is why the Oregon AFL-CIO, representing 125,000 workers throughout the state, has endorsed Governor Clinton's presidential bid. With Governor Clinton, we have a broker who can end the destructive cycle of rhetoric without results. The working men and women of the Northwest have been forced to suffer for far too long. We commend the kind of leadership that Bill Clinton offers."



Protecting our Ancient Forests

Excerpts from recent speeches by Governor Bill Clinton

I believe the Ancient Forests of the Pacific North West are one of our most precious natural resources and must be protected. I support the basic outlines of the Adams proposal to protect both ancient forests and lumber industry jobs. The recent controversy over destruction of the Pacific Yew, the source of the anti-cancer drug Taxol, reminded us that human life depends upon the biological diversity in intact ecosystems like old growth forests. Their protection must be one of the nation's top conservation priorities. The loss of old growth forests would mean the disappearance of irreplaceable knowledge.

We need to protect both ancient forests and families in logging communities. The Adams proposals to assist families and communities that have been adversely affected by timber shortages caused by federal actions and by exports of raw logs overseas are a good start, although the job protection provisions need more work. I would support federal efforts to expand processing and value-added manufacturing of wood products and to diversify the economies of Pacific Northwest communities dependent primarily on lumber resources.

Additionally, I think we should consider developing a new system of user fees in the national forests and earmark the revenue raised to support ecological management and economic development in the lumber communities. The destruction of these forest resources must be stopped before they lose either their wilderness or recreational value.

National Energy Policy

Excerpts from recent speeches by Governor Bill Clinton

I support an increase in corporate average fuel economy standards from the current 27.5 mpg. No single energy measure appears to present such a significant opportunity for savings, national security, balance of trade, and environment. The 45 mpg standard should be a goal of automakers and incorporated into national legislation.

But mandating higher efficiency standards is not enough. We need a national energy conservation strategy that will make use of revenue-neutral market incentives to reward consumers who conserve and make polluters and energy-wasters pay.

I support federal tax incentives for renewable resources. Tax incentives would merely level the playing field. Traditional energy sources reap many benefits from a tax structure slanted in their favor. Tax incentives would allow renewable energy to compete fairly.

We also need a new energy policy to lower the trade deficit, increase productivity, and improve the environment. We must rely less on imported oil, and more on cheap and abundant natural gas, and on research and development into renewable energy resources. We must achieve European standards of energy efficiency in factories and office buildings. That will free up billions of dollars to invest in the American economy.



SAVE AMERICA'S FORESTS

Carl Ross

Co-Director

4 Library Court SE • Washington, DC 20003
(202) 544-9219 • fax (202) 544-7462

102D CONGRESS
2D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. BOREN introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To amend the Forest and Rangeland Renewable Resources
Planning Act of 1974 to strengthen the protection of
native biodiversity and to place restraints on clearcutting
and certain other cutting practices on the forests of
the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Forest Biodiversity
5 and Clearcutting Prohibition Act of 1992".

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) The Forest Service of the Department of
2 Agriculture engages in even-age management of for-
3 ests.

4 (2) Even-age management causes a substantial
5 reduction in native biodiversity—

6 (A) by emphasizing the production of a
7 limited number of commercial species of trees
8 on each site, generally only one;

9 (B) by manipulating the vegetation toward
10 greater relative density of the commercial spe-
11 cies;

12 (C) by suppressing competing species; and

13 (D) by planting, on numerous sites, a com-
14 mercial strain that was developed to reduce the
15 relative diversity of genetic strains that pre-
16 viously occurred within the species on the same
17 sites.

18 (3) Even-age management depletes the habitat
19 of deep-forest species of animals.

20 (4) Even-age management exposes the soil to
21 direct sunlight, impact of rains, disruption of sur-
22 face, and compaction of organic layers, and disrupts
23 the run-off-restraining capabilities of roots and low-
24 lying vegetation, resulting in—

25 (A) soil erosion;

- 1 (B) leaching of nutrients;
- 2 (C) reduction in biological content of the
- 3 soil;
- 4 (D) impoverishment of the soil; and
- 5 (E) long-range deleterious effects on all
- 6 land resources, even timber production.

7 (5) Even-age management decreases the capa-
8 bility of the soil to retain carbon and, during the
9 critical periods of felling and site preparation, re-
10 duces the capacity of the biomass to process and
11 store carbon, with the result of the loss of carbon to
12 the atmosphere.

13 (6) Even-age management renders the soil in-
14 creasingly sensitive to acid deposition by—

- 15 (A) causing decline of soil wood and coarse
- 16 woody debris;
- 17 (B) reducing site capacity for the retention
- 18 of water and nutrients;
- 19 (C) increasing soil heat; and
- 20 (D) impairing the maintenance of protec-
- 21 tive carbon compounds on the soil surface.

22 (7) Even-age management results in increased
23 stream sedimentation, siltation of stream bottoms,
24 decline in water quality, and impairment of life cy-
25 cles and spawning processes of aquatic life from

1 the sports and commercial fisheries of the United
2 States.

3 (8) Even-age management lessens resistance in
4 the plant community (including the commercial tree
5 crop) to insects and diseases, under the ecological
6 principle that as the relative density of a species in
7 a given area approaches totality the population of
8 the species in that area becomes increasingly suscep-
9 tible to insects and diseases.

10 (9) Even-age management increases harmful
11 edge effects, including—

12 (A) blowdowns;

13 (B) invasions by weed species; and

14 (C) heavier losses to predators and com-
15 petitors, from raccoons and hawks to ratsnakes
16 and cowbirds.

17 (10)(A) Even-age management decreases rec-
18 reational diversity by reducing the number of deep,
19 canopied, variegated, permanent forests, where the
20 public can fulfill an expanding need for recreation.

21 (B) Even-age management replaces these for-
22 ests with clearings that grow into relatively impen-
23 etrable thickets of saplings, and then into monoto-
24 nous plantations.

1 (11) Human beings depend on native biological
2 resources, including plants, animals, and micro-orga-
3 nisms, for food, medicine, shelter, and other impor-
4 tant products, and as a source of intellectual and
5 scientific knowledge, recreation, and aesthetic pleas-
6 ure.

7 (12) Reduction in native biodiversity has seri-
8 ous consequences for human welfare as the United
9 States irretrievably loses resources for research and
10 agricultural, medicinal, and industrial development.

11 (13) Reduction of biological diversity in Federal
12 forests adversely affects the functions of ecosystems
13 and critical ecosystem processes that—

14 (A) moderate climate;

15 (B) govern nutrient cycles and soil con-
16 servation and production;

17 (C) control pests and diseases; and

18 (D) degrade wastes and pollutants.

19 (14) The harmful effects of even-age manage-
20 ment on the natural resources of the United States
21 and the quality of life of its people are substantial
22 and avoidable.

23 (15) By substituting selection management and
24 native biodiversity protection, as prescribed in this
25 Act, for the even-age system, the Federal agencies

1 engaged in even-age management prior to the date
2 of enactment of this Act—

3 (A) will substantially reduce or eliminate
4 devastation to the environment;

5 (B) will maintain vital native ecosystems in
6 Federal forests; and

7 (C) will improve the quality of life of the
8 American people.

9 (16) Selection management—

10 (A) is more job intensive and therefore
11 provides more employment than even-age man-
12 agement for the same level of timber produc-
13 tion; and

14 (B) produces higher quality sawlogs.

15 (b) PURPOSES.—The purposes of this Act are, in all
16 timberland owned or operated by the United States where
17 logging is permitted, to conserve native biodiversity and
18 to protect all native ecosystems against losses that result
19 from clearcutting and other forms of even-age manage-
20 ment.

1 SEC. 3. AMENDMENT OF FOREST AND RANGELAND RENEW-
2 ABLE RESOURCES PLANNING ACT OF 1974 RE-
3 LATING TO NATIONAL FOREST SYSTEM
4 LANDS.

5 (a) CONSERVATION OF NATIVE BIODIVERSITY.—

6 Subparagraph (B) of section 6(g)(3) of the Forest and
7 Rangeland Renewable Resources Planning Act of 1974
8 (16 U.S.C. 1604(g)(3)(B)) is amended to read as follows:

9 “(B) in each stand throughout each forest
10 managed or operated for timber purposes, pro-
11 vide for the conservation of native biodiversity,
12 except during the extraction stage of authorized
13 mineral development in such a stand and dur-
14 ing an authorized construction project in such
15 a stand, when the Secretary shall provide for
16 the conservation of native biodiversity to the ex-
17 tent practicable;”.

18 (b) RESTRICTION ON USE OF CERTAIN LOGGING
19 PRACTICES.—Section 6 of such Act (16 U.S.C. 1604) is
20 amended by adding at the end the following new sub-
21 section:

22 “(n)(1) Notwithstanding subsection (g)(3)(F), the
23 guidelines specified under subsection (g)(3)(B) shall pro-
24 hibit even-age management.

25 “(2) As used in subsection (g)(3)(B) and in this sub-
26 section:

1 “(A) The term ‘clearcutting’ means the logging
2 of the commercial timber in a stand in a short pe-
3 riod of time.

4 “(B) The term ‘conservation of native
5 biodiversity’, with respect to a stand, means the
6 management of the stand by taking actions to main-
7 tain existing native biodiversity and to restore native
8 biodiversity, including actions to protect, restore,
9 and increase (to the extent practicable) the variety
10 of species and communities of living organisms in
11 the stand in such abundance and with sufficient dis-
12 tribution to ensure the continued existence of the
13 species and communities (including the viability of
14 populations throughout the natural geographic dis-
15 tribution of the populations) and the continued nor-
16 mal functioning of the species and communities.

17 “(C) The term ‘cull tree’ means a tree that is
18 felled and left because the tree has a significant de-
19 fect resulting from insects, disease, or injury.

20 “(D) The term ‘ecosystem diversity’ means dis-
21 tinctive assemblages of species and ecological proc-
22 esses that occur in different physical settings of the
23 biosphere and distinct parts of the world.

24 “(E) The term ‘even-age management’, with re-
25 spect to commercial timber, means—

1 “(i) the management of the growing of
2 commercial timber in a stand so that the age of
3 each tree in the stand is generally within 10
4 years of the ages of all trees in the stand; and

5 “(ii) the complete logging of the stand (ex-
6 cept for designated leave trees or clumps of
7 trees) by clearcutting, salvage logging, seed-tree
8 cutting, or shelterwood cutting.

9 “(F) The term ‘genetic diversity’ means the dif-
10 ferences in genetic composition within and among
11 populations of a given species.

12 “(G) The term ‘group selection’ means a form
13 of selection management—

14 “(i) that emphasizes the periodic removal
15 of trees, including mature, undesirable, and cull
16 trees, in small groups, where they grow in small
17 groups, with the result of—

18 “(I) creating openings in a stand that
19 do not exceed in width in any direction the
20 height of the tallest tree standing within
21 10 feet of the edge of the opening; and

22 “(II) maintaining different age groups
23 in the stand; and

1 “(ii) under which in no event will more
2 than 30 percent of a stand be felled within a
3 30-year-period.

4 “(H) The term ‘native biodiversity’—

5 “(i) means the full range of variety and
6 variability within and among living organisms
7 and the ecological complexes in which the orga-
8 nisms would have occurred in the absence of
9 significant adverse effects of human activity;
10 and

11 “(ii) encompasses ecosystem diversity, spe-
12 cies diversity, and genetic diversity.

13 “(I) The term ‘salvage logging’ means the fell-
14 ing or further damaging of damaged or diseased
15 trees that, collectively, have greater basal area than
16 20 square feet per acre logged.

17 “(J) The term ‘seed-tree cutting’ means a log-
18 ging operation that leaves one or more seed trees,
19 generally 6 to 10 per acre.

20 “(K) The term ‘selection management’, with re-
21 spect to a stand, means logging and other actions
22 that—

23 “(i) are necessary to maintain—

24 “(I) continuous high forest cover;

1 “(II) recurring natural regeneration
2 of all native species in the stand; and

3 “(III) the orderly growth and develop-
4 ment of trees through a range of diameter
5 or age classes that result in a sustained
6 yield of forest products;

7 “(ii) include the use of individual-tree se-
8 lection and group selection cutting methods
9 that develop and maintain the stand;

10 “(iii) involve the continuous harvesting of
11 the trees that are least likely to contribute to
12 the long-range health of the stand; and

13 “(iv) are taken with a goal of improving
14 the quality of the stand.

15 “(L) The term ‘shelterwood cutting’ means an
16 even-age silvicultural regeneration method under
17 which—

18 “(i) a minority of the mature trees in a
19 stand, usually 10 to 20 per acre, is retained as
20 a seed source or for protection during the re-
21 generation period; and

22 “(ii) the retained trees are later removed
23 in one or more cuttings.

1 “(M) The term ‘species diversity’ means the
2 richness and variety of native species in a particular
3 location.

4 “(N) The term ‘stand’ means a forest or part
5 of a forest, not exceeding 100 acres, that has enough
6 identity by location, topography, or dominant species
7 to be managed as a unit.

8 “(O) The term ‘timber purposes’ includes the
9 use, sale, lease, or distribution of trees, or the felling
10 of trees or portions of trees other than for creating
11 land space for a structure or other use.”.

12 **SEC. 4. INAPPLICABILITY TO EXISTING CONTRACTS.**

13 The amendments made by this Act shall not apply
14 with respect to any contract to sell timber that was award-
15 ed on or before the date of enactment of this Act.



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Senate

Mr. GORE. Mr. President, emotions run high on this issue. I say that people on both sides of the issue feel some emotion about it.

I listened very carefully to all of the speeches that have been made thus far. Before addressing the substance of the Fowler assistance, which I support, and I am honored to be a cosponsor, I would like to briefly refer to the larger context here.

Around the world today we are losing 1½ acres of forest land per second. Every second, night and day, 24 hours a day 1½ acres of forest land disappears. That rate of destruction has been going on for several decades now. It is accelerating.

Basically the relationship between human civilization and the ecological system of the Earth has undergone a profound transformation, and in some countries the destruction of the forest land is actually subsidized.

I had the opportunity to accompany some of our colleagues, including my friend, the Senator from Colorado, my friend, the Senator from Pennsylvania, and others down to the Amazon rain forest to look at the destruction of the Amazon, and we were surprised to find that the Brazilian Government, at that time, was actually subsidizing the destruction of the Amazon rain forest by giving large tax subsidies to corporations that destroy the Amazon. The new President of Brazil, President Collor, has now changed that policy, and recently this spring a group of Brazilian legislators came here to Washington to participate in an Interparliamentary Conference on the Global Environment hosted by the United States Senate, and you know what they decided to do. These Brazilian legislators decided to organize a trip to America's national forest to call world attention to the practice going on here of the taxpayers spending huge sums of money to subsidize the destruction of our national forest.

I am not one who says let us stop all logging; of course not. There has to be a balance. And there is a way to harvest timber responsibly.

But, Mr. President, whatever happened to market economics? Whatever happened to the law of supply and demand? What about letting the marketplace set the price on some of the timber that is being sold, and determine whether or not we will go in and

cut a forest or not? Why do the taxpayers have to subsidize all the cutting that is going on in our national forest today? If this were simply a question of jobs and nothing else, then we would all find it very easy to reach a conclusion on this subject. But it is also an environmental question and it is also a deficit question.

Remember the deficit, Mr. President. The last I looked it was still growing fairly rapidly. At the same time we are exporting logs to Japan we are borrowing a couple hundred million dollars every day in order to finance the ongoing deficit.

When we look for places to cut the deficit, our attention is attracted to a program that uses taxpayers' dollars to subsidize the cutting of our national forests. We have now used taxpayers' dollars to build so many roads for loggers that we have built a number of roads equal to eight times the entire length of the whole Interstate Highway System nationwide into our national forests for the purpose of logging at a loss to the taxpayers.

That just does not make sense, Mr. President. We cannot afford it. It is not good environmental policy. And it is not good economic policy.

Now there has been a lot said about the transition, and that is really too antiseptic a word, the loss of jobs—let me put it that way—that is effected with a reduction in the number of trees that are cut.

Anyone who is familiar with this issue knows that that is a serious problem and the Fowler amendment attempts to address it.

Do you know what, Mr. President? That problem is going to occur when all the forest land is cut down anyway. The real question is whether that job loss occurs before the remaining 10 percent of the old growth forest is

gone or after that forest is gone. That is really the choice. This amendment is a small step in the direction of cutting down on the size of the taxpayer subsidy.

It is a small step. It is a prudent step. It saves money and it saves forest land that would otherwise be destroyed.

So I rise to join my distinguished colleague, Senator FOWLER, in supporting his amendment to reduce the U.S. Forest Service road construction program by \$100 million. This is a good, sound amendment, recognizing the need to reduce spending and the need to protect and preserve our public lands. Of the \$100 million, those of us who are cosponsoring this amendment will return \$50 million to the Treasury and \$50 million will be allocated to the underfunded conservation and historic preservation programs.

When other Interior programs are suffering from lack of funding, the Forest Service road construction has progressed at an astonishing rate. I compared the mileage a moment ago, 360,000 miles, to eight times the length of the Interstate Highway System. There are other ways to describe it. You could go around the Earth 14 times or you could go to the Moon and get halfway back. It would not make any sense to go to the Moon and come only halfway back. But this program does not make a lot of sense either. To use taxpayer funding to subsidize the cutting of the national forests is a bad idea.

A reduction of \$100 million in the forest road construction program for fiscal year 1991 will result in a decline in road building of 527 miles. On each forest, this cut would affect less than 1 percent of the existing forest road system. At a time when we are asking every American to help reduce the deficit, we should also take steps to reduce programs like this one, especially when the reduction will result in a return of \$50 million to the Treasury and sound environmental practices.

The Forest Service builds roads under two separate programs. This has been noted before, and I will not dwell on it at length. But let me refer to it again briefly.

The first program is the forest road program which is funded through this appropriations and the purchaser credit program, which allows purchasers to count the cost of constructing their own roads against the timber sale price. Approximately 85 percent of the roads are built through the purchaser credit program while only 15 are built with appropriated funds. But, the roads built with Federal money are five times as expensive as the pur-

chaser credit built roads. So, it makes sense to begin to move away from the overly expensive forest road program which has adverse economic and environmental effects.

The construction of roads on our national forests and through our national forests do pose great risks to wildlife habitats and water quality, to migration of species, and to a number of other environmental values.

But, Mr. President, it does not make good economic sense either for a lot of reasons. This amendment gives Congress an opportunity to protect much of the undeveloped forest land and to improve efforts in protecting the land for recreational purposes. The Forest Service estimates that recreation demands on our national forests will increase tremendously during the coming years. I know that many of my fellow Tennesseans are beginning to look more and more to the Cherokee Forest as a vast recreational outlet. It is time that Congress begins to prepare for this.

I will say to my colleagues from the Pacific Northwest, I understand the strong feelings they have on this, but I also want to note that there is opposition to this amendment in my own home State from those who are in the business of logging within the national forests, and we have a substantial amount of that activity going on in my State. But there is beginning to be a change in the way people think about the national forests and about the environment generally.

There used to be a way of thinking that you have an inevitable conflict between protecting the environment on the one hand or saving jobs on the other hand.

Why is it, Mr. President, that everywhere in the world today that you look, the areas with the worst environment are also the areas with the worse economies? Look at Eastern Europe, for example. Economically, they are flat on their backs, trying to figure out what they are going to do to pick themselves up. And they have probably the worse, most degraded environment of anyplace on the face of the Earth. They go hand in hand.

A lot of times a community will have a single industry or a single form of employment that provides a significant number of jobs and they devote everything toward that one practice or that one industry and then, all of a sudden, they realize that the young people are leaving after they graduate from high school and the average age in the community goes up. And they wonder why new businesses are not coming in to locate there. And they ask some of the people who are entrepreneurs creating some of these new

kinds of jobs why they do not come. They say, "Well, we do not want to locate in an area where the environment has been destroyed. We like a good quality of life. We want our children to have a bright future in an area where we can start up these small businesses and diversify and create jobs of different kinds."

Then some folks say, "No, we have to stick with exactly what we have always done. We have to hang in there until the very last shred of possibility is gone"—in this case until the very last tree is gone.

Mr. President, this amendment does not stop logging. It begins the transition, it begins the transition away from taxpayer subsidies for the cutting of our national forests.

We have always viewed our public lands as a precious natural resource. A lot of the time we have valued these lands so highly because of the high value that is in what we extract from these lands—minerals and timber. But we are now turning in a new direction. We are seeing that we can scale back some of this use of our public lands and begin to preserve these national treasures for future generations in a better way.

Under this amendment, \$22 million will be reallocated to critical U.S. Forest Service programs, including the Timber Management Research Program which benefits forests in the southeast, along with other places, the Old Growth Diversification Program, and to the Wildlife Habitat Program.

Five million dollars will go to the cost-effective historic preservation fund. And this money goes a long way. With the small increase in funds last year, the Tennessee Historical Commission was able to expand its historic preservation survey that assesses the most precious historic sites in Tennessee in need of preservation. I am sure that many States would benefit greatly from the additional dollars that would be made possible by this amendment, as the deficit is reduced.

Mr. President, forest road building also imparts the world's environment in another way. There is a great deal of carbon locked up in the forests before they are cut down. In fact, worldwide, deforestation is second only to the burning of fossil fuels as the principal source of carbon dioxide mounting in the atmosphere. In 1987, deforestation contributed to about one-third of worldwide total carbon dioxide emissions.

We are going to other countries in the world and saying, "Please respond to this crisis and stop this extremely rapid rate of deforestation." Do you know what they say? They say, "Well, how come the U.S. taxpayers are being

required to subsidize the rapid rate of deforestation in the United States? How come in some areas you are selling 500-year-old trees for the price of a cheeseburger because of taxpayer subsidies?"

How come you are behaving like a Third World colonial country, shipping logs over to Japan for chopsticks and plywood? How come you are not paying more attention to the preservation of your own environment, the preservation of your own forest land, and finding a new way to create new and better jobs?

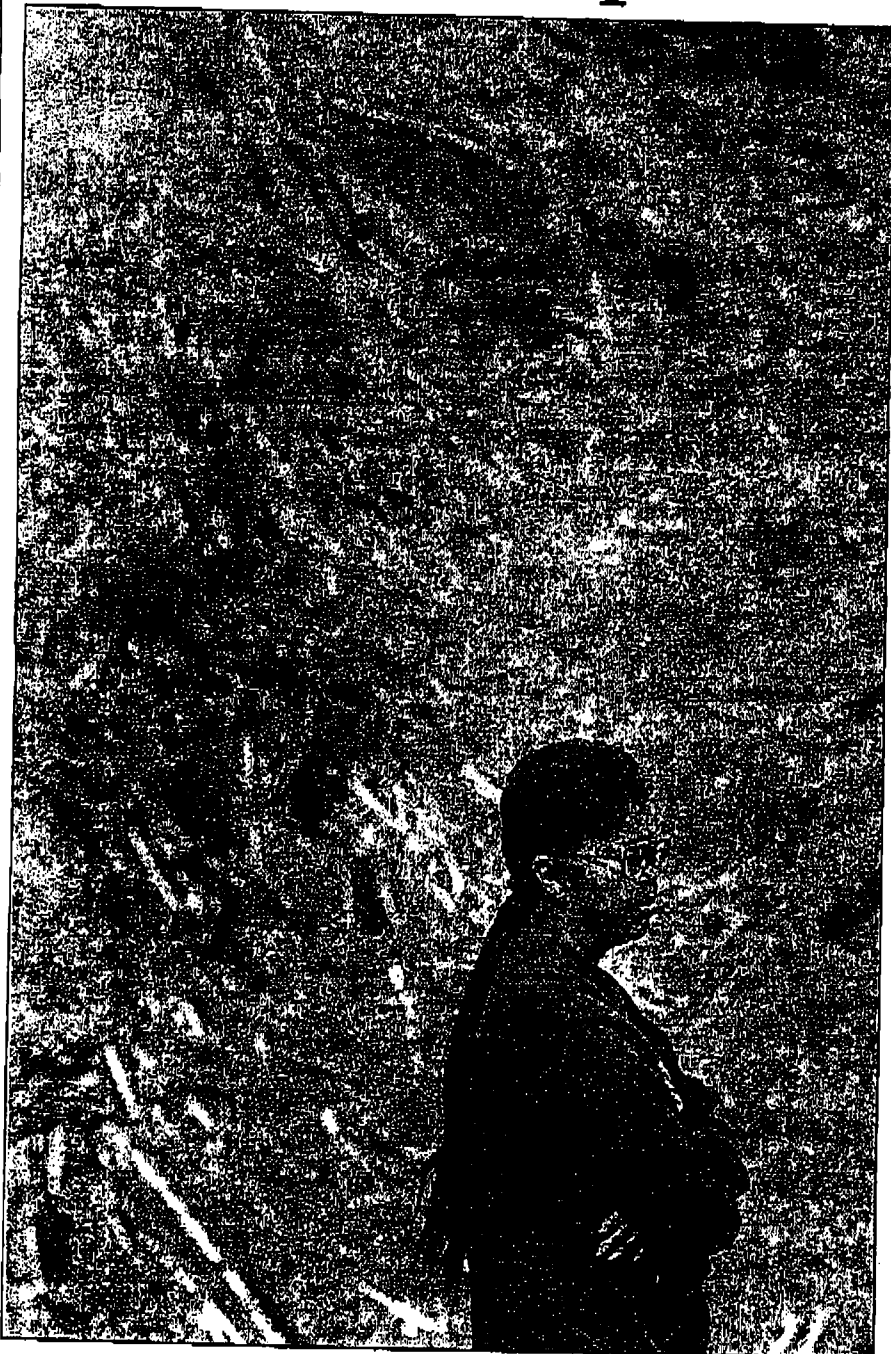
This amendment is a good start. We really ought to adopt this amendment. I think it is critical, while we encourage developing countries to slow their rate of deforestation because of its impact on the global environment, that we here in the developed world, and especially we here in the United States, stop subsidizing deforestation here in our country. We have a responsibility to get our own house in order and control our own rates of deforestation.

Moreover, if we ever expect to convince the nations of the tropics to preserve their forests, we have to come to that task with some credibility, and this Fowler amendment will help to give us that credibility as a nation. I hope we can see the United States provide the kind of leadership that is needed.

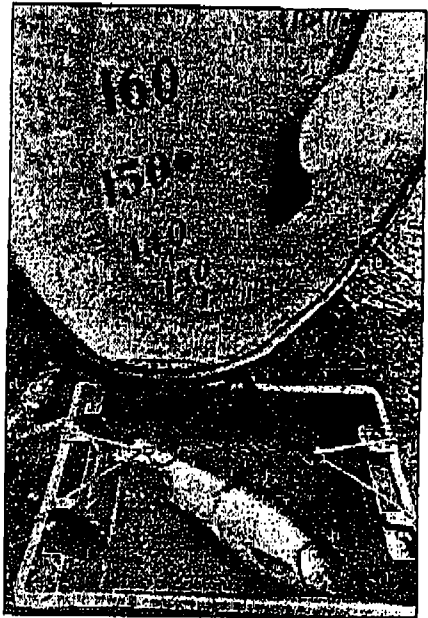
This is clearly a trend, this deforestation, an acre and a half every second; it is clearly a trend we must do everything in our power to halt. The place to begin is right here at home in our own forests, by reducing the unnecessary further logging road construction in those forests being done with taxpayer funds.

I hope my colleagues will consider this debate very carefully and I hope our colleagues will support this amendment offered by the distinguished Senator from Georgia.

Seattle Post-Intelligencer, Thursday, July 2, 1992

RIVERS AT RISK**Fish follow in spotted owl's wake**

Chairwoman Mary Lettice's Hoh Tribe has won tougher state stream protections for the Hoh Basin. PAUL JOSEPH BROWN/PH photos



A salmon is weighed on a buyer's scale at the mouth of the Hoh River on the Olympic Peninsula.

Demands for protection are loud and numerous

By Rob Taylor
P-I Reporter

HOH RIVER — Jim Hatten winced at the sight of slide-scarred clearcuts on the steep upper slopes of the Hoh River Valley. "Never, never will they harvest the landscape like it was done this time," said the Hoh Tribe fisheries biologist. "Never again."

Second of three parts

State and federal agencies are hearing the refrain more and more often these days. Tribes, environmentalists, fishermen, scientists and federal agencies are all demanding curbs on logging to protect dwindling fish runs.

They aim to further shrink timber harvests in Western Washington and Oregon, where harvests already are stunted by spotted-owl safeguards, and east into Idaho, far beyond the threatened bird's range.

Fish, in short, are replacing fowl as the agents of economic change in the Pacific Northwest.

An improbable leader of the movement is the 126-member Hoh Tribe, owner of less than a square mile at the mouth of its namesake river on the nation's northwestern corner. Armed with

See **SALMON**, Page A6

Tomorrow: Many ideas for solutions, little agreement.

Bush plans NW trip next week

He'll skip Seattle; owl is likely target

By Joel Connelly
A1 National Correspondent

President Bush will make his first 1992 campaign foray into the Pacific Northwest next week and he will court rural and blue-collar voters by taking aim at the spotted owl, sources close to the president's re-election campaign said yesterday.

Bush is planning a stop in Medford, Ore., on Monday, and is expected to stop Tuesday at a not-yet-specific location in the Spokane area.

The trip next week will almost certainly sound themes very different from 1988, when Bush used trips to Seattle to tout his promise to become the "environmental president."

By contrast, when he visits next week, the president is expected to attack Democrats' "environmental extremism" and use an appeal for jobs over owls in an effort to win the hearts of traditionally Democratic lumber workers.

"I am embargoed from telling you anything other than that he will be in the state of Washington very soon," said Rich Kuhling, a Spokane lawyer who is Bush's state chairman.

The trip will be a bold foray into a region of the country seen by many analysts as a stronghold for Democratic nominee Bill Clinton.

See B15H, Page A4

Bush: New environmental message

From Page 1

ton, Washington and Oregon were carried in 1988 by Democratic nominee Michael Dukakis.

The Bush visit is also shaping up to be the most unorthodox trip taken to the Northwest by a president in recent years.

The president's main stops will be away from Seattle and Portland.

Both cities are Democratic strongholds with legions of leather-lunged heiders. Bush was embarrassed by angry Portland longshoremen in 1988. He was confronted in Seattle by a Jesuit priest protesting U.S. policy on Central America. In 1990, demonstrators clashed outside a Portland hotel where Bush was speaking to a Republican fund-raiser.

In 1988, Bush told local business leaders he was "proud of the leadership shown by Republicans on protecting the environment" and identified himself with Theodore Roosevelt's creation of national forests and wildlife refuges 80 years before.

"Let me say right at the outset that I don't think we've been doing enough to protect our environment in recent years," Bush said four years ago. "We need to do more. The condition of our land and water and air affects the health and quality of life of each and every one of us."

In recent months, however, Republican strategists have sensed an opportunity for Bush to take out after what they call "environmental extremism."

Tensions have run high over federal judges' shutdowns of timber sales on national forests to protect the endangered spotted owl. The battle over the region's remaining old-growth forests threatens as many as 30,000 logging jobs.

Such Democratic leaders as Rep. Norm Dicks, D-Wash., say the Bush administration has offered "little or no help" in breaking a three-year impasse between preservationists and lumbermen.

"We don't need political rhetoric," said Dicks. "We need an administration that will sit down with Northwest congressional delegations and work out a credible solution."

Sens. Slade Gorton, R-Wash., and Bob Packwood, R-Ore., have urged Bush to take a jobs vs. owls approach, and come out swinging with an argument that timber workers are more important.

Eddie Mahe, a Republican consultant with clients in the Northwest, has argued that Bush should call for changes in the federal Endangered Species Act, using the unpopularity of the owl to boost his case.

"The owl is a loser in your state," Mahe recently told a Washington reporter. "The owl loses 2-to-1 in Oregon polls."

Charles Black, senior adviser to Bush's campaign, said in Houston last week that the owl offers a benefit to the Republican campaign.

Clinton has opposed weakening the Endangered Species Act. He has argued that other causes — log exports and technology upgrades — have taken thousands of jobs from forest workers.

The Democratic nominee has supported retraining programs, promoted incentives to process logs at domestic mills and called for intensive management of second-growth forests.

But environmental views of Democratic vice presidential nominee Sen. Al Gore, D-Tenn., have generated the most controversy.

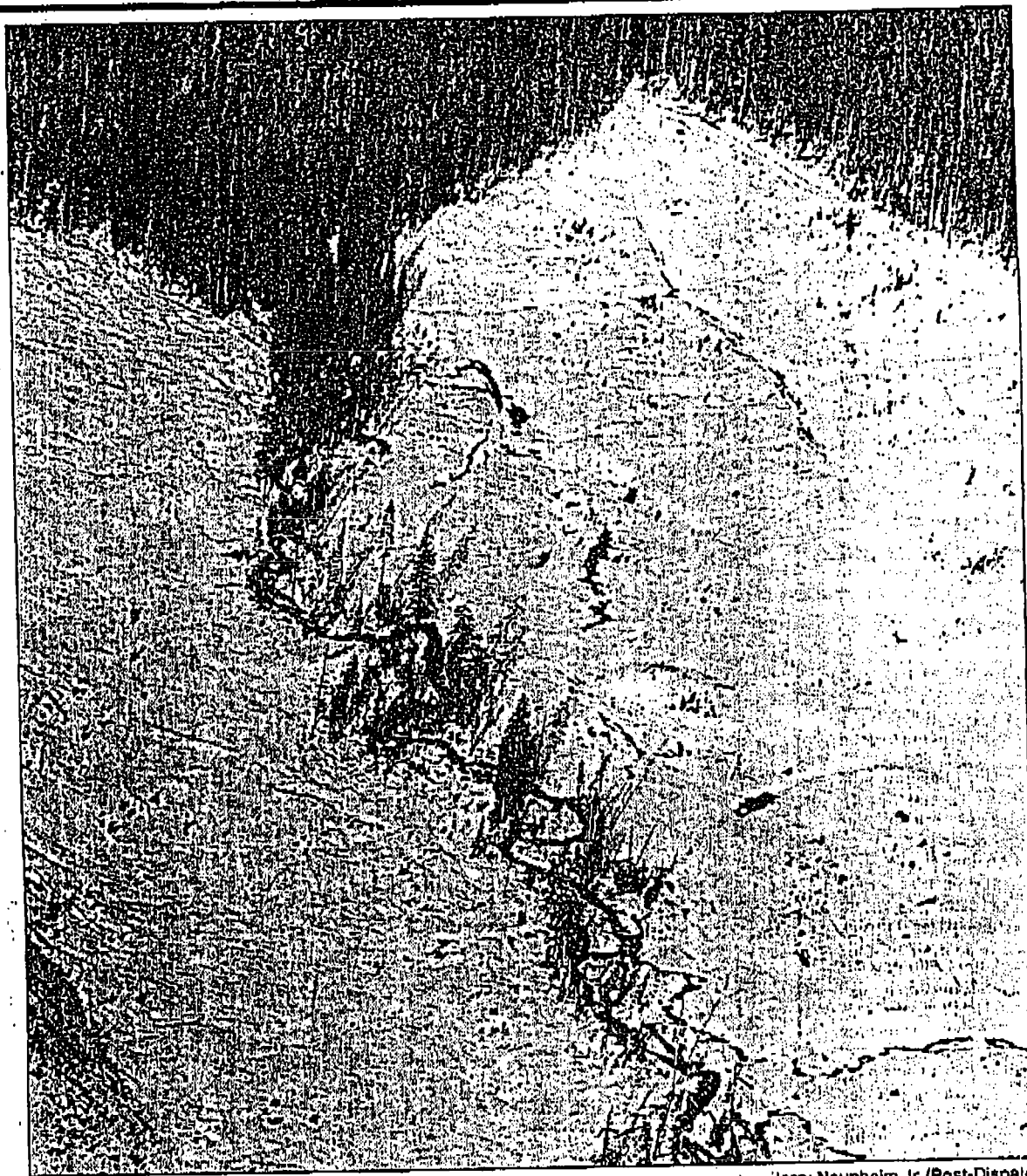
In his best-selling book, "Earth in the Balance," Gore denounces what he calls the "assault" on America's temperate rain forests. He cites the timber industry as an example that jobs cannot be preserved even if the environment is "destroyed."

"A case in point is the heated dispute between the timber industry in the Pacific Northwest and conservationists eager to protect the endangered spotted owl,"

wrote Gore. "The issue has been billed as a conflict between jobs and the environment. But if the remaining 10 percent of old-growth forest is logged out, as the timber industry prefers, the jobs will be lost anyway. The only question is whether the effort to

create new jobs will begin now or later, after the forest is completely gone."

"I think Gore's book may be the anchor that sinks the Democrats in the Northwest," said House Majority Whip Newt Gingrich.



Jerry Naunheim Jr./Post-Dispatch

A clear cut has removed the natural landscape around a stream in eastern Washington state. Scientists say such logging practices can endanger the health of streams and lead to extinction of salmon, steelhead trout and other fish.

A fish stock is akin to a species. Technically, a fish species is made up of fish from several stocks, with each stock adapted to the specific conditions of the stream it negotiates.

A Chinook salmon, for instance, will spend several years at sea before swimming upstream to the place where it was born. There, it helps spawn the next generation. A Chinook from a different stock will return to a different stream.

But if the stream has been destroyed, its particular fish stock is at risk of extinction.

The forces causing fish extinctions have been building for decades, said Sedell and Reeves. The biologists are

based at the U.S. Forest Service's Pacific Northwest Research Station, in Corvallis, Ore.

Among the forces are:

- Clear-cutting of the region's old-growth forests.
- Heavy ocean fishing.
- Dams, which provide cheap hydroelectric power to the region but decimate migrating fish.
- Irrigation, which often lowers stream levels.
- Grazing, in which cattle denude streambanks of vegetation and trample streambeds.

"Habitat [damage] is only a very

small portion of the salmon problem, said West of the forestry association. More important are overfishing in the ocean; dams; and weakening of the wild fish genetic vitality by releasing millions of hatchery fish, he said.

Hydroelectric dams along the Columbia and Snake rivers are popular seen as the salmon's worst enemy. B. Sedell, Reeves and other scientists maintain that logging poses an even greater threat — one that isn't getting the attention it deserves.

Many of the threatened fish stock swim in river systems that have no dams.

Sedell and Reeves explain it this See ECOLOGY, Page

Friday
August 28, 1992

Seattle Post-Intelligencer

The voice of the Northwest since 1863

Foley and other Demos hit Bush over owl issue

President cancels
trip to state to help
with hurricane aid

By Christopher Hanson
P4 Washington Correspondent

WASHINGTON — House Speaker Tom Foley and other Washington state Democrats yesterday accused George Bush of being partly responsible for the Northwest's spotted owl crisis.

The effort was intended as a pre-emptive shot in advance of the president's scheduled trip to Washington and Oregon next week.

But late last night, Bush canceled the Colville appearance and other campaigning early next

week "to monitor hurricane relief efforts in Florida and Louisiana," White House spokesman Marlin Fitzwater said.

The president had been scheduled to travel to Washington, Oregon and California on Monday and Colorado on Tuesday for a western campaign swing after spending the weekend in Maine, all of which was canceled.

Fitzwater said he was not sure the trips would be rescheduled. Bush campaign officials have said they plan to make a strong effort to win the Pacific Northwest.

Bush had been scheduled to campaign in Colville, a timber town 70 miles north of Spokane in Foley's district. Bush had been expected to accuse Democratic nominee Bill Clinton, his running

See BUSH, Page A8

Bush: Would campaign on logging 'balance'

From Page 1

mate Al Gore, and Democrats in Congress of favoring preservation of trees and owls over saving jobs. Bush, aides say, favors a "balanced" approach.

Republican officials say the Bush campaign plans to make jobs versus owls the major issue in the presidential race in the Northwest, and sharply disagree that Bush is at fault in the dispute.

In the letter to the president, released to reporters last night, Foley and four other Democrats in the state congressional delegation said Bush and his administration have failed to work effectively for a balanced, scientifically sound resolution in which the maximum number of jobs can be saved while also preserving old-growth ecosystem.

The letter's other signatories are Reps. Al Swift, Jolene Ursoeld, Jim McDermott and Norm Dicks, whose office drafted it.

Since the northern spotted owl was designated a threatened species in 1990, environmentalists seeking to save old-growth forests — the home of the owl — have been pitted against timber communities struggling to preserve their livelihood.

Logging has come to a virtual standstill as thousands of acres of national forest land have been tied up in lawsuits. The White House and Congress consistently have blamed each other for failing to find a solution.

Lance Henderson, executive director of the Washington state Republican party, said Bush's message in the state would be that he is on the side of jobs in timber country and that "Clinton is not on the side of the families and communities being hurt. His running mate is an environmental extremist."

Another message would be that Bush and his team have been pressing hard for a reasonable solution.

The Democrats' letter said Bush was ignoring the "human side" of the issue by resisting relief to timber communities that have been hit hard by federal court injunctions against logging. The courts say the Forest Service failed to provide enough protection for the spotted owl, in violation of the Endangered Species Act and other environmental laws.

"Administration officials have on several occasions stated that you would veto any legislative initiative on the timber crisis that includes mitigation for impacts on workers and communities. We need a targeted program of relief," the letter said.

The letter urged Bush to take immediate steps to ban all log exports from state-owned lands in Washington, freeing up more timber for local mills. At present, the Commerce Department has authorized Washington state to ban exports of up to 75 percent of logs cut on state-owned lands. If the ban were increased to 100 percent, then 100 million more board feet of timber could be sent to Northwest mills, the letter said.

It also urged the administration to undertake a new program for stepped-up harvesting of downed timber in national forests. Many environmentalists oppose that idea, saying it would harm owl habitat.

The letter implied that Bush, by delegating decision making on timber to agencies that sometimes work at cross-purposes, had failed to be a strong enough leader.

"Mr. President, what we in the Pacific Northwest need is for you to become directly involved in the process that is now taking place to develop a legislation solution that is scientifically based and thus legally defensible," the letter said.

"We believe that the best politics in this situation is, as Scoop Jackson used to say, 'no politics,' and believe that your interest and participation in this legisla-

tive effort are necessary at this time to assure its success."

Swift said if Bush doesn't heed the advice in the letter, "Don't come here and tell us you're going to help. Give us a break."

Dicks said Bush's apparent plan to make timber a partisan issue was "a serious mistake."

Before the announcement that Bush had canceled his trip, Henderson dismissed the letter as "a clear partisan shot . . . Tom Foley . . . knows George Bush is coming to his district (to address) the people Tom Foley represents. Tom Foley has not done a good job protecting jobs."

Henderson said Bush, who in his 1988 campaign vowed to be an environmental president, was in effect writing off the backing of staunch environmentalists.

"George Bush is not going to get the votes of extreme environmentalists who live in downtown Seattle. He favors a balanced approach and wants to preserve jobs," Henderson said.

Jay Vander Stoep, the top aide to Sen. Slade Gorton, R-Wash., said Bush was expected to advocate a "balanced" approach that would preserve many more timber jobs than under Democratic plans.

Vander Stoep said Congress had failed to come up with a workable timber solution. The Interior Department had sent up a comprehensive plan but "it got no hearing."

According to environmentalists and government biologists, that plan would have driven the owl into extinction through much of its range.

Rep. Rod Chandler, R-Wash., a Senate candidate, is expecting Bush to set out a stark choice between himself and Clinton on the environment and timber, according to his aide, Kraig Naaz. Bush would stand for a "balanced" approach, while Clinton-Gore want to "see the Northwest locked up in some kind of ancient tree preserve."

Friday
August 28, 1992

Seattle Post-Intelligencer

The voice of the Northwest since 1863

A warning for Bush by Gardner, clerics

By Gil Bailey
P-I Reporter

Three church leaders flanked Gov. Booth Gardner on the steps of Seattle's St. James Catholic Cathedral yesterday as the governor warned President Bush to not exacerbate the timber crisis during a visit to the state.

Bush had been scheduled to make a campaign stop in Colville on Monday, but cancelled late yesterday in order to monitor hurricane relief efforts, the White House said.

The church leaders yesterday urged "compromise and dialogue" in the timber crisis that has pitted environmentalists against timber communities.

Catholic Archbishop Thomas Murphy spoke against "extremism and demagoguery" on the issue. He said he spoke for the Washington Association of Churches, which represents 15 Catholic and Protestant denominations with 1,600 churches and parishes.

Joining the archbishop and the governor were the Rev. John Boonstra, church association executive minister, and Bishop David Wold of the Evangelical Lutheran Church in America.

Murphy called for "a path of thoughtful, mature and balanced dialogue in resolving the timber crisis."

Gardner called on Bush to name a federal timber czar to "coordinate and develop" a solution to the crisis, adding that federal departments had been working at cross purposes.

The governor said he would call a conference of all parties involved if

"(Bush) has had four years to bring everyone to the table . . . But neither the plight of our people nor the danger to our forests was important enough . . . to warrant real leadership."

— Gov. Booth Gardner

the president named such a czar.

On Wednesday, Gardner said in a speech to the Washington state Labor Council: "(Bush) has had four years to bring everyone to the table and craft . . . a solution. . . . But neither the plight of our people nor the danger to our forests was important enough to the Bush administration to warrant real leadership."

Yesterday, Murphy said that "solutions cannot be found through verbal attacks, extremism and demagoguery. We must recognize that both timber and environmental interests have legitimate points that deserve to be heard in a dialogue based on mutual respect and willingness to share the pain and hope of compromise."

"It is time to stop finger pointing . . .," said Gardner.

Gardner said he had contacted the church leaders and suggested the joint press conference because he knew of their desire for compromise and their direct interests in helping families of timber workers who have lost jobs.

Clinton vows NW forest summit; Bush eyes changes in species act

By JEFF MAPES

of The Oregonian staff

The Republican and Democratic presidential campaigns turned up the heat on the timber issue Wednesday as both sides looked toward President Bush's visit to the Northwest next week.

Democrat Bill Clinton pledged in a letter to timber-related union leaders that, if elected, he would hold a presidential summit to find an agreement to the long-running battle over the region's national forests.

Meanwhile, Republican officials said Bush was expected to use his Northwest trip to paint the Clinton-Gore duel as environmentally extreme while promoting his own efforts to save jobs in the timber industry. A top campaign aide to the president was quoted as saying Bush may also call for major changes in the Endangered Species Act.

Bush is tentatively scheduled to visit Spokane and Medford on Monday, and labor leaders held a news conference in Portland to release the Clinton letter and attempt to preempt the president's visit.

"This crisis represents yet another example of a White House long on the politics of blame and short on leadership," Clinton said in his letter.

The Arkansas governor wrote, "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 interested parties to help break the gridlock which has caused

so much pain in our Pacific Northwest communities."

Charles Black, a top strategist for the Bush-Quayle campaign, told The Register-Guard in Eugene that Bush might call for changes in the Endangered Species Act and other federal laws blamed for causing layoffs in the timber industry.

It's unclear, however, whether the president will propose anything new. His administration is already supporting legislation that would reduce protection for the northern spotted owl in an attempt to keep more forests in timber production. That bill would effectively override requirements of the Endangered Species Act.

Sen. Bob Packwood, R-Ore., who plans to be with Bush in Medford, said he has been urging the president to support changing the law so local economies can be considered when a recovery plan for a species is first drafted.

"I would prefer that he opt for amending the Endangered Species Act so that people count. . . . That would be sufficient for the president to say," Packwood said.

Clinton, in contrast, supports the Endangered Species Act, and the Democratic platform calls for protecting old-growth forests.

But Northwest union leaders said Wednesday they were confident Clinton would also work to preserve jobs in the region, and they said they were upset the Bush administration had allowed the crisis to fester.

"I haven't heard the Bush administration say, 'The buck stops

here,' when it comes to issues like timber supply," said Wilson Hubbell, president of the International Woodworkers of America. "If I'm disappointed with the administration now, it's not with the actions they've taken, but the actions they haven't taken."

Clinton's letter also was hailed by such environmental groups as the Sierra Club Legal Defense Fund and by Rep. Icar AuCoin, Democratic nominee for Packwood's Senate seat.

Clinton "understands that the key to resolving this issue is balance," AuCoin said, "not playing politics by polarizing people."

Bush is expected to continue the harsh criticism he has lobbed at the Democratic ticket.

Craig Berkman, chairman of the Oregon Republican Party, said he had heard from several sources that Bush would strongly back saving jobs in the timber industry while criticizing Clinton and his running mate, Sen. Al Gore, D-Tenn.

"They've got some compelling survey information now that people are more concerned with jobs" than in protecting the spotted owl and old-growth forests, Berkman said.

In addition, Berkman said he expected Bush to zero in on the environmentalist proposals made by Gore in his book, "Earth in the Balance."

In the book, Gore defends protections for the spotted owl and the remaining old-growth forests and also calls for taxes aimed at discouraging the use of fossil fuels blamed for global warming.

Clinton wins over Oregon labor leaders with forest summit vow

P-I News Services

PORTLAND, Ore. — Bill Clinton has won the support of Oregon labor leaders with his promise of a summit to end the stalemate between loggers and environmentalists in Pacific Northwest forests.

"Early in my administration I will convene a Pacific Northwest

Forest Summit to work out a legislative solution," Clinton wrote in a letter released here yesterday at a news conference.

"I will work with the Congress and all interested parties to help break the gridlock that has caused so much pain in our Pacific Northwest communities."

Labor leaders said the letter from the Democratic nominee,

received Tuesday night, was the first indication that the regional crisis may get some attention at the presidential level.

"We've been rolling the same dice for four years and we've crapped out every time," said Wilson Hubbell, president of International Woodworkers of America.

President Bush is expected to

use his first campaign visit to the Pacific Northwest next week to denounce the Democrats as environmental extremists and show his support for jobs over owls.

But the leaders of unions representing more than 125,000 workers in Oregon said they were excited by Clinton's pledge.

Court rulings requiring protection of the northern spotted owl,

which has been listed as a threatened species, have blocked virtually all logging on federal land in the timber-rich western portions of Oregon and Washington. The ban has devastated communities whose mills depend on federal timber.

Bush and administration members have voiced support for the timber industry's position in the

court actions brought by environmental groups, but they have not called for a summit to resolve the issue.

Gov. Booth Gardner, speaking at a Washington state labor meeting in Everett, said Clinton has confirmed that "his administration would make it a priority to get everyone to the table to solve this problem."

been severely affected since the mill was closed by a fire which started two years ago. Clinton blamed President Bush for failing to help find a solution that could have prevented the closing of more than 100 timber mills and the loss of about 13,000 jobs.

"I believe that all the parties to this dispute feel used and manipulated. They seek new and decisive ways to bring about a resolution that protects both jobs and the environment," he wrote.

Mike Draper, executive secretary of the Western Council of Industrial Workers, told a news conference in Portland, Ore., Aug. 26, "The governor's positive response to our proposal makes it clear that he agrees with our belief that a resolution to this crisis must originate in the region and protect people, forests and wildlife." Draper said Clinton had demonstrated that "people first is more than a campaign slogan -- it's a commitment."

The idea of a summit was advanced in a July 29 letter to Clinton signed by Draper; Sherry Scott, financial secretary for Local 2739, Western Council of Industrial Workers; Irv Fletcher, president, Oregon AFL-CIO; Wilson Hubbell, U.S. president, International Woodworkers of America; and Sigurd Lucassen, president of the United Brotherhood of Carpenters (148 DLR A-16, 7/31/92).

White House spiked timber aid options

Aberdeen B-4-91

By Scott Sonner
Associated Press writer

WASHINGTON, D.C. — The White House squelched a Forest Service report on the northern spotted owl that offered costly ways to offset the loss of logging jobs in the Pacific Northwest, Rep. Peter DeFazio charged Friday.

"Someone in the White House decided the report should be killed so no action would be taken," said DeFazio, D-Ore.

"In the face of the greatest environmental and economic crisis ever to confront the Pacific Northwest, the Bush administration is doing nothing."

DeFazio said a reliable source in the Forest Service confirmed in a conversation this week that top administrators abandoned the agency study that began

more than a year ago.

He quoted the source as saying, "It was killed by the administration."

A May 1990 draft of the report by the Forest Service and Bureau of Land Management outlined 82 pages worth of alternatives to minimize job losses in the region. The job losses are expected because of logging bans that will be necessary to protect the forest home of the owl, which was listed last June as a threatened species under the Endangered Species Act.

Several options carried big price tags, including an \$86 million public works program modeled after the Civilian Conservation Corps of the 1930s.

Other alternatives conflicted with President Bush's foreign and domestic policy, such as banning exports of unprocessed

logs from privately owned lands or extending unemployment benefits to jobless loggers.

"The bottom line is that they (Bush advisers) objected to the conclusions," DeFazio said in a telephone interview from Oregon.

"They are ideologically opposed to any of the major programs that could provide immediate relief to the Pacific Northwest, so they have decided not to do anything."

DeFazio said he was not sure

who squelched the report, but "I'd lay even money on (White House Chief of Staff) John Sununu. He's the big bad guy in the White House who keeps the president in a position of deniability."

A White House spokesman said there was no one immediately available Friday afternoon to respond to DeFazio's allegation.

Last July, DeFazio and Rep. Jolene Unsoeld, D-Wash., released a May 1, 1990, draft

version of the Forest Service options the Administration wished to consider in a Conservation Strategy for the Northern Spotted Owl.

The Democratic Bush administration pressing the report said was prepared in conjunction with other May 1 report on the Effects of Implementation of the Northern Spotted Owl Strategy.

That report estimated more than 20,000 jobs would be lost if protecting the owl strategy devised by biologist Jack V. and others.

In response to the accusations, administration

Please see TD

Timber —

Continued from A-1

cial. Initially denied that the unreleased report existed.

Steve Goldstein, a spokesman for Interior Secretary Manuel Lujan Jr., later explained that because the report was not in its final form, it technically did not exist.

He said in July that the administration still was working on the report and that it would be made public when it was completed.

But Interior Department spokesman Mark Stephenson said Friday that it is unlikely there will be any further review of the draft document. He said the review is under jurisdiction of the Agriculture Department's Forest Service, but that apparently there has been no further work on the project since last summer.

"Since then it was determined unlikely that either the Agriculture Department or Interior Department would be involved with setting up those kinds of options. That is beyond their mission or scope of review," Stephenson said.

Forest Service spokesman

Jim Sanders said Friday the report "never passed the working paper stage." But he said he did not know who decided the review should not continue.

Stephenson said no formal recommendations for economic relief have been made because the administrative agencies have been unable to "get a handle" on the effects of various economic options.

"If Congressman DeFazio wants to say it was spiked, that's fine, he can say that. But the reality is that a handle hasn't been defined," Stephenson said.

"It's not so much that this is all cloaked in secrecy. A lot of times when you get documents out for review as draft documents the public or the press thinks that something is going on that we want to keep secret — that we want to keep hush-hush," he said.

"That's not the case. We're not that clever. You are giving us too much credit."

Bush opposes compensation for owl's impact

By Scott Somner
The Associated Press

WASHINGTON — President Bush said yesterday he would oppose legislation calling for federal compensation to workers who lose their jobs in the Northwest as a result of efforts to protect the northern spotted owl.

But leaders of the Northwest's timber industry came away from a meeting with Interior Secretary Manuel Lujan Jr. optimistic plans are in the works to minimize the economic hardship on the region if the owl is as a threatened species.

Bush said during a White House news conference he is "very much concerned about the potential loss of jobs as a result of this spotted owl problem."

The president said, however, his administration opposes a Senate amendment that would have compensated workers displaced by the Clean Air Act and would follow the same logic in the case of the owl.

"I opposed that and I would oppose a similar amendment," Bush said.

The U.S. Fish and Wildlife Service is expected to declare the owl a threatened species by June 23. One panel of government scientists has estimated timber harvests on federal lands in the Northwest will have to be cut nearly in half to save the owl from

extinction, a move the government projects would cost more than 28,000 jobs by the end of the decade.

"I want those 30,000 families to understand that we care very much about that, but I cannot say that I would support the very kind of amendment that I opposed," Bush told reporters.

"But I hope that we can have a resolution of this problem that will not result in throwing 30,000 families out of work."

Rep. Denny Smith, R-Ore., and a delegation of Oregonians representing the timber industry are scheduled to discuss the issue at the White House today with Chief of Staff John Sununu and other presidential advisers.

Sununu said yesterday he hopes the Fish and Wildlife Service will issue a listing decision that "doesn't gut the economic vitality of that region."

The Oregon delegation met yesterday with Lujan, Agriculture Secretary Clayton Yeutter and Forest Service Chief F. Dale Robertson.

Tony Williams, Smith's press secretary, said Lujan indicated to the group the Interior Department will "push aside" the recommendations of the government panel led by Forest Service biologist Jack Ward Thomas. The government predicts nearly 8,000 jobs would be lost as a result of reduced harvests on Bureau of Land Manage-



The Associated Press

President Bush answers a question yesterday at the White House. Bush said he is "concerned about the potential loss of jobs as a result of this spotted owl problem."

ment lands under the Thomas report.

"They know there is still going to be job loss," Williams said, "but they are going to try to limit it to about 1,000" on BLM lands, which are under Interior Department jurisdiction.

But most of the effect would concern forest land administered by the Department of Agriculture through the U.S. Forest Service.

And Mike Miller, executive director of the Association of Oregon Loggers, said the meeting with Yeutter and Robertson did not go as well as the one with Lujan.

"All we were told was that there

are discussions going on that hopefully will ensure that the world doesn't come to an end on June 23," Miller said.

"When the president was in Portland he talked about the need for a balance, but it appears to me this administration is not going to make a decision of how to achieve a balance, they are going to let the courts do that," he said.

"It seems to me there are so many options available to keep the owl viable that to adopt the Thomas plan — which we think is scientifically flawed — is a cop-out," Miller said.

opposes aid for loggers

☐ The administration
refuses to budge on its
policy against relief

By SCOTT SONNER
The Associated Press

WASHINGTON — President Bush opposes special aid to Northwest loggers left jobless by dramatic reductions in government logging to help save the northern spotted owl from extinction, Congress was told Thursday.

"The administration opposes the provision (in a forest protection bill) that would create a new worker adjustment program for workers who are displaced as a result of the bill's timber sale restrictions," said John Reuter, deputy assistant agriculture secretary.

"The administration has previously opposed and continues to oppose legislation that would mandate new special assistance to workers potentially affected by federal

Please turn to
RELIEF, Page A18

Relief: N.W. lawmakers hoped administration would reconsider

Continued from Page One

actions, like the Clean Air Act amendments and the pending Mexico free-trade legislation," he said.

Bush said last year he would not support special economic relief for timber workers who face unemployment due in part to efforts to protect the threatened owl's habitat in old-growth forests.

However, Northwest lawmakers had been optimistic the administration would reconsider that position given the growing magnitude of the protection efforts, and the impact on federal timber harvests.

Interior Secretary Manuel Lujan Jr. said Wednesday he would propose an estimated 11 million acres of Pacific Northwest forests be designated as habitat critical to the survival of the bird — an area equal to the states of Massachusetts and Vermont combined.

Earlier this year, U.S. District Court Judge Thomas Zilly in Seattle ordered the Interior Department's Fish and Wildlife Service to designate the owl's critical habitat by April 29. He admonished the agency

**"Communities will
have to become less
timber dependent."**

— Rep. Bruce Vento, D-Minn.

for failing to do so when it declared the owl to be a threatened species last June, citing excessive logging as the major cause of its decline.

Sen. Mark Hatfield, R-Ore., told Bush during a White House meeting Tuesday that an 11 million-acre set-aside ultimately could cost 100,000 jobs in the Pacific Northwest. Logging levels are expected to fall well below half of historic averages.

Reuter, whose department oversees the Forest Service and its 181 million acres of national forests, and Bureau of Land Management Director Cy Jarnison testified in opposition to forest protection bills before the House Interior Committee's subcommittee on national parks and public lands.

The bills would ban logging

across millions of acres of Northwest forests, including one proposal by subcommittee chairman Rep. Bruce Vento, D-Minn., that would establish a 6.3 million-acre "ancient forest reserve." About half of that land already is off limits to logging.

Vento's plan calls for \$150 million to be spent over five years in retraining and economic assistance to displaced timber workers.

Rep. Sid Morrison, R-Wash., said for many years people of the Pacific Northwest have reacted to the idea of logging reductions "the way many of our communities have reacted to drugs — by denying this could possibly happen to us."

"One of the most important elements is an economic assistance package for people, the counties and the small communities that have traditionally relied upon the harvest of this resource," Morrison said.

Rep. Jim McDermott, D-Wash., who backs Vento's bill, said the American people "no longer expect the public forests to pay the price of a century of mismanagement."

removed. Some of those trees are necessary for the forest to regenerate itself.

But a balance is needed that will spare the owls while providing economic relief to the hundreds of families and dozens of towns themselves close to extinction because of last year's federal court ruling that has halted logging in most national forests.

Sadly, the Senate has kept this from happening.

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PAGE

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Tuesday
July 28, 1992

Seattle Post-Intelligencer

The voice of the Northwest since 1863

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P.04

Editorials

Bill Clinton came prepared

Arkanas Gov. Bill Clinton's well-received visit to Washington state last weekend is due in no small measure to the fact he came well-prepared.

During a live televised "town-meeting" with a studio audience at Seattle's KOMO-TV Channel 4, as well as one beamed in from Portland, one questioner said he lost his logging company because of the Endangered Species Act and challenged Clinton with: "What's more important, a spotted owl or people like me?" "People like you," Clinton responded, "but I don't think that's the real choice. The real choice is jobs now and jobs later — not just jobs versus the environment. Most of the old-growth forest has been cut."

Clinton continued: "Technology, the huge export of raw logs to the Far East, and cutting more than has been

replanted, and having a government which subsidizes imports and doesn't subsidize retooling mills to take second-growth forests — all these things have contributed to the situation we're in today."

Clinton clearly had taken time to understand the troubles confronting the Northwest's timber industries and the people who work in it. He did not demagogue the issue. Rather, his response showed he understands how complex the timber issues really are. Other Clinton statements and answers to questions showed similar preparation for his Spokane-Seattle visit.

It is only every four years that presidential candidates come to this state seeking the votes of Washington citizens. Last weekend, it was nice to receive one candidate who had done some homework before his arrival.



Letters to the

Bush's Oregon visit may include mill tour

By BILL MANN 8.25

Mall Tribune Washington Bureau

WASHINGTON — President Bush will try to highlight his support for timber workers in a visit to southern Oregon on Monday that is expected to include a tour of an area mill.

GOP sources said Bush is expected to arrive at the Medford-Jackson County Airport between 2 and 3 p.m. Monday.

However, Perry Atkinson of Medford, a delegate at the recent Republican convention, said late this morning he had heard there was an "80 percent chance" that Bush would fly instead to Kingsley Field in Klamath Falls.

Oregon congressional staffers here have been told by Bush cam-

paign officials that the president will use the southern Oregon stop as an opportunity to showcase an unspecified announcement related to the Endangered Species Act, jobs, timber and O&C counties. The 18 western Oregon O&C counties rely on revenues from logging on federal lands for much of their operating money.

On Monday, Bush proposed a five-year, \$10 billion job program that included training for displaced workers. Bush said he'd send the proposal to Congress next year.

But it's unclear what Bush's southern Oregon announcement might entail. Atkinson suggested that Bush would announce an

from Page 1A

executive order relating to the Endangered Species Act.

However, there is almost nothing a president can do unilaterally to change management of, or increase the number of jobs on, federal forests; any major action would first require the consent of Congress, said Republican insiders.

They said Bush could announce a plan to aid dislocated timber workers; he could sketch out a pre-timber jobs policy; or he could stake a position on some of the various timber proposals now stalled in Congress.

They said it is clear, however, that Bush wants a setting in timber country, where people can be expected to support the Bush administration's pro-jobs stance in the federal forest debate.

"I assume (the subject of the trip) is very much timber related,

or otherwise, why would he be going into Medford?" said Elaine Franklin, campaign manager for Republican Sen. Bob Packwood. Packwood will juggle his schedule to be in Medford if Bush visits, his office said.

"He'll be talking about jobs, natural resources, and multiple use of the nation's resources," said a congressional staffer who had been briefed on the outlines of the trip.

One possible stop for Bush is the Burrill Lumber Co. in White City, though its president, Mike Burrill, would say nothing on the record this morning. Packwood has visited the mill.

Packwood has been outspoken in his call for changes in the Endangered Species Act. The changes would require federal agencies to consider economic and social effects of protective measures at the same time as scientific evidence about whether

a plant or animal is threatened or endangered.

The Bush-Quayle campaign in Washington said details are not yet available. And congressional staffers had only general information about the trip, which they said is still being put together. No one had details on the content of the president's message, staffers said.

One report that Bush would stop in Oregon to announce a change in his administration's rejection of the state's controversial health care plan was dismissed by campaign officials.

The reports indicated that Bush would be giving a public speech, possibly at the Medford-Jackson County Airport. But airport officials have heard nothing at all about any presidential visit ex-

cept in news reports.

"As far as the extent of his visit, we're not sure there's going to be one," said an airport official.

A state party official in Portland cautioned that the details are subject to change, and Bush could end up visiting some other Oregon community.

"The details as far as I know of this trip are sketchy," said J. Whitfield, the state GOP executive director. "All I do know is that he is going to be here on Monday somewhere in Oregon."

Medford is a likely candidate for a presidential visit, however, because it's one place in Oregon where Bush can be assured a warm welcome. Bush visited for two days in 1988, getting briefing and tours on forestry issues on day, and floating and fishing the Rogue River near Galice the next

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of pages 1

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Medford Mill Tribune

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Addenda to tax to
Julie Rice
USDA Sec Madigan's Q+A with
Farm Bureau.

Q: Mr. Secretary, the disaster program is (inaudible) and I have a question. In our state, we have some mistakes we need to (inaudible) the county offices as they came up with the (inaudible) and re-worked them just before they were sent in. And there were some mistakes that had to be sent back. And we've got farmers that have not received anything that should have had it in April or early May. Do you have any idea about when we could expect some of those--where the mistakes were made--to come out?

Nick Clark
NPCA
July 17, 1992

SECRETARY MADIGAN: I talked to Keith Burkey (phonetic) about that Thursday and he was working on that. There were about 20,000 checks that had to come back and be done over. And they had it down to around 2,800 or something like that that were still remaining when I talked to him last Thursday. So 17,000 of the 20,000 have been corrected and have been sent back out, and perhaps by today they're all in the mail. But we can double check that and find out for sure.

Q: Thank you.

PHOTOCOPY
PRESERVATION

Q: Let me ask another question, Mr. Secretary. Endangered species--the wetlands issue is--you're well aware of and many in government--has just driven a lot of farmers crazy. And we're working hard on the '91 manual or perhaps (inaudible) '87. It's being talked about. I don't know (inaudible). But endangered species, there are some equal horror stories, if not worse, in many parts of the country and we're hearing about more and more of them. That's up for reauthorization.

In your opinion what's going to happen there? What will or what can USDA do regarding that?

SECRETARY MADIGAN: Well, there's a real public education job that needs to be done, and then an education job that has to be done with the Congress. If I can just talk for a minute about the spotted owl, the allegation is that the Northern spotted owl lives only in the old growth forest and that the harvesting of old growth timber leads to the depopulation of the Northern spotted owl species. In fact, there's now all kinds of evidence that these owls live in and survive in second growth forests. In fact, there was for a period of time in the state of Washington, the state of Washington was requiring people to census the owls as they harvested on second growth forests. And when they got up to 134 they said quit counting.

These were Northern spotted owls living permanently in the second growth forest. They're like anything else. They're going to go where the food is. They eat mice and things like that and they're going to go where they can get something to eat.

There's another problem there and that is that the Bard owl breeds with the female of the Northern spotted owl species and the Bard owl is a more aggressive owl than the male of the Northern spotted owl, and as a result of that, that's impacting on the population of the Northern spotted owl, and there isn't anything that we can do about that.

(Laughter)

But driving
mule
female
no spotted
owls to
attract

(2)

I said can we go out and give steroids to these male Northern spotted owls?

And then there's the system that they use for counting them, which I'd like to share with you, and that is that they go out during the mating season and hoot for the owls with an artificial hooter and if they get one hoot in return they don't count that because they say that's either a bachelor owl or a spinster. They only count when they get two hoots. They count that as a pair. And then those are counted. But if that pair of owls--you know, it is the mating season and if that pair of owls is otherwise engaged and doesn't respond to the hoot, they don't get counted.

(Laughter.)

That's the kind of thing that we're dealing with. And I don't think there are three members of Congress who know how these things are counted or know that the Bard owl breeding with the Northern spotted owl is breeding the species out. I described that to the president one day in the Oval Office and I'm not going to tell you what he said.

(Laughter.)

But we can't even, up to this point, get people on this owl panel or whatever it's called to recognize that there are these owls out in the second growth forests.

So I think if we could just all talk to the Congress about this and say--I mean, these are the facts. This owl is ultimately going to go the way of the ice truck because of the Bard owl. Those kinds of things happen in nature, and we can protect every tree in the United States and it isn't going to stop that species from disappearing.

Q: Mr. Secretary, I was quite amused about your bringing rain to some areas after you had been there. We have only had one rain since last November in southern Idaho. Is there some way that you could~r come to southern Idaho? I would prefer before December or January.

SECRETARY MADIGAN: Chicago had the driest May on record, and now they're having the wettest July, and that's just because I've been using O'Hare Airport. I was there last night and I sat on the plane for two hours last night because of all the rain there in Chicago, and I'm beginning to feel like that little man with the black cloud above his head in the comic strips.

I went to North Dakota last year. They'd had three years of drought and we were rained out, it was raining so much.

Q: How soon could you get there?

SECRETARY MADIGAN: Well, sometimes I cause a flood.

The Reuter Transcript Report
Sec. Madigan address (fourth add)
July 14, 1992
MORE

From: NEWSTAB Delivered: Tue 14-July-92 18:18 EDT Sys 197
 (122)
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BC-TEXT-MADIGAN-5THADD
 THE REUTER TRANSCRIPT REPORT

USDA SECRETARY EDWARD MADIGAN ADDRESS AT THE AMERICAN FARM
 BUREAU FEDERATION'S COUNCIL OF PRESIDENTS ANNUAL MEETING

July 14, 1992
 (Fifth Add)

x x x a flood.

Q: Before you guys get too excited let me tell you
 that Secretary Madigan's been in California several times in the
 few years and we still have the drought, so his rain-making
 work real well sometimes but not.

SECRETARY MADIGAN: But I brought you an earthquake. I
 was there. I was there, I was in this hotel in Los Angeles and
 the bed started moving around the room and I thought somebody
 was in the room moving the bed. And then the hangars started
 falling out of the closet and I knew what was going on. The
 funny thing is I don't know if any of you have ever been in an
 earthquake or not but it's funny how people react. I just
 there on the bed and waited for it to stop, you know, what was
 I going to go, what was I going to do?

→ just had a comment on the spotted owl
 (inaudible) he had an opportunity recently to have
 (inaudible) took a tour of some of the timber country to prove
 to him something that he quite correctly said I'll believe it
 when I see it, and that was that we could actually call out,
 walk into a given area (inaudible) and call out in broad
 daylight, spotted owls. Well (inaudible) he didn't give
 a hoot or a hoot either one, he just had a (inaudible) I'd like
 to do this (inaudible) now I can take you around and show you
 several bears (inaudible) process of feeding on the end of a
 stick a mouse to the spotted owl, two more flew in. And so he
 got an opportunity to see (inaudible) in a matter of probably not more
 than five minutes outside a populated area in the middle of a
 second growth forest, and because these things are supposed to
 be so endangered he was quite amazed and (inaudible) told me he
 said I can take you now if you like, I can show you several
 pairs (inaudible), so they're there.

SECRETARY MADIGAN: Well this statement is not
 originating with me. I am quoting other people who tell me that
 some biologists and some scientists refer to this scientific
 panel working on the owl thing as the owl cartel.

Q: Mr. Secretary, coming from New York we don't have

an owl problem but right now we've got a lot of hooters, but my real concern is (inaudible) wetland (inaudible) and various environmental regulations that are coming out and at the same time we hear from different sectors that agriculture needs to be flexible, need to be able to change their enterprise and need to do new things on our farms (inaudible). But with the present discussions going on a lot of farmers (inaudible) are fearful of making any change (inaudible). So you see some flexibility coming in the future (inaudible).

SECRETARY MADIGAN: Are you talking specifically about the wetlands issue?

Q: (inaudible)

SECRETARY MADIGAN: Well I think if we can accomplish the agenda that we're working on and get it out in the public domain that we will have done yeoman work for American agriculture on the wetlands issue.

With regard to larger environmental questions, I would just remind many of you that I spoke to during the years when I was a member of Congress, I would repeatedly say to farm audiences, these things are not going to get better. I mean these people are going to work harder and harder at this and American agriculture is going to have to work just as hard to protect their property rights, to protect their interests and with all due respect to you, to other agriculture organizations, to all of our friends in Congress, both the House and the Senate in both political parties, I think that everyone was kind of slow on picking up on that. But I could see these things because I was serving also on the Commerce Committee which deals with a lot of environmental legislation and I was constantly watching people try to stick things into bills in the Commerce Committee that would have had an impact on the property rights and management opportunities of farmers and ranchers in the United States.

So I knew that agenda was there and that agenda is still there and if you read the latest issue of the Kiplinger Letter--I believe it was the Kiplinger Letter, I read three or four of these things today--it talks about the agenda of the environmental groups who are interested in agriculture, and what they are hoping for in 2-3 years. We have to be just as aggressive as they are and it needs to be recognized that they do a better job publicly in terms of creating public opinion than I do or than you do and for that reason I've said that we ought to have, on these issues, we ought to have an agriculture roundtable where all of agriculture comes together and agrees on an agenda. I don't expect the American Farm Bureau to ever agree with the NFO on things like target prices and loan rates and international trade, those kinds of issues, I don't expect that to happen. And I always have supported the Farm Bureau position on those things and I always will.

But I think on issues like property rights, the NFO and the NFU and the rest of them had better come together with the Farm Bureau and we better get agribusiness involved and other people involved and work on these things just as hard as the other people do or they're going to continue to be successful and we are not.

Q: Thank you Secretary.

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National Parks
and Conservation Association

FAX COVER SHEET

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DATE: July 15, 1992

TOTAL NUMBER OF PAGES: 4 (INCLUDING THIS COVER PAGE)

COMMENTS: "Lynch Enviro's" comments of
Sec. Ag. Mndigan

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6047
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National Parks

and Conservation Association

MEMORANDUM

July 15, 1992

TO: Julie Rice
Gore Campaign, DNC, New York

FROM: Nick Clark 
Director, Public Affairs

Re: Remarks of Secretary of Agriculture
Edward Madigan at American Farm Bureau
Federation' Council of President's Annual Meeting

Enclosed you will find a portion of the remarks Madigan made at the Council Meeting yesterday. CNN, I believe, has videotape.

We are upset that a member of the President's cabinet is calling for the lynching of "environmentalists" and even alluding that it be a part of the Republican Party's platform. The fact that he was joking only belies the underlying truth of his feeling and makes us wonder if his feeling is not widely shared within the administration.

It forces us to note that, whether or not Bush is in fact "the environmental president", you just got to ask if there is serious dissention within the administration. Does Madigan include his boss among those he wants to see strung up?

HA HA! JUST JOKING!! (Sounds kind of hollow, doesn't it? In this volatile and divisive day and age when civility is at a premium even joking can be misconstrued.)

Off the record, we anticipate that we will be making a public announcement today concerning this situation. I will let you know, however, just what we will do and when we will do it.

If I can be of any further help, please don't hesitate to give me a call.

From: NEWSTAB
(125)
Subject: AGRICULTURE :agriculture edward madigan it isn't that i don't like
ba * Reuters
Mail Id: IPM-197-920714:159301156

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BC-TEXT-MADIGAN-MULTITAKES
THE REUTER TRANSCRIPT REPORT

USDA SECRETARY EDWARD MADIGAN ADDRESS AT THE AMERICAN FARM
BUREAU FEDERATION'S COUNCIL OF PRESIDENTS ANNUAL MEETING
Location: Holiday Inn Capitol Hotel, 550 C St. SW, Columbia
Room

Time: 3 p.m.
July 14, 1992

The editor of the report is Steve Ginsburg. Tim Ahmann, Eric Beech, Mary Gabriel, Peter Ramjug and Paul Schomer also are available to help you. If you have questions, please call 202-898-8345. For service problems call 1-800-435-0101.

This transcript is provided by News Transcripts, Inc. If questions of content arise, call 682-9050

NOTE: Secretary Madigan's opening remarks refer to his introduction, which was not transcribed.

SECRETARY OF AGRICULTURE EDWARD MADIGAN: It isn't that I don't like baseball, you understand. Actually the Sequoia National Forest thing sounded like a nice thing. But I had promised that I would be the substitute and I thought about who else could be the substitute, and there wasn't anybody else that could be the substitute. And I said, no, I can't go for that outdoor tour with the President. That flight in that big 747 from the East Coast to the West Coast. The walk in the woods, probably being disposed over the parking lot to shut up the demonstrators, or sitting at the ballgame with the two presidents and President Salinas saying to President Bush, "What about this?" And President Bush saying to me, "What do you think about this?" And me not having understood the question.

No, I had to be the substitute for the undersecretary. And let me just say at the outset that Dick Crowder, in the time that he was at USDA worked as hard as anybody that I've ever seen work at a government job. He would just go on, and on, and on, and work Saturdays and Sundays, and did a lot of traveling. And some of you may know that he had promised his son, Matthew that during Matthew's senior year in high school, that Dick would be back home in Minneapolis with Matthew. And he got so caught up in the GATT negotiations that he didn't keep that promise. And when he started thinking seriously about it, it bothered him so strongly that he just determined that what was left of the summer, he was going to spend with Matthew before Matthew went off to college this fall.

x x x to that.

Q: My second question is on the NAFTA. You indicated that it looked like we had agreements worked out. What kind of phase-in period would we have on some of the sensitive items such as the Mexican corn difficulty--and I'm sure we have some as well.

SECRETARY MADIGAN: Well, those things are what Mr. Romero and Mr. (inaudible) are negotiating. We've agreed with the concept of eliminating all barriers--tariff or non-tariff barriers--and phasing those things out over a period of time, but with different time schedules for different items, depending upon how sensitive the item is, and then for the very sensitive items that are seasonal in nature, having some additional safeguard against surges in the imports. But there is no agreement on any of those things at this point; there's only agreement on the concept of doing those things.

Q: I heard you say that the petroleum issue was still under study. I wasn't aware of the fact that the Mexican government had agreed to connect their petroleum industry as part of the negotiations. I know they tried for a long time to keep it out.

SECRETARY MADIGAN: Well, other people are trying to keep it in.

Q: Are you indicating that you think (inaudible)?

SECRETARY MADIGAN: No. I didn't indicate that we were making any headway. I said specifically that autos and energy were outstanding issues.

Q: Mr. Secretary, there's a little event coming up on November 3 and I just wonder if you'd share with us what the Republican farm platform plank might be as it relates to farm policy for that event.

SECRETARY MADIGAN: More money, higher income, more markets. String all the environmentalists up.
(Applause.)

Actually they've just started working on that but I promise you that it will be more than the two paragraphs that are in the other party platform. And then there's this third candidate and the only thing I've heard him say so far or the only reference that I understand he's made--I haven't heard him say it--the only reference that I understand he has made is that agriculture looks like an opportunity to save some money for the government.

Q: Mr. Secretary, my question goes to your evaluation at this time, your optimism or pessimism of us eventually reaching a meaningful agreement in GATT, in agriculture.

National Parks
and Conservation Association

FAX COVER SHEET

Please deliver the following page(s) to:

NAME: Julie Rice FAX NUMBER: 212-468-8192

COMP: Gore Campaign

FROM: Nick Clark FAX NUMBER: (202) 659-0650

DATE: July 15, 92

TOTAL NUMBER OF PAGES: 5 (INCLUDING THIS COVER PAGE)

COMMENTS: Additional remarks of USDA Sec. Madigan
at Farm Bureau mtg 7-14-92. To be
appended to "Lynch Enviro" Fax.

This material re: wetlands + endangered species.

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P. 01

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THURSDAY, JULY 23, 1992

Viewing the forests

Al Gore needs to understand the old-growth complexities, but so does the Bush administration

Sen. Al Gore, the Democratic vice-presidential nominee, comes to the campaign with thoughtful positions on global environmental threats, a considerable contrast to Vice President Dan Quayle's effort to dilute any protective regulations, no matter how necessary, that get in the way of business.

As the Rev. Jesse Jackson noted, Gore not only can spell "potato," he also can spell "chlorofluorocarbon" and has even written a book.

But Northwest Democrats are performing a needed service in educating Gore on the complexities of the spotted owl, old growth timber and other aspects of the federal forest controversy raging in Oregon and Washington. His brief allusions to the situation haven't gotten it quite right.

For instance, in his book "Earth in the Balance," Gore says this about the spotted-owl issue: "The issue has been billed as a conflict between jobs and the environment. But if the remaining 10 percent of old-growth forest is logged out, as the timber industry prefers, the jobs will be lost anyway. The only question is whether the effort to create new jobs will begin now or later, after the forest is completely gone."

That analysis ignores that the Western forests do grow back, that second-growth timber will increasingly be available for harvest and that private timberlands, reforested after logging, will continue to be important economic assets for the region.

True, the shift to second-growth

timber and more highly automated mills will continue to reduce the number of timber-related jobs. But the issue is what level of timber harvest can sustain both jobs and forest systems, not whether any jobs or trees will be left.

Gore's view just about mirrors the Bush administration's simplistic posture on the other side of the spotted-owl issue, where officials have made the timber industry's problems more acute by ignoring the need to respond credibly to scientific findings. Those findings show that having a reasonable chance at the long-term preservation of forest systems and species that dwell in them requires substantial — even wrenching — reductions in federal timber harvests.

The Bush team's effort to bypass environmental requirements has brought court injunctions prohibiting timber sales over vast forest tracts. And it has helped stall congressional efforts to produce a balanced bill for managing those forests in the future.

Regarding both extremes, there is an important difference between arguing where the management balance should lie — the valid subject for ongoing debate — and assuming that this is an all-or-nothing proposition.

The Northwest's forest controversy deserves high-level attention in the presidential campaign, not only for its own sake, but also as it reflects other complicated environmental problems.

But based on the facts, please. All the facts.

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Friday
August 28, 1992

Seattle Post-Intelligencer

The voice of the Northwest since 1863

Editorials

Forest summit a good proposal

Presidential candidate Bill Clinton has promised, if elected, to convene a Pacific Northwest forest summit early in his administration to resolve the crisis in the Northwest woods.

If there is anything of substance to this promise — a big if — it will be more applauded in these parts than President Bush's promise to come to this state and bad-mouth environmental extremists who, in his view, want to save an owl, but don't give a hoot about people.

This complex matter demands scientifically sound solutions, not more name-calling. When it comes to name-calling over owls and trees, we in the Pacific Northwest have heard it all, and most of us have had a bellyful of it. It has not escaped notice that all this emotionally satisfying venting has not advanced by even so much as an inch any solution to this mess.

Clinton, at least, rightly has

maintained that the "owl vs. people" debate is a false one. If the parties to the dispute insist on remaining trapped in this false conflict and refuse to address the real one — how to preserve healthy forests and protect water supplies, fish and wildlife while assuring a reasonable, predictable timber supply and a stable work force in perpetuity — there will be no solution.

The imagery of this false dilemma persists because politicians find it useful and because timber companies have been all too eager to use their laid-off workers to fight their battle for them on a ground different from where it should be fought: an examination of the harvesting regimes that brought us to this pass.

It looks better, after all, to frame the argument by posing a jobless logger against an owl than by posing an owl against the board of directors of a timber company.

PAGE

A6Tuesday
July 28, 1992**Seattle**

P-I

Editorials

Bill Clinton came prepared

Arkansas Gov. Bill Clinton's well-received visit to Washington state last weekend is due in no small measure to the fact he came well-prepared.

During a live televised "town-meeting" with a studio audience at Seattle's KOMO-TV Channel 4, as well as one beamed in from Portland, one questioner said he lost his logging company because of the Endangered Species Act and challenged Clinton with: "What's more important, a spotted owl or people like me?"

"People like you," Clinton responded, "but I don't think that's the real choice. The real choice is jobs now and jobs later — not just jobs versus the environment. Most of the old-growth forest has been cut."

Clinton continued: "Technology, the huge export of raw logs to the Far East, and cutting more than has been

replanted, and having a government which subsidizes imports and doesn't subsidize retooling mills to take second-growth forests — all these things have contributed to the situation we're in today."

Clinton clearly had taken time to understand the troubles confronting the Northwest's timber industries and the people who work in it. He did not demagogue the issue. Rather, his response showed he understands how complex the timber issues really are. Other Clinton statements and answers to questions showed similar preparation for his Spokane-Seattle visit.

It is only every four years that presidential candidates come to this state seeking the votes of Washington citizens. Last weekend, it was nice to receive one candidate who had done some homework before his arrival.

ANCIENT FOREST ALLIANCE

Americans for the Ancient Forests • National Wildlife Federation
• The Wilderness Society • Sierra Club
Sierra Club Legal Defense Fund • Western Ancient Forest Campaign

August 11, 1992

Dear Senator:

We are writing to urge your support for Senator Brock Adams Log Export and Rural Community Development Amendment to the pending tax legislation, H.R. 11. The Adams amendment closes a costly tax loophole that subsidizes and promotes the export of raw logs from the U.S. to overseas mills, located mostly in Japan. The current loophole, through Foreign Sales Corporations, foreign "sourcing of income," and deferral of repatriation of foreign income, costs Americans in four ways:

1. The Treasury loses roughly \$100 million per year because taxes on income from log exports are reduced from 34% to 28.9%.
2. American jobs are lost because the current law promotes excessive exports of raw logs and jobs in domestic mills. America loses 600 jobs in mills and related manufacturing for every 100 million board feet of timber exported. In recent years, the Pacific Northwest alone has exported an average of 3 billion board feet annually. } *
3. American consumers lose because excessive exports of raw logs increase the price of lumber in the U.S. To meet domestic demand, American companies now import timber from Canada which carries a duty of 6.5%. It makes no sense for America to subsidize the export of its own timber, deplete its own supply, and then tax lumber imported from Canada which raises its cost to consumers. }
4. The excessive export of raw logs increases pressure for logging on public lands and in sensitive ecosystems such as the old growth forests of Oregon, Washington and California.

Finally, the savings from the Adams amendment will help communities in the Northwest hardest hit by the decline in timber production to diversify and restore their economic vitality.

We urge your support for the Adams amendment.

Sincerely,

This has not been
sent out

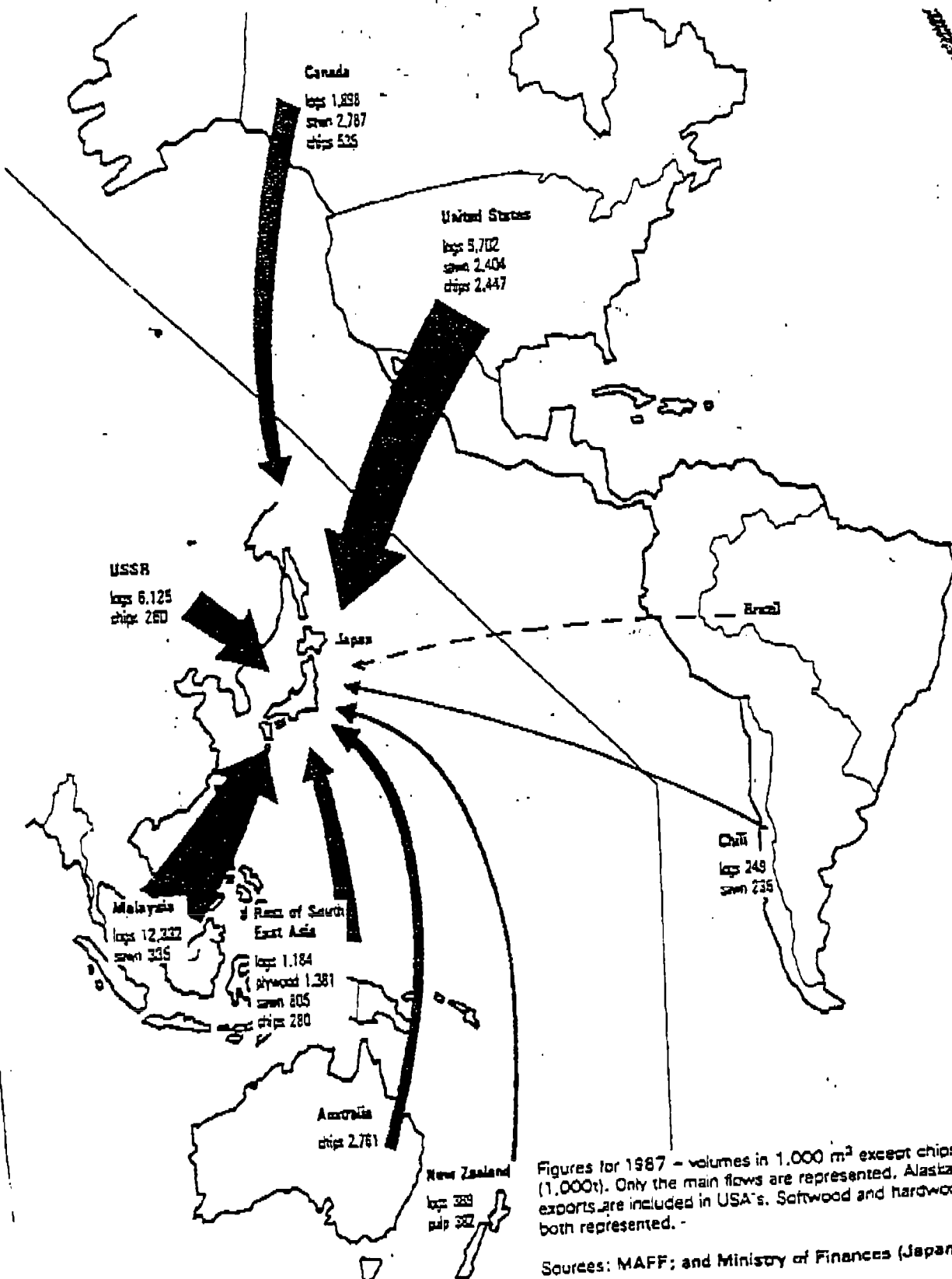
Robert Chlopak
Americans for the Ancient Forests

Sharon Newsome
National Wildlife Federation Sierra Club

Jim Blomquist
The Wilderness Society

Mike Francis
Western Ancient Forest
Campaign

Jim Owens



FACTS ON FISHERIES AND NATIONAL FORESTS

Russ -
5443198

WHAT ARE THE KEY FISH SPECIES IN THE NORTHWEST?

There are nine main native salmonid species in the Pacific Northwest that support both commercial and sport fishing: pink salmon, chum salmon, chinook salmon, coho salmon, sockeye salmon, steelhead trout, cutthroat trout, Dolly Varden char and bull trout.

WHAT IS THE ECONOMIC IMPACT THESE FISH HAVE ON THE REGION?

* In the Pacific Northwest states, these fish support commercial and recreational fishing industries that produce over \$1 billion in personal income per year and more than 60,000 jobs in the region.

* In 1988, the commercial salmon industry contributed about \$320 million to the Pacific states' economies and generated approximately 15,250 jobs.

* Recreational fishing in the Pacific Northwest region generates about \$931 million in annual personal income impacts and generates 47,500 jobs.

HOW MANY FISH ARE EXTINCT AND HOW MANY ARE AT RISK?

Since 1900, loss of fish habitat has contributed to the extinction of 73% of the 40 native North American fishes known to be extinct.

The American Fisheries Society (AFS) has listed 106 populations of west coast salmon and steelhead as extinct and has identified 214 native naturally spawning stocks of anadromous (sea going) species of fish as threatened in Oregon, California, Idaho and Washington. 175 of these wild fish stocks in the Northwest are at risk from the effects of logging and road building.

On the public lands in Oregon, Washington and northern California, the AFS identified 90 stocks of anadromous salmon and trout in need of special concern due to low or declining population numbers and reduced and degraded habitat.

HOW DOES LOGGING ADVERSELY AFFECT FISH HABITAT?

The decline of the Northwest's anadromous fisheries is largely due to destruction of fish habitat as a cumulative result of forestry, grazing, agriculture, urbanization and other land and water management practices. Effects from logging and forest road building are especially damaging when these activities occur on steep slopes. Successful fish spawning requires certain stream conditions including proper substrates, cool, well-oxygenated fresh water and food. Current logging and road building practices alter fish habitat through:

Reduced Amount of Downed Logs in Streams In the past, land managers removed downed logs in streams as impediments to salmon migration. Today, scientists and biologists recognize that downed logs are essential for fish habitat. Unfortunately, fewer downed logs exist in streams because trees are cut before they die and fall naturally into streams.

Downed logs are essential for modifying stream flow and creating a variety of in-stream pools and side channels used by fish for shelter. Streams impacted by clearcuts and tree plantations frequently lack in-stream structures such as downed logs and may experience heavy storm-generated water currents which kill downstream salmonids and wash away essential gravel beds.

Increased Sedimentation Salmon hollow depressions (redds) in stream bed gravel to lay their eggs, then cover the eggs by fanning more gravel over them. This procedure requires gravel fine enough for salmon to move yet large enough for water to circulate around the eggs. Water circulation provides the high levels of oxygen needed by developing salmon eggs. This circulation decreases when finer sediments clog the redds.

Logging and road building increase the amount of fine sediments in streams by 10-1000 times. The effect of this increased sedimentation is not just adverse to the viability of salmon eggs, it also affects the ability of fish to feed. Salmonids are visual feeders and cannot forage well with high levels of suspended sediments. Moreover, if the sedimentation is high enough, it can damage salmonid gill tissue. Logging and road building also increase the rate at which coarse sediments fill large pools thereby eliminating hiding, holding and rearing habitat.

Increased Stream Temperature Westside salmon and trout prefer water from 5°-15°C (41°-59°F) and get stressed and die in water that is 23-26°C (73-79°F). By raising fishes' metabolic rate and decreasing the water's amount of dissolved oxygen, high water temperature can cause fish suffocation and increased vulnerability to disease.

Logging frequently removes streamside trees whose shade is vital in keeping water temperatures down, especially during summer months when the water levels are low. The loss of shade trees is most problematic in southwest Oregon and northwest California where stream temperatures can reach and exceed lethal degrees without adequate shading.

WHAT IS THE CURRENT STATUS OF FISH HABITAT IN THE REGION?

Our National Forests provide the highest quality of the remaining spawning and rearing habitat for many remaining fish stocks, but, in the last 50 years, over 50% of the large pool habitat for anadromous fish in watersheds in the Pacific Northwest have been lost as a function of logging and road building in our forests. 65% of fish species native to California are extinct, endangered or are in need of special protection to prevent them from becoming endangered.

- * The South Fork Trinity River on the Shasta-Trinity and Six Rivers National Forests in northwestern California was once a highly productive spawning area. Sedimentation of this river has caused populations of chinook salmon to drop by 88% and steelhead by 61%. Just 30 years ago this river had thousands of native summer steelhead - the summer of 1990 saw only 50 fish return to spawn.

- * In Northern California's Smith River watershed, home of an internationally renowned salmon and steelhead fishery, a 300% increase in sedimentation caused by logging, road building and mining has resulted in a 65% decline in anadromous fish stocks during the past four decades.

- * Bull trout, one of the few remaining true cold-water fish, were once widespread in Oregon waters. Today, bull trout can only be found at the unlogged headwaters of the Klamath, Hood, McKenzie and Metolius rivers.

- * On the Mapleton Ranger District of the Siuslaw National Forest on the Oregon coast, landslides caused by excessive logging eliminated 50% of the forest's anadromous fisheries.

- * In Quosatana Creek, in the Rogue River Basin, 1,337 chinook spawned in one year during the 1970's; in 1990, the Oregon Dept. of Fish and Wildlife reported a count of only nine returning chinook in the stream.

WHAT ARE SCIENTISTS SAYING?

The Scientific Panel on Late-Successional Forest Ecosystems in their October 1991 report to U.S. House of Representatives, stated that under existing forest plans, the prospects for fish survival is "very low" to "low". The Scientific Panel recommended protection for 137 watersheds in the Coast, Siskiyou, Cascade and Olympic ranges. Their recommendations to Congress for adequate fish and watershed protection include:

- * Leave current roadless areas unroaded since their roadless status is often due to unstable soils and high erosion risk.
- * In watersheds that provide habitat for dwindling wild fish stocks, implement longer logging rotation periods from the current 80 year to a 180-200 year logging rotation. This would reduce erosion and stream siltation resulting from road building and logging.
- * Reduce the amount of forest entries to induce slower erosion rates and decrease the prevalence of altered streamflow associated with extensive clearcuts.
- * Implement other fish habitat recovery measures such as ecologically sound restoration programs utilizing riparian silvicultural techniques, erosion abatement, landscape design, and in-channel engineering and planning.
- * Implement both a short and long term habitat restoration recovery plan.

Heeding the scientific evidence on the dire conditions of fish habitat in the Northwest, many national and local groups are beginning to review and define potential projects to restore and rehabilitate watersheds and fish habitat. The evidence is clear that management agencies, Congress and all resource users must begin basing land management decisions around adequate watershed and fish habitat protection.



Western Ancient Forest Campaign
1400 16th St., NW Suite 294
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Legislative Hotline (202) 939-3328

JUL 15 '92 13:13 FROM UBC 202 543 5724
JUL 14 '92 14:49PAGE.002
P.2

NEWS

FOR IMMEDIATE RELEASE:
Tuesday, July 14, 1992**CONTACT:**
Robin Shapiro 202-452-9462**United Brotherhood
of Carpenters and
Joiners of America****Western Council of
Industrial Workers****International
Woodworkers
of America, U.S.**

Labor Leaders Say Senator Gore's Stances on Timber Harvesting In The Pacific Northwest May Endanger More than 100,000 Jobs, Thousands of Families and Communities

— (New York) The following statement was released by Sigurd Lucassen, general president of the United Brotherhood of Carpenters and Joiners of America (UBCJA) and Mike Draper, executive secretary for the Western Council of Industrial Workers (WCIW), in response to Vice Presidential Nominee/designate Al Gore's comments on timber harvesting in the Pacific Northwest:

"Through his recent comments, Senator Gore has overlooked the thousands of forest products workers and their families who depend on a stable timber supply to exist. The theme of the Democratic National Convention and the 1992 presidential election has been 'people and families first.' Essentially this is what the Democratic party is all about — family values.

"But, while Senator Gore criticizes the Republicans for not truly embracing family values because of their view on medical leave and the extension of unemployment benefits, he does not seem to understand that the conflict in the Pacific Northwest must follow the 'families first' theme.

"Labor agrees with Senator Gore that the choice between jobs and the environment is a false choice. However, we believe it is a false choice because we can and must find a balanced solution that protects endangered species as well as families and communities.

"Right now, as many as 172,000 jobs are at risk because of judicial injunctions, administrative appeals and legislation before Congress to protect the Northern Spotted Owl.

"We invite Senator Gore to meet with us to discuss this issue and visit Roseburg, OR, one of the most public timber-dependent communities in the nation, to see first-hand the crisis our members face every day.

"We are confident that we can work with the Democratic nominees to find a balanced solution to forest management that will protect endangered species, the environment and families."

The UBCJA is based in Washington, D.C. and represents 550,000 members. The WCIW is the industrial arm of the United Brotherhood of Carpenters and Joiners of America. Based in Portland, OR, the Western Council represents approximately 30,000 members, most of which are forest products workers.

###**P.O. Box 13346
Washington, D.C.
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Jan Wilder-Thomas

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Shawnee Defense Fund

Individuals' Name

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STATE OF ILLINOIS
EIGHTY-SEVENTH GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES

House Resolution No. 2079

Offered by Representative Cronin

WHEREAS, The Shawnee National Forest, the State's only national forest, consists of 260,000 acres of oak and hickory and is one of the smallest of the 156 federally protected forests; and

WHEREAS, In 1988, the Regional Association of Concerned Environmentalists (RACE) was founded to monitor activities of the United States Forest Service, which oversees the national forests; and

WHEREAS, RACE and its members have protested chemical spraying, wild-life endangerment, improper bridge and road building, and the cutting of public timber from the Shawnee National Forest and its sale to private lumber companies; and

WHEREAS, The members of RACE contend that the United States Forest Service focuses too much on selling off timber and too little on serving the more benevolent interests; and

WHEREAS, The organization has filed formal appeals, civil lawsuits, and countless letters of protest and cries of alarm concerning management of the forest; and

WHEREAS, RACE has become an ardent protector of the Shawnee National Forest; therefore be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we commend the members of the Regional Association of Concerned Environmentalists for their commitment to the safekeeping of the Shawnee National Forest; and be it further

RESOLVED, That suitable copies of this preamble and resolution be presented to Joe Glisson, Brian Kennedy, and Bill Cronin, on behalf of the members of RACE.

Adopted by the House of Representatives on June 3, 1992.

Michael J. Madigan

Michael J. Madigan, Speaker of the House

John F. O'Brien

John F. O'Brien, Clerk of the House

TELEPHONE
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Congress of the United States

House of Representatives

Washington, DC 20515

February 27, 1991

Mr. P. Dale Robertson
Chief
United States Forest Service
Auditors Building
201 14th Street, NW
Fourth Floor, Northwest Wing
Washington, DC 20013

Dear Chief Robertson:

We the undersigned Members of the Illinois Congressional Delegation are very concerned about the continuing loss of revenue from Illinois' Shawnee National Forest.

According to the most recent figures released last week, Shawnee timber sales lost \$1.1 million in one year. The Shawnee has lost money on timber sales each year for the past several years, and we believe that it is not sound policy to allow these losses to continue.

Right now, the Shawnee National Forest is in the process of preparing to finalize its Land and Resource Management Plan. The proposal has been in the drafting and appeal stages for over five years, and should be released in a matter of weeks. After a comment period, the plan is expected to be finished by late summer. The final forest management plan will include a range of harvest levels upon which the public may comment.

In light of the present unprofitability of its timber sales, we would like to respectfully request that you immediately suspend all pending timber sales and timber sale preparation activities in the Shawnee Forest until the conclusion of the Land and Resource Management planning process.

Thank you very much for your consideration of our request. We look forward to the favor of your response.

Sincerely,

Glenn Poschard
Paul Simon

Robert H. Hatcher
Alan J. Dixon

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The Chief said: "No. The Fairview Sale may proceed."

The Forest Service is an agency that is out of control.

Jan Wilder-Thomas
Shawnee Defense Fund
Rt.1 Box 313
Brookport, IL 62910
618-564-2878

The Shawnee National Forest in Southern Illinois, only 263,000 acres, is one of the smallest National Forests in the country. It is a rare ecosystem with more biological diversity than the Smokey Mountains National Park. It is a regenerating upland deciduous forest of 100-150 year old hardwoods, the only old-growth forest in Illinois. It is 4% of Illinois' commercial timberlands, with only 1/10 of 1% of the state designated as Shawnee wilderness.

In spite of widespread public outcry against the destruction of critical neo-tropical songbird habitat, the Forest Service continues to clearcut under the guise of "gap phase dynamics" (3/5 acre holes in the forest canopy with extensive cutting between); and "ecological restoration", (the below-cost clearcutting of 7 million board feet of loblolly pine/regenerating hardwood songbird habitat). Songbird populations have declined by 73% in Illinois as a result of extensive forest fragmentation. The current Forest Service plan will severely increase fragmentation problems, in order to produce shipping pallets and supply the raw log export industry.

In August 1991 the Forest Service, acting as an outlaw agency, spent 1/2 million taxpayer dollars to destroy an important songbird breeding habitat over the objections of the entire Illinois Congressional delegation and the House of Representatives. The Federal treasury has been depleted by an average 1 million dollars a year on Shawnee timber sales, hindering the growth of tourism/recreation potential, estimated at 10 times the revenue of a timber related economy.

Illinois residents are demanding a moratorium on all Federal funding for resource extraction industries (timber sales, mining, and oil and gas exploration). Taxpayer funding can be used for research, restoration, public education, and land acquisition. The Shawnee National Forest should be designated a neo-tropical songbird breeding forest immediately to prevent the waste of rare forest ecosystems like Burner Hill, Cripps Bend, Hayes-Bay, and Oakwood Bottoms, scheduled for this year.

Media Sign In
Wednesday, August 26, 1992

Name	Media Outlet	Phone Number
C Rika	AP	228-2169
Pete sekulow	Re-Elect Packwood Comm.	241-7926
Lon IMEL	AU COIN OFFICE	238-1992
DAVID Shoro	IBT Teamsters	352-7746
Gene Lumbert	Alliance	249-1810
Rolf Glenum	Caffall Bros. (Timber Company)	226-6835
Bob Hule	NW Labor Press	284-3311
Sharon Holland	KD-TV	221-3185

Media Sign In
Wednesday, August 26, 1992

Name	Media Outlet	Phone Number
Ra, Sumner	KOIN-TV Ch 3	464-0614
Dale Emanuel	KXL - Radio 750	231-1071
Just Lewis	KINK	226-5168
WALDEN KIRSCH	KGW-TV 8	226-5175
Bob Freimark	The Wilderness Society	248-0452
Jeff Mapes	Oregonian	



August 25, 1992

Sigurd Lucassen
William Hubbell
Michael Draper
Sherry Scott
United Brotherhood of Carpenters
and Joiners of America
Carpenter's Bldg.
101 Constitution Ave., N.W.
Washington, D.C. 20001

Dear Mr. Lucassen, Mr. Hubbell, Mr. Draper, and Ms. Scott:

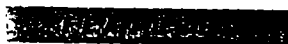
Thank you for your recent letter which so clearly outlined the problems facing the forest products industry. I agree with you that a remedy must be found, and soon.

This crisis represents yet another example of a White House long on the politics of blame and short on leadership. George Bush has had more than two years to help the parties find a solution. But instead of looking for answers, this administration has made the problem worse by playing political games and frustrating the process.

I believe that all parties to this dispute feel used and manipulated. They seek new and decisive ways to bring about a resolution that protects both jobs and the environment.

Let me assure you that under a Clinton Administration the politics of blame will end. I personally want to take a constructive, hands-on role in seeking resolution of the crisis which is hurting so many of our timber families and dividing too many of our citizens in Oregon, Washington, and California. So on a future trip to the Northwest, I plan to continue a dialogue with all affected parties, including a visit with a timber family.

FOREST INDUSTRIES



In safe chain sawing, maintaining control of the wood sometimes means using alternate methods. Photograph by Barbara Boness. See Page 22.



8 Log exports curbed from Western state lands President Bush has signed a federal law restricting exports of logs harvested from state-owned lands in the West

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Get those 'old-growth blues' behind us

Timber supplies in the United States are the heart of a serious economic and political crisis. This is no surprise to anyone associated with the industry. We are fond of dreaming that Americans simply do not understand our position: we *are* the good stewards we say we are. If we could only make people see this, the theory goes, we could don our white hats in public.

It's time to face the truth: Sierra Club & Co. have glued the black hat to the timber industry's head, and we can't tug it off. The issue really is Jobs vs. Environment, and Jobs have lost. You want evidence?

Consider a recent poll in Washington—*State*, not D.C. More than half of those who responded to a *Seattle Times* poll (52%) said they would ban logging to protect spotted owls, even if it cost their western Washington neighbors their jobs. In Washington, state-owned timberlands are a major source of school funds, and the timber industry is a major employer. Yet only 30% thought timber's contribution to the state's economy was the most important logging issue. Twice as many rated either wildlife habitat or preserving old-growth as most important.

Yes, those are mostly city folks—just like most Americans. And most Americans have turned "Green" in the past few years. The environment has joined apple pie and motherhood on Americans' short list of "loables."

Anyone who thinks that most Americans really care much what happens to someone else's job should think again. If it's *your* job against *my* air, water and trees, well, see you at the unemployment office.

Look what happened to the Midwest's "Rust Belt." Where was the timber industry when all those steel mills and auto plants were shutting down? Certainly not out demanding federal help for thousands of unemployed factory workers. Can anyone expect those folks to march for this industry?

How can the timber industry expect to garner much sympathy when preservationists, already riding the environmentalism wave, have cuddly owls and ugly clearcuts as evidence against "land-raping loggers"? It's time for the timber industry to face an unpleasant fact: *preservationists have won the war over old-growth timber*. Rear-guard battles may go on for a while, but the question has been decided. America cares more for 300-year-old trees and spotted owls than for anyone's job.

We would rather import forest products than "ravage" (or use wisely) our oldest forests—just as we'll risk importing Mideast oil to preserve pristine coastlines. Plenty of countries—Canada for one obvious example—are ready to sell us lumber and paper. Others—Chile, New Zealand and the USSR come to mind—could sell us softwood logs by the boatload.

People whose jobs depend on old-growth timber are going to be big losers. So are their communities. It will not be the first time this sort of thing has happened in this country: the West is littered with ghost towns that boomed and busted. The South survived the end of King Cotton's reign. Rust Belt refugees fled to Texas' oil boom—then got the shaft again when oil prices collapsed. None of us is immune to the

bad effects of economic change.

It is not defeatism to say the timber industry should give up on old growth. It is realism to recognize the need to make the most of the situation. It's time to fight new battles.

Which battles? Two, actually, and both have already begun: one to preserve a reasonable timber base on public and private lands, and a second to use timber better.

First, it is essential to designate some national forest land as productive timberland. Getting "ancient forests" off the agenda will give timber-dependent people time to work on this most vital long-term issue: establishing a predictable raw material base. Let's call them "productive forests." Congress must set aside enough public land, especially in the West, to grow the trees industry needs. Congress and President Bush have started the process by banning most log exports.

At the same time, we need laws to protect private lands whose owners want to grow timber for sale. Outside the West, most timberland is private; owners, whether individuals or corporations, have to know they can manage their lands for timber if they wish.

The second battle will be easier than building a legal wall around productive timberland. Since the industry will almost certainly have to do with less fiber, the trick is to use the wood more efficiently.

North America's timber industry has spent the past four decades improving its efficiency. As Oregon consultant Paul Ehinger points out, progress has been spectacular.

Oregon loggers cut a bit more than 8 billion bd ft of timber in 1947, about the same harvest as in 1987. But look at what mills produced from the logs in 1987: 8.8 billion bd ft of lumber (12% more than in 1947), plus 8 billion ft² of panels (1400% more than in '47), plus 300% more pulp than those old mills. Waste abounded in those days, and smoke from wigwam burners clouded Northwest skies.

We're well on the way to similar technological improvements now. Engineered wood products is the new industry buzzword, or is it *buzzphrase*? Either way, the idea is to make lumber and panels from ever-smaller trees composed mostly of lower-quality juvenile wood and from now-unused species. Mills are already doing this.

In the past few years, Louisiana-Pacific moved aggressively into waferboard, tapping vast tracts of northern aspen. Trus Joist has been at it for years with its laminated beams. MacMillan Bloedel is turning wood strands and veneer strips into construction lumber. These are just a few examples of an industry-wide trend.

Dependence on old-growth is a drug. Industry needs to break the habit, despite short-term pain. Getting "clean" is the best way to ensure long-term health.

Ted Blackman

Fish

- The nine main salmon species native to the Pacific Northwest support commercial and recreational fishing industries that produce more than \$1. billion in personal income per year and have a 60,000 job impact in the region.
- In 1988, the commercial salmon industry contributed roughly \$320 million to the Pacific states' economies and generated approximately 15,250 jobs.
- Recreational fishing in the Pacific Northwest region is responsible for about \$931 million in annual personal income and generates 47,500 jobs.
- Since 1900, loss of fish habitat has contributed to the extinction of 73 % of the 40 native North American fishes known to be extinct. The American Fisheries Society (AFS) lists 106 populations of west coast salmon and steelhead as extinct and identifies 214 native, naturally-spawning stocks of anadromous (sea going) fish species as threatened in Oregon, California, Idaho, and Washington. In the Northwest, 175 of these wild fish stocks are at risk from the effects of logging and road building.
- 65 % of fish species native to California are extinct, endangered, or in need of special protection to prevent them from becoming endangered.
- Forestry, grazing, agriculture, urbanization, and other land and water management practices can damage and destroy fish habitats. The Northwest's fisheries are declining because of the damage to fish habitats.
- Successful fish spawning requires certain stream conditions including cool, well-oxygenated, and fresh water and food. In areas without logging, standing trees provide essential shade. Then, trees die naturally and fall into the streams; these downed logs are essential for healthy fish habitats because they modify stream flow and create a variety of in-stream pools and side channels fish use for shelter, rest, and protection.
- In addition to destroying the benefits of downed logs, logging and road building increase the amount of fine sediment in streams by 10 to 1000 times. The increased sedimentation adversely affects the viability of salmon eggs as well as the fish's ability to feed: salmon are visual feeders, and they can't see their food in water with high levels of suspended sediments.
- Logging frequently removes trees that line the sides of stream. These stream side trees are supposed to provide shade—vital for keeping water temperatures down, particularly during summer months when water levels are low. In southwest Oregon and northwest California, stream temperatures can reach and exceed lethal degrees without adequate shading.

- In April 1992, the Pacific Fishery Management Council voted to cut by approximately half the number of salmon that can be fished off California, Oregon, and Washington during the 1992 season.
- In an October 1991 report to the U.S. House of Representatives (Agriculture and Merchant Marine Committees), the Scientific Panel on Late-Successional Forest Ecosystems said that *under existing forest plans, the prospects for fish survival is "very low" to "low."* The Scientific Panel recommended protection for 137 watersheds* in the Coast, Siskiyou, Cascade and Olympic ranges.
- The "Watershed Option," developed by the Scientific Panel on Late-Successional Forest Ecosystems in the report listed above, is a set of recommendations to Congress. It suggests logging and roadbuilding restrictions that would protect 90 fish stocks identified as at risk of extinction within the range of the spotted owl. It was developed specifically to maintain and restore (1) ecological functions and processes in streams and (2) habitat of potential threatened and endangered fish species and stocks of anadromous salmonids.
- There is considerable overlap between high-quality spotted owl habitat proposed for protection under the Forest Service Environmental Impact Statement (EIS) and the "Key Watersheds" proposed for protection by the Scientific Panel on Late Successional Forest Ecosystems. There also is overlap between existing protected areas—National Parks, for example—and the Key Watersheds. This overlap is to be expected, since prime old growth and late successional forests provide good habitat for a wide range of creatures including fish and owls. Although measures needed to protect owls are not identical to those needed to protect fish, the logging and road building restrictions within proposed owl areas would extend much of the needed protection to fish habitats.

*A watershed is a portion of the forest in which all surface water drains to a common point. Watersheds can range from a few tens of acres that drain a small intermittent stream to many thousands of acres for a stream that drains hundreds of connected intermittent and perennial streams.

Economics/Exports

- In 1980, 102,000 people were directly employed by the logging, lumber, and solid wood products business in western Oregon and Washington. The number of timber jobs in the Northwest, however, began decreasing in the 80s, largely because of the modernization of mills and the export of unprocessed logs.
- Workers in Oregon and Washington lost more than 26,000 timber-related jobs in the 1980s—at a time when the industry was cutting a record amount of timber from our nation's national forests. These jobs were lost before a single acre of federal land was protected as spotted owl habitat.
- Between 1980 and 1988, timber industry employment in the Northwest fell by 14% while output of finished lumber increased by 19%.
- Ten years ago, 4.5 workers were needed to produce every one million board feet of lumber and plywood. Today, it takes just 3 workers to produce the same volume of wood products.
- Timber workers also lose jobs because of log exports. It is estimated that 600 timber jobs are lost for every 100 million board feet exported.
- Last year, we exported 3 billion board feet of raw logs from Pacific Northwest ports. If we processed these logs in the United States instead of exporting them, we could generate up to 18,000 direct timber jobs.
- Over the next 20 years, the timber industry in Washington and Oregon will eliminate approximately 33,600 jobs because of labor productivity improvements the industry needs in order to remain competitive.
- Improved productivity has led to fewer timber jobs, fewer shifts, and lower wages. The average real dollar wage for timber workers in the Pacific Northwest has declined by nearly 2% annually. In other words, a timber worker making \$20,000 in 1982 would be making only \$16,500 in real wages today.
- The timber industry employs only 4% of workers in the Northwest. This number can be expected to decrease because the industry's major producers have shifted their operations and investments from the Pacific Northwest to the more economically suitable Southeast. Between 1978 and 1990, the seven major timber companies slashed lumber and plywood capacity by 33.5% in the Pacific Northwest while boosting capacity in southern states by more than 121%.
- Proposals to reduce timber cutting on federal lands below the current draft recovery plan level (2.2 billion board feet) to approximately 1 billion board feet will reduce direct timber employment by approximately 7,000 jobs. Such proposals, however, also help preserve a fishing industry that produces more

than \$1 billion in personal income per year and has a 60,000 job impact. In addition, some limits on exports could offset much of the job loss.

- The decline in timber industry jobs is not reflected in the Northwest's overall economic picture. More than 250,000 new jobs have been created in the region since 1990.

LOG EXPORT TARIFFS

A tariff on log exports would reduce the volume exported by "leveling the playing field" making it possible for domestic manufacturers to compete for logs with foreign buyers. For example:

- o In 1990, 3.0 billion board feet were exported from Washington and Oregon, generating revenues of \$1.7 billion¹. Domestic manufacturers would have been able to pay an estimated \$1.4 billion, or 21 percent less.
- o A 20 percent tariff would have raised \$300 million. In addition, domestic log buyers would have been able to compete for logs on the same basis as foreign buyers.

No research has been published to determine how much of a tariff would be required to significantly limit the volume of logs exported. Given the 21 percent premium paid for export logs, however, a tariff of at least that much would be necessary to begin to reduce the volume exported.

Based on an unpublished analysis of log export tariffs (the only known work on the subject to date), a 30 percent tariff on raw log exports would conservatively recover roughly 10 percent of the total export volume in the Pacific Northwest (1990 volume equalled 3 billion board feet, the tariff would recover approximately 300 million board feet at 1990 levels.)

If 300 mmbf of raw logs is diverted from exports to domestic timber supplies, and using a multiplier for direct timber jobs of 6, some 1,800 direct timber jobs would be generated. Using a multiplier of 9 for indirect and induced jobs, recovery of 300 mmbf from the export market would produce an estimated 2,700 additional jobs. (These multipliers are consistent with the multipliers used by the U.S. Forest Service and Bureau of Land Management)

A 30 percent tariff, imposed by states, could also produce approximately \$400 million in new, and dedicated, revenues for participating states.

It should be understood that job and revenue estimates that are based on the assumption of a 30 percent tariff represent a linear extrapolation of the available analytical research data in the unpublished paper. It can be assumed that this extrapolation represents the most conservative possible outcome for jobs and revenues.

¹ Warren, Debra D. 1992. Production, prices, employment, and trade in Northwest forest industries, third quarter 1991. USDA Forest Service, Pacific Northwest Research Station Resource Bulletin, PNW-RB-190.

The Forest Service Bleeding trees

SEATTLE

IT WAS a typical flustered compromise, pleasing nobody. On May 14th the Bush administration announced that it will allow the northern spotted owl to perish across half its range in order to spare several thousand forestry jobs. Both greens and loggers had hoped for more; both will loathe and blame each other. Yet they face a common enemy: the Forest Service, whose thankless job is to maintain American forests with an eye both to the economy and to the environment.

Throughout the West, the Forest Service stands accused of failing in its basic task: ensuring a supply of trees for future generations. In California the agency has had to launch an investigation into whether its own employees are stealing logs. In Montana it has gone along with a plan to log areas where grizzly bears live. And in Washington and Oregon the service is accused of mismanaging vast forests, leaving the trees to die from insects and disease.

Attacks come from within as well as without, as angry employees take their complaints before Congress. John Mumma, a former head of national forests in Idaho and Montana, has claimed he was forced from his post and given a Washington desk job after he objected to logging quotas. John McCormick, another veteran of the service, has told tales of illegal heavy machinery tearing up the forests, of officials who let private timber companies choose which public tracts they want to cut, and even of "love vans", paid for by taxpayers, carrying prostitutes to woodland assignations with forestry workers. Many employees claim the

agency has been padding its tree stocks by leaving on the books, under "forests", swathes of land long since cleared of trees. If stocks seem high, the agency can make a bigger cut than would otherwise be allowed.

The Forest Service's chief concern is not, apparently, to preserve forests, but to preserve itself. Congress will reward it with larger budgets only if it cuts more trees; so, if they want to do something good for forests, foresters must first hack some of them down. This led to a ridiculous scene in an Idaho national forest, when a Forest Service employee was given the task of standing in a desert of tree stumps to explain to angry visitors the benefits of clear-cutting. His salary was paid by cutting down more trees.

The two incompatible assignments of the Forest Service, to protect forests while developing them for harvest, could be juggled for the first two-thirds of this century. In those days forests, especially in the West, were still vast enough to accommodate both loggers and campers. Today the battle is over control of a much smaller amount of forested land—perhaps only 5% of the forests that once covered America—and the Forest Service is helpless to referee it.

The agency became tightly enmeshed with timber-industry interests in the years after the second world war, when politicians began to use the Forest Service as a base of patronage and job creation. The most egregious example of this is the Tongass National Forest in Alaska, where huge stands of trees are being cut for low-value pulp simply to create jobs.

Better ideas for the future of the service are now proposed by Barney Dowdle, a forestry professor and economist at the University of Washington in Seattle. Mr Dowdle has long been a pariah in Forest Service circles, although his ideas are now slowly gaining ground, and he has even

been asked to explain them to service employees.

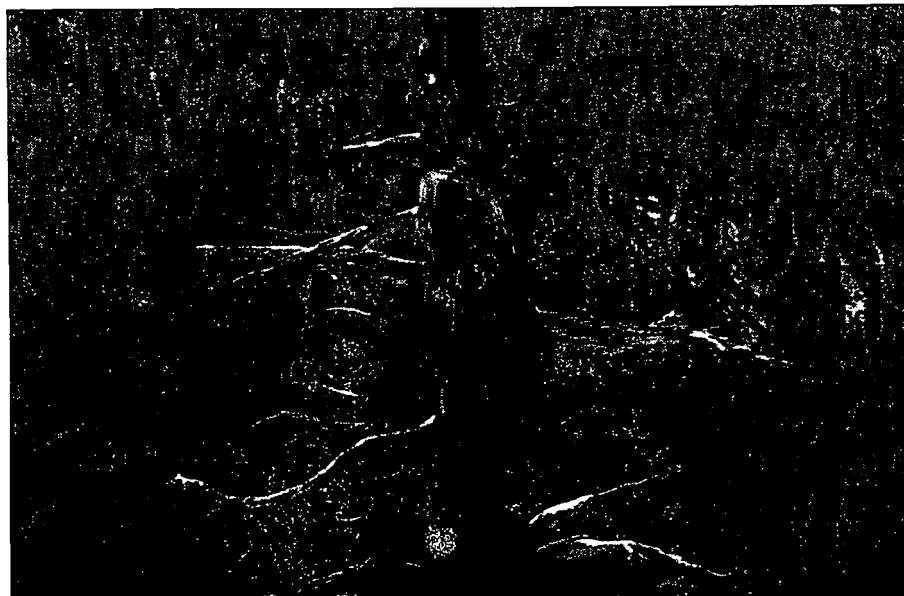
The flaw in the service, Mr Dowdle says, is that it is based on a forest-management model imported from 19th-century Germany. That model, in turn, was inherited from feudal land practices, when lords of the manor would limit the peasants' harvest of trees to ensure a steady supply. Modern foresters call this "sustained yield", and it has been drummed into their heads for generations.

The problem, Mr Dowdle argues, is that this ignores market forces by requiring an annual, pre-determined level of production. This destabilises the industry, constricting supply when demand is high and flooding the market when it is low. Mr Dowdle's solution is to set aside those forests that attract campers, or are simply beautiful, and privatise the rest. Alternatively, the market could be turned loose on timber sales. At present, a timber company can acquire a parcel of Forest Service trees by bidding unrealistically high, then making a low down payment. If the price of wood does not rise enough to match the full contract price, the buyer can simply go bust and emerge under a different name later. The system rewards those who take the wildest risk, while driving out the temperate.

If payment were made up front, says Mr Dowdle, the bids would more accurately reflect the likely value of the wood. He would allow speculators into the market (a practice now forbidden) to help spread the risk, and create a commodities market for timber futures like those for grain, oil and pork bellies. The result, he insists, would be a stable market for logging companies, and one that is free of political influence. Even greens would be happy, because the system would ensure better management of forests. "Right now, good forestry means cutting your inventory and getting the hell out," Mr Dowdle says: just as Georgia-Pacific did when it fled the north-west for the south, which is thick with private forests.

The Forest Service is not lacking in assets. Its timber holdings are conservatively valued at \$50 billion, a figure that would place it among the largest corporations in the United States. Yet it loses millions of dollars each year by, for example, building roads to forests where there are few harvestable trees. Randal O'Toole, a forest economist with Cascade Holistic Economic Consultants in Portland, says that the agency could earn perhaps \$5 billion a year simply by charging fees to hikers and hunters, a practice that private timber companies in the south have found quite lucrative.

At present, however, Congress does not allow it. If the Forest Service wants to pay for trails, it must cut down trees. In this it mimics another medieval technique: bleeding a patient, even if it kills him.



Spot the owl

Survey Information

Americans for the Ancient Forests conducted a national poll and a series of focus groups. The poll, conducted by Greenberg-Lake of Washington, D.C, reached 873 adults, 18 years or older, who are registered to vote in the United States.

Voter Beliefs:

- Voters believe that forests are a valuable part of our national heritage.
- The strongest, most intense argument for saving the old growth forests combines balance, our national heritage, and preserving the remaining small portion of our disappearing, unique ancient forests.
- Voters believe that the environment is critically intertwined with survival, the future, and the world they leave their children.
- Women in particular worry about the future and are aware of their responsibility to protect the environment—including the ancient forests—for future generations.
- Blue-collar voters and traditional households are particularly concerned about exporting logs and jobs to Japan.
- Voters are convinced that government often represents the interests of the highest bidder rather than the public good and fails in its obligation to protect the environment.
- Voters readily believe that the Forest Service, like every other branch of government, could become the captive of special interest politics—e.g., timber companies seeking the highest profits.
- Voters believe a healthy economy depends on a healthy environment.
- When voters are confronted with the simple choice between reducing the harvest of old growth forests and protecting jobs, they overwhelmingly support reducing the harvest (75 to 15 percent).
- Voters like the idea of replanting trees, and are not readily aware of the difference between mature forests and tree farms.
- Voters most committed to preservation tend to be younger voters with more education, and they tend to be women.

**U.S. Senate
Subcommittee on Environmental Protection
Committee on Environment and Public Works**

Testimony of W. Ed Whitelaw

13 May 1992

Summary

I. The Central Economic Issue Is *Not* Jobs vs. Owls

- A. Change will sweep across the industry regardless of what happens to the owl. Protecting the owl will compress into two years changes that otherwise will occur over ten years.
- B. Logging jeopardizes the region's long-run economic prospects. It degrades the region's primary comparative advantage, its quality of life. Promoting logging over owls will reduce future jobs and incomes regionwide.
- C. The central issue is *jobs vs. jobs*
 - 1. Sacrificing the owl will yield a small, short-run increase in timber jobs and a large, long-run decrease in non-timber jobs
 - 2. Protecting the owl will reinforce the region's ability to generate non-timber jobs and increase the prospects for dislocated timber workers
 - 3. The best choice is jobs *and* owls.

II. The Timber Industry is a Declining, Minor Element of the Regional Economy

- A. The timber industry no longer is the lead engine on the regional economic train. In the 1980s employment and payrolls in the industry fell, while the region's total employment and payrolls jumped. The industry provides less than 5% of total employment in the region.
- B. The industry's past behavior will cause future reductions in harvest. It has logged its own lands at rates that cannot be sustained. Harvests from industrial lands in most of western Oregon must fall by 15%.
- C. Timber employment will not decline as much as timber harvest.

III. Logging Owl Habitat is an Inefficient Way to Help Rural Communities

- A. The boom-and-bust timber industry cannot stabilize communities.
- B. Logging jobs come at the expense of jobs in other industries.
- C. Logging is heavily subsidized. Timber firms do not pay for resources they destroy. Other industries subsidize payments to laid-off workers.

I. The Central Economic Issue Is *Not* Jobs vs. Owls

A. Change Will Sweep Across the Industry Regardless of What Happens to the Owl.

Actions to protect the owl will compress into two years changes that otherwise will occur over ten years, according to Richard Haynes, the Forest Service's chief economist in the region.¹ The most immediate source of change is the industry itself. It has stripped its lands of timber with little sensitivity for the environmental and social consequences. In most of western Oregon, for example, clearcuts are so extensive that timber yields must decline for at least the next 70 years.²

The industry is exporting much of the remaining timber as logs to Japan, Korea, and China. Log exports from the region for 1986-90 averaged 3.3 billion board feet,³ roughly equal to the volume of logs involved in plans to protect the owl. The industry is dishonest when it argues that withdrawing trees from logging to protect the owl will have devastating economic effects while it concurrently touts the virtues of exporting a commensurate volume of logs.

As the industry exports logs and exhausts the supply of timber from its own lands, it closes mills, lays off workers, and reduces the wages of those who remain. For a tree logged at the end of the 1980s, rather than at the beginning, Oregon's loggers and millworkers received one-third less in wages, adjusted for inflation. Further wage reductions are likely.⁴

Having eaten or sold overseas its own cake faster than it can bake another, the industry now tries to gobble the cake from public lands. Forced to diet by their own past excesses, the industry and its dependents blame the owl for their hunger.

B. Logging Jeopardizes the Region's Long-Run Economic Prospects

Oregon has been developing and implementing a strategic economic plan since 1986.⁵ Several hundred Oregonians, representing business (including the timber industry), labor, academia, and local communities (including timber-dependent communities), have participated in the process. After a thorough analysis of Oregon's economy, they looked at alternative ways of solving the state's problems and meeting its challenges. They rejected traditional approaches focusing on trying to boost the state's timber industry in favor of alternatives they deemed better able to yield widespread improvement in the standard of living of Oregonians.

The heart of Oregon's strategy is summarized in three "Key Strategic Initiatives." The first two initiatives emphasize private and public investment in these areas:

- (1) **Invest in Workers:** Oregon can raise the income of its citizens only if communities, businesses, and families increase the education and skills of workers.

- (2) **Enhance the Quality of Life:** Oregon's quality of life attracts people and advanced industrial firms. Degradation of Oregon's environmental qualities will jeopardize its most important comparative advantage.

The timber industry has an abysmal record regarding investment in workers. Too frequently it induces youths to drop out of school to become cheap laborers, then discards them several years later when their job prospects have withered. For example, 88 percent of the timber workers recently laid off had no more than a high school education; 25 percent had not completed high school.⁶ Oregon is making a large investment in education, including training for dislocated workers. The timber industry is a major part of the problem we are trying to solve. It will not be part of the solution in the foreseeable future.

The industry's record regarding the state's quality of life is even worse. And, while logging symbolizes environmental destruction, the spotted owl has become a metaphor for environmental quality. A decision to abandon the owl in favor of logging will undermine Oregon's most important economic strength.⁷

C. The Central Issue is Jobs *and* Owls

The industry focuses on short-run impacts in rural communities. In reality, most of the impacts will occur over the next few decades and in the region's metropolitan areas.⁸ And most of the impacts will occur in industries with no direct ties to either logs or owls.

A decision to *sacrifice* the owl will yield a small, short-run increase in timber jobs and a large, long-run decrease in non-timber jobs. The region will become less competitive as fewer workers, families, and firms invest in the region in response to the signal that the quality of life will deteriorate. The timber industry will offer no opportunities for the workers dislocated as a result.

A decision to *protect* the owl will reinforce the region's ability to generate non-timber jobs and increase the job prospects for dislocated timber workers. The region will become more competitive as more workers, families, and firms invest in the region in response to the signal that the federal government will protect the region's quality of life, as well as the owl. Dislocated timber workers will have more opportunities to locate stable, well-paying jobs in other industries as the regional economy continues to grow.

The best choice is clear: jobs *and* owls.

II. The Timber Industry is a Declining, Minor Element of the Regional Economy

A. The Timber Industry No Longer Is the Lead Engine on the Economic Train

The timber industry no longer is a major driving force underlying the economy of western Oregon and Washington, or the overall regional economy of the Pacific Northwest. In Washington, the decoupling occurred two decades ago. It occurred during the 1980s in Oregon and is now underway in northern California.

Oregon's experience in the 1980s illustrates the nature of the decoupling and, hence, provides insights into how decisions about the owl would affect the region's economy. Increases in the productivity of mills and the diversion of logs away from mills toward export markets caused the number of employees in Oregon's lumber-and-wood-products industry to *decrease* by 13,500, or 17 percent, between 1979 (the year preceding the recession of the early 1980s) and 1989 (the year preceding the current recession).⁹ Total harvest from Oregon's timber lands, meanwhile, *increased* 492 million board feet, or six percent during the same period.¹⁰

Even with this marked increase in labor productivity, wages in the industry failed to keep pace either with inflation during the decade or with wages in Washington's and Oregon's other industries. Overall, the inflation-adjusted, real payroll per million board feet (in 1982 dollars) *declined* by \$85,988, or 35 percent. Had these or similar contractions in Oregon's timber employment and payroll occurred in earlier decades, Oregon's economy would have had great difficulty recovering. During the 1979-89 period, however, Oregon's total employment *increased* by 257,000, or 23 percent.

The timber industry cannot, or will not, see the importance of these numbers. When it looks at the region's industrial family portrait, it sees itself in the center, as it was in the portraits of its glory years. It fails to recognize, not only that it has shrunk, but that others have pushed it to the side.

The American Forest Resource Alliance, for example, in a report released on 27 April 1992, concluded that the timber industry supports 24 percent of the region's economy, even though it accounts for only 3 percent of total employment.¹¹ The vacuous logic and hallucinogenic analysis it uses to reach this conclusion would not pass muster in a first-year economics class.

The industry's misrepresentations are important, not because they distort the truth, but because they distract us from basic issues. Whatever the size of the timber industry in the Pacific Northwest, it cannot provide economic leadership as the region searches for ways to develop hundreds of thousands of new jobs during the next decade and to give its citizens the skills they need to earn higher incomes.

As the regional economic train continues to chug up the hill, the timber industry is sliding backward. The longer we allow it to impose economic and environmental costs on others, the greater the number of jobs, workers, and firms it will drag down with it.

B. The Industry's Past Behavior Will Cause Future Reductions in Harvest. . .

The timber industry in western Washington, Oregon, and northern California has cut the old-growth timber from its own lands at a rate it cannot sustain. Consequently, the segment of the industry dependent on logs from industrial lands must contract in the future. In most of western Oregon, for example, the harvest from industrial lands must decline by 15% from the levels of the mid-1980s.¹²

C. . . . But Timber Employment Will Not Decline As Much As Timber Harvest

Employment in the industry does not move one-for-one with timber harvest. Between 1989 and 1991, for example, timber harvest in Oregon declined 32%, but employment in January, 1992, was only 18% lower than the 1989 level. Similarly, one should expect that future declines in harvest, for whatever reason, will not cause commensurate reductions in employment.

III. Logging Owl Habitat is an Inefficient Way to Help Rural Communities

A. The Boom-and-Bust Timber Industry Cannot Provide Community Stability.

Those who argue that the federal government must increase logging to provide community stability either misrepresent or ignore the facts. The timber industry is incapable of providing either short- or long-run community stability.

- Unemployment is high in timber communities. Always.
- Accident rates are high in the timber industry. Always.

The high unemployment and accident rates are indicators of the industry's true impact on timber-dependent workers, families, and communities.

- Workers in the industry do not receive high wages. Average timber-industry wages are lower than average wages in other manufacturing industries in the region. Any premium the industry pays relative to other industries undoubtedly reflects the greater risk of injury and death. The high incidence of unemployment depresses the average earnings for timber workers below the average for industries with lower wages, but less unemployment.
- Families must cope with the stress of frequent, prolonged unemployment.
- Community budgets strain, pulled between a high demand for social services, and an uncertain source of revenue. Support for public education frequently is low in timber-dependent communities.

B. Logging Jobs Come at the Expense of Jobs in Other Industries.

When the timber industry reduces these issues to the simplistic choice, owls vs. jobs, they conveniently overlook the jobs that are adversely affected by logging. Specifically, they overlook the loss of jobs associated with the loss of habitat. They ignore, for example, the jobs associated with commercial and recreational fishing that might be lost as a result of the destruction of habitat in watersheds that affect salmonid fish. A recent report estimates that there are more than 60,000 such jobs in Oregon and Washington.¹³

C. Logging is Heavily Subsidized.

The flow of dollars to the Treasury from the sale of timber from federal lands does not make us all richer or reduce the deficit. In exchange for the greenbacks in our national checking account we give up green gold from the savings account we inherited from our parents and hold in trust for our children. But the timber firms pay far less than dollar-for-dollar. They clearly do not cover the full costs of doing business. They pay only for the logs, not for the habitat they destroy. They do not pay for the loss of productive soils, for the degradation of water and air quality, for the fish and owls they kill. In short, we -- and our children -- are being robbed.

The industry also steals from other industries as it fails to clean up its mess. During the boom-and-bust cycles of the last decade, for example, it laid off so many workers in Oregon so many times that other industries had to provide \$170 million to subsidize unemployment-insurance benefits paid to timber workers .

Endnotes

1. Testimony to the Endangered Species Committee, p. 2.
2. John Sessions, et al. 1991. *Timber for Oregon's Tomorrow: The 1989 Update*. (Oregon State University) p. 46.
3. USDA Forest Service, Pacific Northwest Research Station, *Production, Prices, Employment, and Trade in Northwest Forest Industries*, various issues.
4. "With an excess supply of timber industry labor (and likely room for wage concessions) there is little reason to expect a continued focus upon labor-saving progress." Brian J. Greber. 1991. "Technological Change in the Timber Industries in the Pacific Northwest: Historic Background and Future Implications." Response to questions submitted by Senators Gorton, Hatfield, and Packwood. p. 9.
5. The document summarizing the plan is called *Oregon Shines: An Economic Strategy for the Pacific Century*. May, 1989.
6. Oregon Employment Division. October, 1990. *Oregon Labor Trends*, p. 4.
7. These conclusions derive both from the principles of regional and urban economics and from widespread analysis of the region's economy. See the Appendix A.
8. Most of the indirect impacts, of course, will occur in metropolitan areas. Many of the direct impacts also will occur here, since the industry long ago abandoned its rural mills and consolidated its operations in mills on the outskirts of metropolitan cities and elsewhere along Interstate 5. More than two-thirds of the mill jobs in Lane County, Oregon, for example, are in or near the Eugene-Springfield urban area. (*Eugene Register Guard*. "Surviving the Slump: Less than three dozen mills remain in Lane County." 6 February 1992, p. 1E. "The Puget Sound region supplied only one-fourth of Washington's logs used by the forest products industry but received almost one-half of the industry's economic impact on the state." R.S. Conway, Jr., Glenn Pascall, and Douglas H. Pedersen. 1991. *The Forest Products Impact Study*.
9. Data come from Oregon Employment Division, *Oregon Resident Labor Force*, various issues, and from USDA Forest Service, Pacific Northwest Research Station, *Production, Prices, Employment, and Trade in Northwest Forest Industries*, various issues.
10. In the same place.
11. American Forest Resource Alliance. 27 April 1992. Untitled.
12. John Sessions, et al., previously cited.

13. Oregon Rivers Council, Inc. 1992. "The Case for Protecting Riverine Habitat: A Preliminary Analysis of the Economic Impact of Northwest Salmonid Fisheries."

Appendix A

Quality of Life and Economic Growth in the Pacific Northwest

The economic importance of the region's high-quality natural environment is not the whimsical dream of earth-loving hippies. These relationships have been documented and articulated in the major textbooks on urban and regional economics,¹ and they have been described by leading economists from the region.

There is widespread agreement among urban and regional economists in the Pacific Northwest about the extent to which the region's economic growth depends on its reputation for providing residents with a high quality of life. Consider these three excerpts, for example:

- a) From John Mitchell (Senior Vice President and Chief Economist, US Bancorp) and Paul Sommers (Research Director, Northwest Policy Center, University of Washington):

"Residents and businesses continue to move into the Northwest as more parts of the region are discovered by national and foreign tourists and businesses seeking . . . favorable living conditions for employees. If [Oregon and the other northwestern states] can manage to preserve their unique environmental assets . . . , the Northwest will remain one of the strongest regional economies in the country." (*Northwest Portrait, 1992*, Northwest Policy Center at the University of Washington and U.S. Bank, p. 7)

- b) From Paul Warner and David Griffiths (State Economists, Office of Economic Analysis, Oregon Executive Department):

"Surging exports and strong population growth are the primary factors which have fueled Oregon's economic growth since 1987." (*Oregon Economic and Revenue Forecast*, prepared by the State of Oregon Executive Department, December, 1991, p. 1)

- c) From Bill Conerly (Senior Vice President and Chief Economist for First Interstate Bank of Oregon):

"People are moving here not because of jobs but because of quality of life. ...If people want to live here, jobs will follow." (*Eugene Register-Guard*, "Economist: Weak Recovery on the Way" February 13, 1992, p. 2B.)

¹This issue is addressed in each of the leading textbooks:

- John P. Blair. 1991. *Urban & Regional Economics*, pp. 37-8, 445-9.
- Edwin S. Mills and Bruce W. Hamilton. 1989. *Urban Economics*, pp. 37-8, 362-3.
- Arthur M. Sullivan. 1990. *Urban Economics*, pp. 132-4.

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Advisory Positions

1991-	<i>Eugene Register Guard</i> , Board of Economists
1989-	Oregon Progress Board, State of Oregon
1988-90	Board of Advisors, Northwest Policy Center, Seattle, Washington
1987-89	Oregon Economic Development Commission
1987-	<i>Pacific Northwest Executive</i> , Forecast Panel
1986-87	Board of Directors, Eugene-Springfield Metro Partnership
1984-86	<i>Portland Business Journal</i> , Board of Economists
1984-85	<i>Oregonian</i> , Business Forecast Panel
1984	Demand Forecasting Advisory Committee, Northwest Power Planning Council
1981-83	Scientific and Statistical Advisory Committee, Northwest Regional Power Planning Council
1980-82	Governor's Council of Economic Advisors, State of Oregon
1980	Water Resources Division, Department of Natural Resources and Conservation, State of Montana
1980-90	Board of Directors, Pacific Northwest Regional Economic Conference
1979-80	Employment and Training Division, Department of Labor and Industry, State of Montana
1979-86	Head, Real Estate Research Committee, Eugene-Springfield
1977-78	Advisory Committee on Economic Decline and Fiscal Stress in Cities, President's Domestic Council, financed by the U.S. Department of Housing and Urban Development
1977-78	Task Force on Local Economic Planning, Oregon Department of Economic Development
1976-77	Advisory Committee, National Science Foundation Project on Onshore Impacts of Offshore Oil and Gas Exploration and Development

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Testimony: Endangered Species Committee, ESA 91-1, Bureau of Land Management's Request for Exemption Under the Endangered Species Act for 44 FY 1991 Timber Sales (Endangered Species Act). January 1992.

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With Ernest G. Niemi and Robert Mendelsohn. 1990. *New Perspectives and the Forest Service: A New Way of Thinking*. U.S. Forest Service.

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"Oregon's Turn: A Blueprint for Economic Growth in the 1990s." *Old Oregon*. Spring 1990.

With Niemi, Ernest G. "Oregon's Strategic Economic Choices". In LuAnna McCann (Ed.), *Oregon Policy Choices*. 1989. University of Oregon Bureau of Governmental Research and Service.

With Niemi, Ernest G. "Ready or Not, More Timber Layoffs are Coming". *Eugene Register-Guard*. July 25, 1989. Also published in *Portland Oregonian*.

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With Ernest G. Niemi 1987. *Generic Coal Study: Qualification and Valuation of Environmental Impacts*. Bonneville Power Administration.

With Ernest G. Niemi 1987. *Managing Old-Growth Forests in the Pacific Northwest: An Examination of the Costs of Preservation*. National Wildlife Federation.

With Robin Gregory. 1987. *The Economic Impact of Proposed Changes in Washington State Forest Practices Rules*. Washington State Department of Natural Resources.

With Ernest G. Niemi, Sweet, Edwards and Associates, Inc., and Edison L. Quan. 1983. *Toutle-Cowlitz Watershed Management Plan*. Cowlitz County, Washington.

With Ernest G. Niemi. 1982. *Balancing the Production of Fish and Power in the Columbia River: An Economic Analysis*. NW Resource Information Center, Inc.

With Ernest G. Niemi and Julia M. Friedman. 1981. *Benefit-Cost Analysis and Environmental Impacts: A Review of the Literature and an Evaluation of Methodologies*. Bonneville Power Administration.

A Study of Non-Wood Manufacturing Industries in Lane County, Oregon. 1981. Lane County Department of Employment and Training and the Lane County Private Industry Council.

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THE TIMBER ECONOMY OF THE PACIFIC NORTHWEST AND ANCIENT FOREST PROTECTION

AN OVERVIEW

The population and economy of the Pacific Northwest have grown and diversified during the past 20 years, with much of the change occurring in just the past decade. Today, more than 60 percent of the region's population lives in urban areas, up from 47 percent in 1980. The region has enjoyed better than average prosperity as construction, trade and services, and transportation sectors grew during the last half of the 1980s.

As these changes were taking place, the importance of the timber industry to the region's economy has diminished while the overall economy has prospered. A decade ago, the timber industry's contribution to the gross regional product was approximately 7 percent; today it is barely 3.5 percent.

All of the region's industrial sectors, except forest products, have increased employment rates well in excess of the national average. From 1985 to 1990, more than 200,000 new jobs were created in Washington and Oregon. Labor experts predict that some 1.6 million new jobs could be created in the region by the year 2000 with most those coming in construction, finance, and high technology industries. Employment growth in the region has been reasonably well distributed since 1978. Rural communities account for 7.6 percent of the region's workforce and 5.9 percent of employment growth. No-rural communities on the other hand account for 92.4 percent of the region's workforce.

Today, timber industry employment represents only 4 percent of total employment in the region. Timber industry jobs peaked in 1979 at 133,800 in Washington and Oregon. Since then, the industry has reduced employment, first in response to the recession of 1981 and 1982, and then in an effort to modernize and reduce its manufacturing costs. By 1988, the high point in the most recent business cycle, timber industry employment had fallen to 108,400 workers -- a decline of 25,400 in ten years and before the northern spotted owl was listed as a threatened species.

At the same time, fewer workers were producing much more finished product. Lumber and plywood production rose 19 percent during this period when employment in the industry fell 14 percent. Ten years ago it took 4.5 workers to produce one million board feet of finished wood product, but today it takes only three workers to produce the same amount of product.

More job losses are predicted as a result of increasing automation and labor productivity. By the year 2010, another 33,000 timber jobs could be lost due to these factors. Meanwhile, real wages for timber workers have declined 17 percent since 1979, according to the Oregon Employment Division.

Another important factor has been the timber industry's systematic abandonment of the Pacific Northwest for more amenable economic environments, particularly the South. From 1978 to 1990, lumber and plywood manufacturing capacity of the seven

largest timber companies declined nearly 34 percent in the Pacific Northwest while growing by more than 121 percent in the South. This shift was accelerated by the decline in capital investment in northwest mills by the seven companies, dropping 60 percent over the past several decades.

Still another significant problem related to timber employment in the region is the growth of log exports. Log exports claim 24 percent of all timber cut in Oregon and Washington and today represent the single largest constraint on the available timber supply for U.S. mills in the region. Log exports are also a drain on the federal treasury because U.S. timber companies are able to avoid approximately \$100 million annually

Log exports peaked in 1988 at 3.7 billion board feet and have averaged 2.88 billion board feet a year between 1980 and 1990. But in the last half of the 1980s log exports averaged 3.2 billion board feet a year. These exports will be processed into finished products by foreign instead of U.S. workers.

Reducing exports would have a significant positive impact on timber employment in the northwest. For example, a 25 percent reduction in log exports could provide the equivalent of between 4,500 and 5,000 U.S. timber jobs.

One avenue to reducing log exports is allowing states to impose a tariff that could then be dedicated to education, job training, and/or public works programs in the region. Based on an unpublished analysis of log export tariffs (the only known work on the subject to date), a 30 percent tariff on raw log exports would conservatively recover roughly 10 percent of the total export volume in the Pacific Northwest.

If 300 mmbf of raw logs is diverted from exports to domestic timber supplies, and using a multiplier for direct timber jobs of 6, some 1,800 direct timber jobs would be generated. Using a multiplier of 9 for indirect and induced jobs, recovery of 300 mmbf from the export market would produce an estimated 2,700 additional jobs. (These multipliers are consistent with the multipliers used by the U.S. Forest Service and Bureau of Land Management)

A 30 percent tariff, imposed by states, could also produce approximately \$400 million in new, and dedicated, revenues for participating states.

Benefits of Ancient Forest Protection

If implemented, Alternative 12 would address several major factors which have contributed to the decline of species viability in the Pacific Northwest and the degradation of water quality and other non-timber resources.

Briefly, Alternative 12 would address: 1) the continued fragmentation of old growth forest habitat and the resulting isolation of wildlife species into local populations which have greater risk of extinction, 2) the cumulative impacts of old growth destruction, road building and other timber harvesting on public and private lands on watershed conditions, 3) the loss of biological diversity in the old growth forests, and 4) other benefits provided by the ancient forest ecosystem.

Forest ecologist Elliott A Norse, author of the book, "Ancient Forests of the Pacific Northwest," notes the following benefits of the ancient forest in his article "The Concept of Ecosystem Service."

1. Creating and Maintaining Productive Soils:

After climate, soils are the most important factor determining the patterns of life in forests and other ecosystems. The trees, plants, animals, and insects of the ancient forest create and protect complex and nutrient-rich soils which support the growth of generation after generation of trees in unlogged old growth forests. Logging can lead to erosion and loss of soil nutrients which damage the productivity of the forest.

2. Minimizing Soil Erosion: The needles and other foliage of the trees, shrubs, plants, and moss of the ancient forest protect the forest floor from heavy rains which would cause erosion of unprotected soils.

3. Cleaning the Air: The conifer trees in each hectare of ancient forest can have more than a billion needles which filter dust and droplets -- both natural and man-produced [pollution] from the air. The uneven canopies of ancient forests actually increase this cleansing effect because they cause turbulence in the passing wind and breezes.

4. Capturing the Fog: Ancient forest needles catch fog which condenses and eventually trickles down to the forest floor beneath. The water that ancient forests "harvest" from the sky is a resource that thirsty Northwest communities can not afford to lose.

5. Lessening Flooding and Drought: Because the needles and foliage of ancient forest trees catch snow, fog and rain, they serve to

moderate the flow of water from the forest into streams and rivers. The filtering effect of ancient forests reduces peak stream flows and increases minimum flows and thus decreases the incidence of both floods and inadequately low stream flows.

Response to Timber Industry - Labor Management Committee
Critique of S. 2895 - The Rural Development and Ancient
Forest Ecosystem Act of 1992

(1) QUESTION: Will S. 2895 destroy multiple-use management on the National Forests and public lands in the Pacific Northwest.

ANSWER: The Multiple-Use Sustained Yield Act of 1960 says that "multiple use means the management of all the various renewable surface resources on the national forests so that they are utilized in the combination that will best meet the needs of the American people". The Act was past to get the Forest Service to manage for more than just timber production.

Yet for 32 years federal land management agencies seem to rationalize every clear-cut under the banner of multiple-use. As a result, timber harvesting continued unabated. Even when subsequent environmental laws such as the National Environmental Policy Act, National Forest Management Act, and Forest Land Policy Management Act were enacted to force a new vision of multiple-use, these federal land management agencies continued with business as usual.

Now many of the agencies' own foresters and scientists say that multiple-use as it has been implemented has led to over-cutting the forest and jeopardizing the many other multiple uses that forest provide -- the fish, the wildlife, the recreation, and the spiritual values.

We can no longer sit idly by as acres upon acres of forests are clearcut and called "multiple use" management. S. 2895 protects our ancient forests in Oregon, California, and Washington for all uses but timber harvesting, while providing guidelines for timber harvesting outside those areas that will actually allow timber harvesting but in a more ecologically sensitive manner.

(2) QUESTION: Does S. 2895 introduces new nationwide management restrictions on national forests and public lands?

ANSWER: No, there are no new management restrictions outside California, Oregon, and Washington forests.

On June xx, 1992 Forest Service Chief Dale Robertson directed the agency to develop plans for managing the national forests under an ecosystem based approach. S. 2895 acknowledges this direction and sets up regional scientific advisory committees to provide each region of the Forest Service with scientific recommendations for moving forward on this much needed action.

The advisory committees' recommendations will be submitted to the Forest Service and BLM. After a mandated 60 day public comment period, the agencies can either accept the recommendations or publicly explain why they will ignore the scientists recommendations.

(3) QUESTION: Why isn't there public involvement in the scientific committee's deliberations.

ANSWER: The advisory committee's purpose is to provide the Forest Service and Bureau of Land Management with the best scientific advice possible independent of any political pressure. While S. 2895 does not mandate public involvement, the advisory committees are not precluded from asking for advice.

More importantly, the Forest Service and Bureau of Land Management are required to solicit public comment on the adopting the committees' recommendation after they have been made. In this way, the public will be able to help federal agencies implement the new ecosystem management guidelines with the best science available at their fingertips having a better understanding of the impact of their decisions on the forests and those people whose livelihoods depend on them.

(4) QUESTION: Will S. 2895 supplant existing federal resource management plans?

ANSWER: To the contrary, S. 2895 requires federal land management agencies to build on existing resource management plans in California, Oregon, and Washington so they will be in compliance with the nation's environmental laws.

In other regions of the country, resource management plans will stand unless they are amended following public involvement and normal amendment procedures.

(5) QUESTION: Is S. 2895 is the largest legislative lock-up in history?

ANSWER: S. 2895 will not lock up any public lands into reserves. It provides management direction for ancient forests, key watersheds, and other federal lands in northern California and the Pacific Northwest. Timber harvesting and road building are not allowed in our remaining ancient forests, but, all other multiple uses -- including use of existing roads -- are allowed.

(6) QUESTION: How can you lock up 8.8 million acres without letting anybody see the maps?

ANSWER: There are no maps. S. 2895 does not lock up any land, but, provides management guidelines for Forest Service and Bureau of Land Management foresters to follow. These guidelines are based the standards in the scientific report "Alternatives for Management of Late-Successional Forests of the Pacific Northwest", but, do not require the Forest Service and BLM to adopt the report's maps. The authors of S. 2895 trust our federal foresters and thats why they are giving them flexibility to use their best professional judgement in implementing these congressional guidelines.

Such congressional guidance may not have been needed if the recent administrations had acted on the advice of their own forestry professionals for the last decade, but, they failed to do son and now congress must step in to stop the destruction.

(7) QUESTION: Why does your bill affect 8.8 million acres when environmentalists have claimed only 2 million acres of ancient forests still exist?

(answer with more detailed acreage breakdown, and/or ecosystem management argument. Norm will call back Aren't existing set-asides already included in 8.8 million acres?)

(8) QUESTION: Will S. 2895 virtually eliminate timber sales on public lands in the affected region?

ANSWER: Public land harvests make up only 35% of Northern California and Pacific Northwest total harvests. So in looking at harvest reductions focusing only on public lands is misleading. It is more appropriate to look at public and private harvests together.

According to the Forest Service, public and private timber harvests averaged 15.8 billion board feet between 1980 and 1989 throughout the region. S.2895 will reduce this regional timber harvest by 4.3 bbf or 27 percent. However, Forest Service estimates also point out that 1.5 bbf or 34% of this reduction would be offset by increased harvests on private lands. So S. 2895 would reduce historic regional harvest levels by 2.8 bbf or 18 percent.

If we only focus on public lands, average annual harvest drops from 5.6 bbf to 1.3 bbf. But again, this doesn't give a realistic picture of the region.

(9) QUESTION: Will S. 2895 eliminate 12% of the nations lumber supply at a time of rising housing starts and wood products shortages?

ANSWER: Lumber supply decreases in one region of the nation are made up in others. Its just not accurate to assume a static lumber supply. In this case decreasing federal timber harvests in the Pacific Northwest is expected to be mitigated by increases in private timber land harvests the region and in the Southeast. Canadian timber will also continue to help supply our mills.

(10) QUESTION: Will S. 2895 have any regional economic impacts?

In analyzing the economics of the spotted owl issue, Dr. William Conerly, Vice-President and Economist at First Interstate Bank of Oregon, the statewide effects of the timber harvest reductions will be mild. He points out that the estimates of job losses should be put in context. "The State of Oregon has seen 200,000 jobs created in the last five years, and with normal growth would create another 150,000 jobs in the next five years. On the average the effects of the [harvest reductions] would be small".

(11) QUESTION: Will S. 2895 have any national economic impacts?

In analyzing the economics of the spotted owl issue, Dr. William Conerly, Vice-President and Economist at First Interstate Bank of Oregon, states that "Industry observers today see substantially higher stumpage prices but not significantly higher lumber prices." Conerly goes on to point out that this is because "Lumber sells in a national market; competition from southern and Canadian lumber prevents [pacific northwest] mills from pushing through land cost increases". In other words, all things being equal, while the cost of buying logs will increase in the region, reductions in regional harvest are not expected to have a big impact on lumber products -- such as 2x4s for our homes -- across the nation.

(12) QUESTION: What S.2895 destroy timber dependent communities and families?

ANSWER: S. 2895 will force the forest products industry to purchase timber from state and private lands throughout the region. The Forest Service estimates that these private lands can mitigate 34% of the reduction.

However, some federally dependent mills may not be close to private timber supplies, therefore, putting them at a competitive disadvantage, and as Dr. William Conerly, Vice-President and Economist at First Interstate Bank of Oregon, states that the increased stumpage prices caused by timber harvest restrictions will cause inefficient mills to close.

Recognizing these effects, S. 2895 creates a worker dislocation assistance fund at \$83 million a year for six years. The bill also creates an economic investment fund to help timber communities diversify at \$41 million per year for six years.

(13) QUESTION: Will S. 2895 increase the cost of an average new home by \$3,000 to \$5,000?

ANSWER: Lumber prices are not expected to increase as a result of timber harvest restrictions in northern Californian and the PNW because competition from southern and Canadian lumber prevents pacific northwest mills from pushing through lumber increases do to higher timber costs.

But even if they do rise, the forest products industry's contention is unfounded. According to Means Residential Cost Data, construction lumber makes up only 4.9% of the cost of a new home. This means that if lumber prices increased by 15 percent, the \$98,500 cost of an average home would increase by \$724, or less one percent of the new homes total cost.

It is interesting to note, however, that the forest products industry recently pushed for a 15% duty on imports of Canadian timber which make up 25% of our lumber supply. The Department of Commerce settled on a 6.5% duty, but, the fact remains, the forest products industry shouldn't be complaining about the negative affect timber harvest restrictions will have on lumber prices in one breath, and then asking the Department of Commerce to raise the cost of lumber in the next breath.

(14) Would S. 2895 result in the loss of over 100,100 jobs?

There is no arguing that ancient forest protection will displace jobs. Yet, the Labor-Management Committee's estimates clearly exaggerate the impacts.

First, the Committee does not take into consideration the cyclical nature of the forest products industry whose employment has been subject to wide swings in the economy and not timber supply.

Second, the Committee's calculations predict that many more people associated with the forest products industry would loose jobs due to incremental reduction in timber harvest than appears to be the case.

Senate Agriculture Committee estimates that ancient forest protection would more realistically affect 8000 people.

But, you can't look at any job loss analysis without also looking at the mitigating forces that soften the impact.

- ** Harvest from private lands is expected to jump by 22 percent according to the Forest Service. This will provide for 6,000 jobs a year.

- ** According to the Bureau of Labor Statistics, at least 3 percent of the workers in the forest products industry leave their jobs every year. This will provide another 4,300 jobs a year.

Senator Leahy and Adams bill will build on these natural forces by:

- ** allowing states to temporarily ban log exports. This would keep an additional 5,700 jobs from being exported to Japan; and,

- ** creating a Community Rural Development Investment Fund to invest in timber dependent communities future. The Fund will be generated from pouring \$41 million in federal timber sale revenues back into the communities instead of being poured into the general treasury.

Even with these mitigating forces and programs in place, peoples' lives will be disrupted by the need to repair the short-sighted policies of the Reagan and Bush administrations. This is why Senators Leahy and Adams also create a Dislocated Forest Worker Account to provide additional benefits to individual workers who are affected by the transition to responsible forest management.

The Earth Summit: A Closer Look at the Vanishing Forests

Space Photos Show Forests in Pacific Northwest Are in Peril, Scientists Say

By TIMOTHY EGAN

Special to The New York Times

SEATTLE, June 10 — A team of Government scientists mapping changes in the earth's surface says the latest satellite pictures show a surprising level of damage to the richest forests of the United States.

When compared particularly with the tropical rain forests of Brazil, the evergreen forests of the Pacific Northwest, although only a tenth the size, appear to be in danger of losing their biological vitality, the scientists said.

They said the pictures show the national forests in the Northwest so torn up by thousands of clear-cuts that the logging threatens the ability of the forests to support a diversity of species.

The scientists, from the National Aeronautics and Space Administration's Goddard Space Flight Center in Greenbelt, Md., are led by Dr. Compton J. Tucker. They base their conclusions on pictures from space of the tropical rain forest in Brazil and the temperate rain forests of Washington and Oregon.

'Severe Fragmentation' Found

"When you compare the situation in the Pacific Northwest to the Amazon of Brazil, the Northwest is much worse," Dr. Tucker said in an interview. "The pictures show this amazing, graphic situation — the severe fragmentation of the forest in the Northwest."

Because the continuity of the forest is so badly damaged, he said, such logging "has serious implications" for the diversity of plant and animal species needed to maintain a healthy biological system.

Officials of the United States Forest Service, which sets policy on such logging operations, say it is misleading to make judgments about forest practices based on pictures from space.

Almost all the cut-over Forest Service land has been replanted with new trees, they say, but this is not shown in the pictures from space because newly planted plots look the same as bald, deforested areas until the trees are about 10 years old.

The NASA pictures are bound to influence the debate in Congress over how much logging should be allowed in the national forests. The Bush Administration wants to open up logging on four million acres, in two areas of the state of Washington that contain large sections of old growth forest. Several bills pending in Congress would preserve most of the remaining forest.

Aerial tours of clear-cuts in the Northwest have proved to be one of the most convincing lobbying tools for groups opposed to extensive logging.

Dr. Tucker said he made his pictures available because he thought the comparison was relevant to the international debate.

Mapping Terrestrial Changes

Dr. Tucker, a senior fellow at the Goddard Center who has worked for the space agency for 17 years, heads a 15-member team that has been using satellite pictures to map changes in the earth's surface. He directs a unit of the Laboratory for Terrestrial Physics. His past studies have focused on the Amazon rain forest and on the growth of the Sahara Desert.

He has spent much of the past year comparing pictures of the Pacific Northwest with those of Brazil. Some of the pictures were shown to President Bush during his visit to the Goddard Center two weeks ago.

A White House spokesman said today that the President saw many satellite photos that day and did not specifically recall the ones comparing deforestation.

In Brazil, Dr. Tucker said, most of the Amazon forest remains intact despite years of cutting and burning to clear land for agriculture and development. The forest's edges have been pushed back and some sections have been opened in the interior, but the vast expanse of forest is undisturbed.

By contrast, he said, in the Pacific Northwest a large portion of the forest has been cut into small segments by roads and development or logging. When loggers clear-cut a tract of land, they cut down all the trees on hundreds of plots of 40 to 60 acres each.

Cutting the Forest to Pieces

"What so astonished us when we started to do this comparison was the tremendous degree of fragmentation in the Northwest," Dr. Tucker said. "It appears that much of the forest has been literally cut to pieces."

Some biologists compare the forests of the Northwest to a shirt that has been perforated again and again; after awhile there are many holes and little shirt. They contend that the region's national forests have been so sliced up by small clear-cuts that the overall

health of the forest is at risk.

New Logging Methods

The Forest Service announced last week that it was retreating from its decades-old policy of clear-cutting. Under the new logging methods, some trees will be left standing as a means of encouraging a more natural regeneration of the forest.

The satellite analysis of the forests in the Pacific Northwest and Brazil adds a new dimension to a claim that many environmentalists have made about logging in the United States.

Extensive mapping by the Wilderness Society, for example, has concluded that a little more than 10 percent of the original 25-million-acre forest that once stretched from Northern California to the Canadian border is intact. This great swath of trees, including species like the Pacific yew, which contains a cancer-fighting compound, and many plants and animals in danger of being lost forever, is generally considered the biggest and richest of American forests.

In recent years, as other countries have stepped up their criticism of forestry practices in South American nations, some of these countries, including Brazil, have countered by citing the destructive logging of ancient forests in the Pacific Northwest.

As delegates met in Rio de Janeiro this week for the Earth Summit, leaders from the northern nations have continued to press for restrictions on logging in tropical forests.

The United States delegation arrived in Rio proclaiming protection of the world's forests as the main objective. As an incentive to developing countries, President Bush said the United States would increase its aid to other nations' forestry programs by \$150 million, to \$270 million, in the next fiscal year.

But the Bush Administration has opposed as too costly a proposed treaty

that would protect the world's plant and animal species.

In Dr. Tucker's analysis, the biggest threat from logging in the Pacific Northwest is to the diversity of species, a point on which many Forest Service officials agree.

But John Lowe, the deputy regional forester for the Pacific Northwest, said the satellite pictures do not show the replanting that has taken place in many areas.

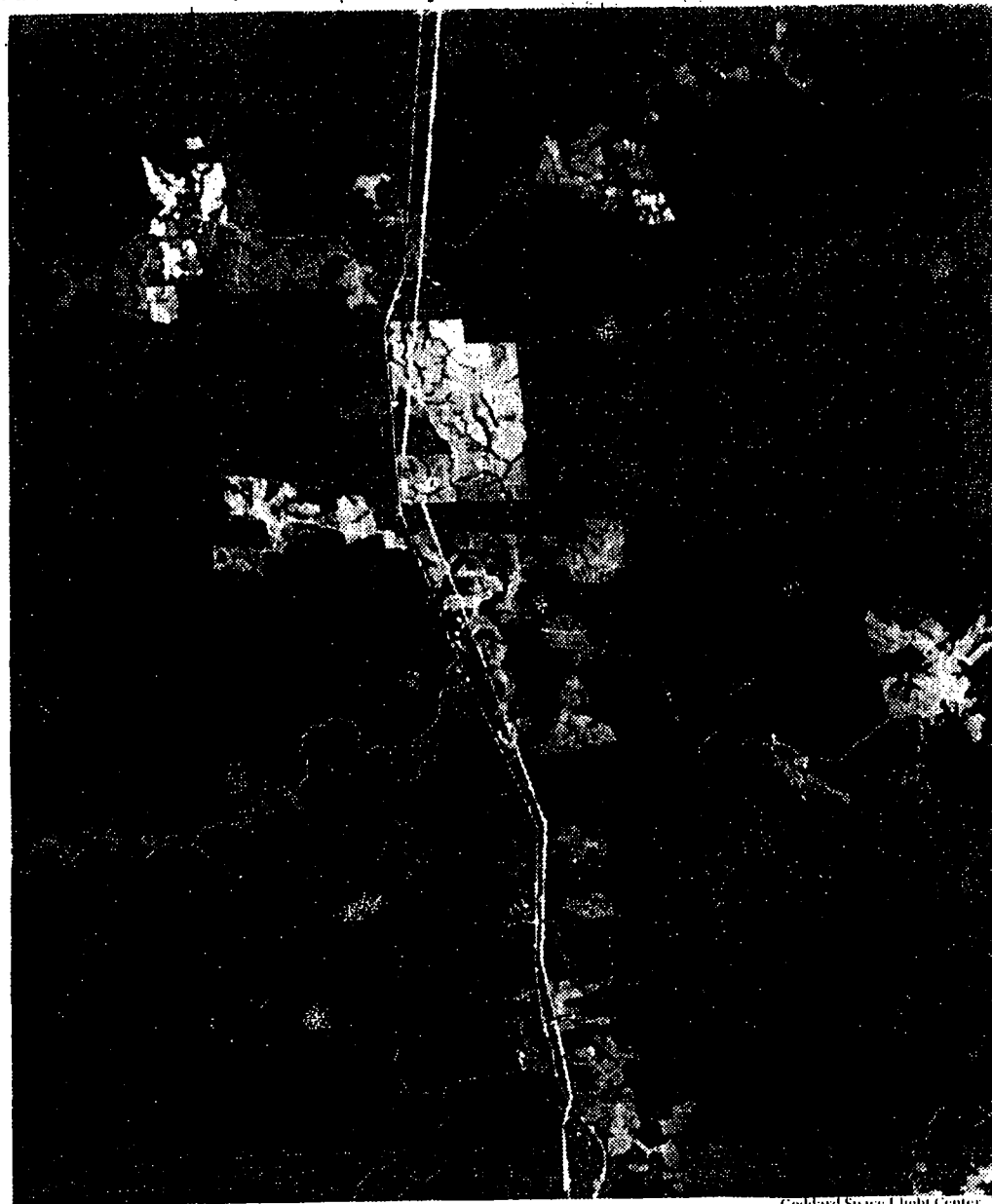
"The big difference between us and Brazil is that we are trying to bring it back," Mr. Lowe said. "Deforestation is not the business we are in. It never

has been. We have been 99 percent successful in bringing in new forests after logging."

He acknowledged that the clear cutting in the Northwest had left many experts concerned about a drop in the diversity of species. These people say that when a natural forest is replaced

by commercially valuable trees, the plot becomes a farm, not a forest, and biological interaction is damaged.

But Mr. Lowe defended the practice. "Certainly, we have fragmented the landscape," he said, "but overall the forest is healthy enough to operate as an ecosystem that will foster species diversity."



Goddard Space Flight Center

Satellite pictures taken in the last two years of forests in the Mount Hood National Forest in western Oregon, left, and in the state of Amazonas in Brazil. Each picture shows an area of about 1,000 square miles. The pictures show that commercial forests in the Northwest are more heavily damaged than the rain forests of Brazil.

PM-Spotted Owl-Appeal, Bjt,750<

Bush Administration Asks to Resume Logging in Spotted Owl Habitat<
sspams2-oia<

Eds: Moved first for Thursday AMs.<

By SCOTT SONNER=

Associated Press Writer=

WASHINGTON (AP) The Bush administration, eager to resume Northwest logging, has asked a U.S. appeals court to lift a federal judge's ban on timber harvests in national forests with northern spotted owls.

Acting Assistant Agriculture Secretary John Beuter said the logging injunction granted last month by U.S. District Judge William Dwyer of Seattle is "wholly unnecessary" to save the threatened owl from extinction.

"We have a scientifically credible management strategy in place that protects the long-term viability of the northern spotted owl," Beuter said in a statement Wednesday.

The Agriculture Department filed the request with the 9th U.S. Circuit Court of Appeals in San Francisco, where last year it lost a similar dispute over protection Dwyer had ordered for the bird.

The new motion seeks to stay Dwyer's injunction so the Forest
PRESS RETURN TO CONTINUE OR ENTER A REQUEST.

Service can proceed with plans to log millions of acres of national forests in Oregon, Washington and Northern California.

"We recognize that a stay pending appeal is extraordinary relief, but this is an extraordinary case," an attorney for the Justice Department said in the motion.

If the logging ban is lifted, the agency would expect to harvest between 1.8 billion and 2.3 billion board feet of timber on those lands next year, Agriculture Department spokesman John Mahoney said.

Attorneys for the Sierra Club Legal Defense Fund, which filed the lawsuit challenging forest-management plans, said they think the ban will be upheld because the threatened bird's population is declining rapidly in its dwindling old-growth habitat.

"This is the same court that affirmed Judge Dwyer last year under very similar circumstances," said Vic Sher, the group's managing attorney in Seattle.

"They want to be able to go on selling timber even though the judge told them to go back and re-evaluate. It is not universally accepted that they have a plan to protect the owl," he said.

Oral arguments on the motion are scheduled in San Francisco the first week of November, Sher said.

Environmentalists and the Bush administration have been in and
PRESS RETURN TO CONTINUE OR ENTER A REQUEST.

out of court since the Fish and Wildlife Service declared the owl a threatened species in June 1990.

Dwyer earlier cited a "remarkable series of violations of environmental laws" that have pushed the owl closer to the brink of extinction, including "a deliberate and systematic refusal by the Forest Service and the Fish and Wildlife Service to comply with the laws protecting wildlife.

"This is not the doing of the scientists, foresters, rangers and others at the working levels of these agencies," the judge wrote. "It reflects decisions made by higher authorities in the executive branch of government."

Dwyer issued the latest injunction in July, citing the Forest Service's failure to consider new evidence that shows the owl's population is worse off than was once feared. He also indicated the Forest Service's environmental impact statement failed to take into account the owl protection plan's impact on 32 other species dependent on old-growth forests.

He ordered the agency to devise a new plan that would provide more protection for the owl, and last week gave them a year to do that.

Deputy Forest Service Chief James Overbay said in July it would take nearly two years to complete a new plan.
PRESS RETURN TO CONTINUE OR ENTER A REQUEST.

The Forest Service wants to implement a 1990 owl strategy that would cut the region's timber harvests roughly in half in an effort to save the remaining 3,000 pairs of owls.

More recent research, including some by a committee commissioned by Congress, has recommended even further logging cutbacks.

Anne Almy, a Justice Department attorney in Washington, D.C., said in the new motion that Dwyer's response has been "essentially to 'freeze' the national forests to preserve theoretical conservation options at the cost of the communities, jobs and dignity of the logging workers of the Pacific Northwest."

Barry Polsky, a spokesman for the American Forest Resource Alliance, praised the administration's effort to lift the ban.

"The judge has gone overboard in shutting down timber sales," he said. "It's more evidence that Congress and the administration must resolve this issue themselves instead of allowing judicial activists like Dwyer to manage the national forests."

Tob/forests

DRAFT ONLY

AD COPY: PACIFIC NORTHWEST, OPEN LETTER TO CITIZENS
(HEADLINE OPTIONS)

- #1 AN OPEN LETTER TO THE CITIZENS OF THE PACIFIC NORTHWEST
- #2 GEORGE BUSH, WHERE HAVE YOU BEEN?
- #3 YOU'RE TOO LATE, GEORGE BUSH

Dear Pacific Northwest Citizen,

It is the tenth month of the fourth year of George Bush's presidency. And he is finally coming to visit the Pacific Northwest.

It must be election time in America.

The question we ask is, "George Bush, where have you been for the last three and one half years?" *the heck*

Where were you when the hardworking people of the Pacific Northwest:

- * sought leadership on the painful timber and owl controversy affecting our communities while you did nothing

- * lost 60,000 timber jobs due to your inaction and mismanagement

- * struggled for assistance to help our timber workers and their communities as you vetoed these efforts

- * endured soaring unemployment while you provided no economic recovery plan

- * worked to increase exports to foreign markets that remain stubbornly closed to American products, while your trade policy has failed

- * were devastated by soaring bankruptcies as you presided over the mismanagement of the largest bailout fiasco in U.S. history -- the Savings and Loan scandal

And now, President Bush is seeking re-election for himself, not renewal for the American economy and its people.

The people of the Northwest deserve more respect than eleventh hour promises and cheap giveaways. The time for Bush to help the Northwest has come -- and gone.

We ask the citizens of the great Pacific Northwest to reject the cynical politics of this do-nothing president.

We ask the citizens of the Northwest to ask the President, "Where have you been?"

Sincerely,

AM-OR--Clinton-Forests, 1st Ld-Writethru,510<

Eds: ADDS new grafs 13-14 with background on timber supply situation and Bush administration position.<

Clinton Promises Legislative Summit on Timber Crisis<

carl<

By CAROL ANN RIHA= Associated Press Writer<

PORTLAND, Ore. (AP) Bill Clinton has won the support of Oregon labor leaders with his promise of a summit to end the stalemate between loggers and environmentalists in the forests of the Pacific Northwest.<

"Early in my Administration I will convene a Pacific Northwest Forest Summit to work out a legislative solution," Clinton wrote in a letter released Wednesday at a news conference in Portland.<

"I will work with the Congress and all interested parties to help break the gridlock that has caused so much pain in our Pacific Northwest communities."<

Labor leaders said the letter from the Democratic nominee, received Tuesday night, was the first indication that the regional crisis may get some attention at the presidential level.<

"We've been rolling the same dice for four years and we've crapped out every time," said Wilson Hubbell, president of International Woodworkers of America.<

"Governor Clinton understands working people in a way George Bush does not," Oregon AFL-CIO President Art Fletcher said. "He's been in office almost four years and he hasn't come up with any proposals."<

The leaders of unions representing more than 125,000 workers in Oregon said they were excited by Clinton's pledge to work toward a solution.<

"This is a position and a candidate that forest products workers can rally around and be excited about," Mike Draper, executive secretary of the Western Council of Industrial Workers, said in a television conference hookup from Boston.<

Clinton also promised to visit a family dependant on the timber industry in the Northwest, which Fletcher said will ensure that timber workers' views are heard.<

"I can't help but believe that when Bill Clinton comes to Oregon that we'll make our case," Fletcher said.<

The labor leaders said they believe Clinton is sympathetic to human suffering. Draper pointed to the Arkansas governor's campaign slogan.<

"The theme is people first not owls first," he said.<

Court rulings requiring protection of the northern spotted owl, which has been listed as a threatened species, have blocked virtually all logging on federal land in the timber-rich western portions of Oregon and Washington. The ban has devastated communities whose mills depend on federal timber.<

Bush and members of his administration have voiced support for the timber industry's position in the court actions brought by environmental groups but have not called for a summit to resolve the issue, as Clinton did.<

Northwest Democrats applauded Clinton's overture to a resolution of the crisis. Washington Gov. Booth Gardner, speaking at a state labor meeting in Everett, Wash., said Clinton has confirmed that "his administration would make it a priority to get everyone to the table to solve this problem.<

"Neither the plight of our people nor the danger to our forests was important enough to the Bush administration to warrant real leadership," Gardner said.<

Rep. Les AuCoin, D-Ore., said he has watched the Bush administration's forest management follies from a ringside seat for four years and, with one letter, Clinton has shown more leadership.<

-- 08-26-92 --



Sunrise, Mt. McKinley

Ansel Adams

SIERRA CLUB LEGAL DEFENSE FUND, INC.

The Law Firm for the Environmental Movement

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MEMORANDUM

TO: Katie McGinty
FROM: Kevin Kirchner 
DATE: July 10, 1992
RE: Pending FS proposals affecting national forests

As discussed, there are several pending Administration proposals that would reduce protection for the national forests.

Eliminating the Viability/Biodiversity Rule

We have received reports that the Administration will sign a final rule any day now that guts the National Forest Management Act's (NFMA) biodiversity regulation for any species listed as threatened or endangered under the ESA. The rule change was formally proposed on August 27, 1991 and public comments were accepted.

Of course, eliminating the viability rule, especially for those species most in need of protection, would be consistent with the Bush Administration's refusal to sign the Biodiversity Treaty in Rio. BUT it stands in stark contrast to the President's claims that we have the strongest forest protection laws in the world. The laws are worthless if they aren't enforced (see, e.g. the attached summary of court quotes), and in this case they're actually proposing to dramatically weaken them rather than obey a Congressional directive and a court order.

The viability regulation is the key rule that implements the biological diversity requirements of the NFMA. The NFMA requires regulations that "provide for diversity of plant and animal communities..." The Committee of Scientists that wrote the NFMA regulations adopted the viability regulation to implement this provision:

"Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species" [36 CFR § 219.19].

For more than a decade, the Forest Service has followed this rule and managed the national forests to ensure the viability of all native vertebrate species -- including those listed as threatened or endangered.



July 10, 1992

Page 2

In an after-the-fact attempt to avoid cutting back on the logging of ancient forests in the Northwest, however, the FS tried to re-interpret its viability rule. During a 1991 court hearing over the agency's refusal to carry out Congress's directive to implement a legally and scientifically sound owl/ancient forest protection plan, the Forest Service first advanced its new theory that the rule doesn't apply to threatened or endangered species. Their attempt to re-interpret the rule was soundly rejected by both the District Court and the Ninth Circuit and the courts barred logging in owl habitat until a plan complying with the NFMA's viability/biodiversity requirements was in place. (Some good excerpts are attached.)

Undeterred, the Forest Service proposed formally amending the existing rule for the express purpose of getting out from under "a recent court ruling that the requirement in the planning regulations to maintain a viable population applies to species listed under the Endangered Species Act."

If the FS does make the rule final, we expect that they will go back to Judge Dwyer and ask him to lift the injunction on the grounds that eliminating their viability/biodiversity regulation eliminates their legal responsibility to protect the owl and its habitat.

Simply put, avoiding the owl injunction is the primary focus of this rule change. But its adoption will adversely affect fish and wildlife habitat protection on all 156 national forests in the country.

Eliminating Administrative Appeals

In mid-March, Agriculture Secretary Ed Madigan announced that the Forest Service would propose eliminating administrative appeals of timber sales, oil and gas leases, and other decisions affecting management of the national forests. The proposal was published in the Federal Register on March 26 and comments were accepted for 30 days.

We have been told that it could be finalized any day. In addition, we have been told that some forests have been holding back timber sales until the rule is in place so that they will not be subject to appeal.

I know you and Senator Gore are familiar with the proposal, but I've attached a couple of fact sheets that highlight both the specific problems with the FS proposal and the broader ramifications for accountability in government. The clear Administration goal here, as in its lobbying for legislation cutting off judicial review, is to insulate Executive Branch activities from citizen and court review.

Revision of Forest Planning Regulations

In early 1991, the Forest Service published an Advance Notice of Proposed Rulemaking (ANPR) in the Federal Register, in which it sought comments on an awful proposal to institutionalize forest planning changes that would largely skew management in favor of timber and other commodities.

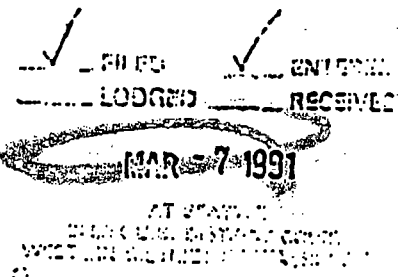
Before it can finalize any such changes, the agency would have to reissue a formal proposal -- the earlier version was just an "advance notice" of what they might do -- and it is our understanding that the agency is prepared to do so soon. I've enclosed a copy of the comments we submitted on the ANPR to give you a sense of the agency's agenda (as if you didn't know already).

July 10, 1992

Page 3

Sequoia National Forest

You may already have heard that President Bush is going to California on Tuesday (July 14) for a photo-op with a giant Sequoia. No one seems to know exactly what he will do, but it is clearly designed to get some press attention during the convention. Whether it will also coincide with his elimination of appeals and/or the biodiversity rule is anyone's guess.



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE AUDUBON SOCIETY, et al.,
Plaintiffs,

v.

F. DALE ROBERTSON, et al.,
Defendants.

NO. C89-160WD

WASHINGTON CONTRACT LOGGERS
ASSOCIATION, et al.,

Plaintiffs,

v.

F. DALE ROBERTSON, et al.,
Defendants.

CONSOLIDATED WITH

NO. C89-99(T)WD

ORDER ON MOTIONS FOR
SUMMARY JUDGMENT AND
FOR DISMISSAL

I.

INTRODUCTION

The history of these cases, and of the earlier rulings made
by this court and the court of appeals, is summarized in the Order
on Motions Heard December 5, 1990 (Dkt. # 757). Sections I and II

1 C. Discussion

2 The Forest Service's argument that its duties under EPA
3 displace those imposed upon it by NFMA and NEPA is refuted by the
4 statutes themselves and the agency's own established practices in
5 applying them.

6 ESA provides "a program for the conservation of . . .
7 endangered species and threatened species." 16 U.S.C. § 1531(b).
8 The program is activated when FWS lists a species of wildlife as
9 endangered or threatened. An endangered species is one "which is
10 in danger of extinction throughout all or a significant portion or
11 its range" 16 U.S.C. § 1532(6). A threatened species is
12 one "which is likely to become an endangered species within the
13 foreseeable future throughout all or a significant portion of its
14 range." Id. § 1532(20).

15 ESA requires each federal agency to

16 insure that any action authorized, funded, or carried
17 out [by it] is not likely to jeopardize the continued
18 existence of any endangered species or threatened
19 species or result in the destruction or modification of
20 habitat of such species

21 Id. § 1536(a)(2). If an agency proposes an action that may affect
22 an endangered or threatened species it must, before proceeding
23 further, consult with FWS. Id. § 1536(a), (b). Once the agency
24 has initiated consultation, it may not make "any irreversible or
25 irretrievable commitment of resources . . . which has the effect
26 of foreclosing the formulation or implementation of any reasonable
and prudent alternative measures" Id. § 1536(d).

1 The result of the consultation is a "biological opinion" from
2 FWS -- a document which advises whether the proposal complies with
3 ESA. Id. § 1536(b)(3), (4). In the biological opinion, FWS must
4 decide if the proposed action jeopardizes the species' continued
5 existence or adversely modifies or destroys critical habitat. Id.
6 § 1536(b)(3)(A). If it does, the opinion must recommend prudent
7 and reasonable alternatives to avoid those consequences. Id.

8 The Forest Service argues that it is complying with the ESA
9 as to the spotted owl. The argument was advanced before the
10 February 26, 1991, ruling in No. C88-5732, where the court held:

11 Upon the record presented, this Court finds the
12 [Fish and Wildlife] Service has failed to discharge its
13 obligations under the Endangered Species Act and its own
14 administrative regulations. Specifically, the Service
15 acting on behalf of the Secretary of the Interior,
16 abused its discretion when it determined not to design-
17 ate critical habitat concurrently with the listing of
18 the northern spotted owl, or to explain any basis for
19 concluding that the critical habitat was not deter-
20 minable. These actions were arbitrary and capricious,
21 and contrary to law. 5 U.S.C. § 706.

22 Order Granting Plaintiffs' Motion for Summary Judgment at 19,
23 Northern Spotted Owl (Strix Occidentalis Caurina), et al., v.
24 Lujan, et al. (No. C88-5732 W.D. Wash.) (Feb. 26, 1991) (Dkt.
25 # 126).

26 In view of that ruling, the Forest Service is arguing, in
effect, that its duties are discharged by complying with the
directives of another agency which itself is failing to meet its
statutory duty. But the argument that NFMA and NEPA cease to
apply once a species has been listed cannot be sustained in any
event.

1 NFMA, passed three years after ESA, directs the Secretary of
2 Agriculture to promulgate regulations to provide for diversity of
3 plant and animal communities in order to meet overall multiple-
4 use objectives. 16 U.S.C. § 1604(g)(3)(B). To that end, a
5 regional guide is required for each administratively designated
6 Forest Service region to provide standards and guidelines for
7 forest planning. 36 C.F.R. 219.8(a). Regional foresters
8 establish policy and approve all forest plans in their regions.
9 Id. § 219.10(a). Forest supervisors prepare and implement forest
10 plans. Id. § 219.10(a)(2). A minimum requirement is that

11 [f]ish and wildlife shall be managed to maintain viable
12 populations of existing native and desired non-native
vertebrate species in the planning area.

13 §§ 219.13, 219.19. A viable population is "one which has the
14 estimated numbers and distribution of reproductive individuals to
15 insure its continued existence is well distributed in the planning
16 area." Id. § 219.19. To insure viability, habitat must be
17 provided to support at least a minimum number of reproductive
18 individuals. Id.

19 The duty to maintain viable populations of existing
20 ~~vertebrate species requires planning for the entire biological~~
21 ~~community -- not for one species alone.~~ It is distinct from the
22 duty, under the ESA, to save a listed species from extinction.

23 Under NFMA, species whose population changes are believed to
24 reflect the impact of logging and other activities, and to measure
25 wildlife viability, are selected as "indicator species." Id. §
26 219.19(a)(1). The northern spotted owl is an indicator species.

1 The Forest Service argues that while NFMA requires it to
2 "maintain viable populations," ESA's purpose is to return
3 threatened or endangered species to the point where their popula-
4 tions are viable. The agency thus contends that NFMA applies only
5 to non-viable species, and that once a species becomes threatened
6 or endangered ESA alone defines the Forest Service's duties.

7 However, NFMA was enacted three years later than ESA, and
8 nothing in its language or legislative history suggests that
9 Congress intended to exclude endangered or threatened species from
10 NFMA's procedural and substantive requirements. The regulations
11 under NFMA explicitly address endangered and threatened species.
12 They do not suggest that ESA alone governs, or imply any conflict
13 between the two statutes.

14 The record shows that the Forest Service has understood at
15 all times that NFMA continues to apply after a species is listed
16 under ESA. The regulations under NFMA impose the following
17 requirement, among others, on management planners:

18 Habitat determined to be critical for threatened
19 and endangered species shall be identified, and measures
20 shall be prescribed to prevent the destruction or
21 adverse modification of such habitat. Objectives shall
22 be determined for threatened and endangered species that
23 shall provide for, where possible, their removal from
24 listing as threatened and endangered species through
25 appropriate conservation measures, including the design-
26 nation of special areas to meet the protection and
management needs of such species.

24 Id. § 219.19(a)(7) (emphasis added).

25 An illustration of the agency's recognition that NFMA and ESA
26 apply concurrently is provided by its recent decision to proceed

1 with the Erika timber sale in the Gifford Pinchot National Forest.
2 The relevant documents were signed in December 1990 and January
3 1991. The decision notice states that the Erika sale is "not
4 inconsistent with the Interagency Scientific Committee's recommen-
5 dations" although "suitable spotted owl habitat will be harvested
6 in this project." The finding of no significant impact states
7 that the spotted owl "will be protected according to current
8 guidelines," although none are identified beyond the Federal
9 Register notice. The environmental assessment analyzes the
10 spotted owl both as a threatened species and a management
11 indicator species, and notes that "one forest objective is to
12 maintain viable populations of these [indicator] species." See
13 Declaration of Todd D. True in Support of SAS' Motion for Leave to
14 File Supplemental Exhibit, Exh. A (Feb. 4, 1991) (Dkt. # 811).
15 These documents plainly recognize both that ESA and NFMA apply to
16 the Forest Service's management of the spotted owl.

17 Similarly, in the Land and Resource Management Plan for the
18 National Forests of Mississippi the agency designates the red-
19 cockaded woodpecker, a federally listed endangered species under
20 ESA, see 50 C.F.R. § 1711(h), as a management indicator species
21 under NFMA pursuant to section 219.19. See Declaration of
22 Richard A. Stahl, Ex. D (Nov. 29, 1990) (Dkt. # 734).

23 The Forest Service Manual provides, in the section on "Wild-
24 life, Fish and Sensitive Plant Habitat Management":

25 Incorporate consideration of wildlife, fish, and sensi-
26 tive plant resources in forest plans as required by the
National Forest Management Act, implementing regulations
at 36 CFR 219, and direction at FSM 1920. Specifically:

* * *

4. Determine habitat and management requirements for the recovery of threatened, endangered, and sensitive species.

5. Develop minimum management requirements for the maintenance of viable populations.

Forest Service Manual 2600, § 2621.1(4)(5) (U.S.D.A. Forest Service June 1, 1990) (emphasis added) (Dkt. # 812, Exh. B).

The Forest Services argues that its own interpretation of the statute should govern. See Pyramid Lake Paiute Tribe v. United States Dep't of Navy, 898 F.2d 1410, 1414 (9th Cir. 1990).

However, an agency cannot exempt itself from duties plainly imposed by law; it cannot decide that only one of two statutes governs its activities when the laws themselves, and the implementing regulations, clearly show that both apply. See

Quinivan v. Sullivan, 916 F.2d 524, 526-27 (9th Cir. 1990).

Moreover, if agency interpretation is determined by agency practice rather than by an argument raised in court, it is clear that the Forest Service has understood at all times that its duties under NFMA and EPA are concurrent.

The listing of the northern spotted owl as a threatened species did not relieve the Forest Service of its obligations under NFMA or NEPA.

IV.

THE FOREST SERVICE'S NOTICE WITHDRAWING THE 1988 RECORD OF DECISION DOES NOT CONSTITUTE COMPLIANCE WITH THE NFMA'S PROCEDURAL REQUIREMENTS

The Forest Service contends that the Federal Register notice vacating the ROD, stating that the agency would act in a manner

FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SEATTLE AUDUBON SOCIETY, et al.,
Plaintiffs-Appellants,

v.

JOHN L. EVANS, in his official
capacity as Chief, U.S. Forest
Service, et al.,

Defendants-Appellees.

No. 91-35528

D.C. No.
CV-89-160-WD
Western
Washington
(Seattle)

SEATTLE AUDUBON SOCIETY, et al.,
Plaintiffs-Appellees,

v.

UNITED STATES FOREST SERVICE,
Defendant-Appellant,

and

WASHINGTON CONTRACT LOGGERS
ASSOCIATION,

*Defendants-Intervenors-
Appellees.*

No. 91-35529

D.C. No.
CV-89-160-WD
Western
Washington
(Seattle)

SEATTLE AUDUBON SOCIETY,
Plaintiff-Appellee,

v.

JOHN L. EVANS, in his official
capacity as Chief, U.S. Forest
Service,

Defendant,

and

WASHINGTON CONTRACT LOGGERS
ASSOCIATION, et al.,

*Defendants-Intervenors-
Appellants.*

No. 91-35563

D.C. No.
CV-89-160-WD
Western
Washington
(Seattle)

OPINION

Appeals from the United States District Court
for the Western District of Washington
William L. Dwyer, District Judge, Presiding

PORTLAND AUDUBON SOCIETY,
Plaintiff-Appellant,

v.

MANUEL LUJAN, JR., in his official
capacity as Secretary of Interior,
Defendant-Appellee,

and

NORTHWEST FOREST RESOURCE
COUNCIL, et al.,

*Defendants-Intervenors-
Appellees.*

No. 91-35782

D.C. No.
CV-87-1160-HJF
Oregon (Portland)

PORTLAND AUDUBON SOCIETY,
Plaintiff-Appellant,

v.

MANUEL LUJAN, JR., in his official
capacity as Secretary of Interior,
Defendant-Appellee,

and

NORTHWEST FOREST RESOURCE
COUNCIL, et al.,

*Defendants-Intervenors-
Appellees.*

Nos. 91-35802
91-35992

D.C. No.
CV-87-1160-HJF
Oregon (Portland)

Appeals from the United States District Court
for the District of Oregon
Helen J. Frye, District Judge, Presiding

Argued and Submitted
August 28, 1991—Seattle, Washington

Filed December 23, 1991

Before: Alfred T. Goodwin, Mary M. Schroeder and
Harry Pregerson, Circuit Judges.

Opinion by Judge Schroeder

SUMMARY

Environmental Law

Affirming in part, reversing in part and remanding a district
court judgment, the court of appeals held that the Forest Ser-

vice was still required under the National Forest Management Act (NFMA) to plan for the future survival of the spotted owl even though the Fish and Wildlife Service had declared the owl threatened under the Endangered Species Act.

Seattle Audubon Society and Portland Audubon Society challenged logging in old-growth national forests as violative of several federal statutes. Appellants United States Forest Service and intervenor Washington Contract Loggers Association (WCLA) challenged an injunction entered by the district court in Seattle requiring the Forest Service to put into effect revised standards and guidelines to ensure the viability of the northern spotted owl and enjoining, in the meantime, timber sales in spotted owl habitat in national forests in Washington, Oregon, and Northern California. The district court held such planning was required under the NFMA and regulations under it that require Forest Service planning to ensure the viability of vertebrate and non-vertebrate species. On appeal, the Forest Service argued that it is no longer required under the NFMA to plan for the future survival of the spotted owl because the Fish and Wildlife Service has declared the owl threatened under the Endangered Species Act (ESA).

[1] The court agreed with the district court that there is little support for the government's newly announced position that under the NFMA it need not plan for the survival of endangered species. The Forest Service has understood at all times that NFMA continues to apply after a species is listed under ESA. [2] This was readily apparent from the Forest Service Regulations themselves. The Forest Service has used threatened or endangered species as indicator species pursuant to the same regulation. [3] In addition, the regulation in question is not the only regulation requiring the Forest Service to plan for threatened and endangered species under the NFMA. [4] Nor was there any support in the ESA for the Forest Service premise that a threatened or endangered species under the ESA is not a "viable" species within the definition of the Forest Service regulation. [5] Therefore, the court agreed that

that the Forest Service's current, and belated, interpretation of its statutory mandate and regulation was not entitled to any deference.

[6] The court agreed with the Seattle district court that the differences in the proscribed conduct under ESA and the Migratory Bird Treaty Act (MBTA) are distinct and purposeful. Although Congress amended the Act, it did not modify its prohibitions to include "harm." Habitat destruction causes "harm" to the owls under the ESA but does not "take" them within the meaning of the MBTA.

[7] The plaintiffs should have been granted leave to amend their complaint to allege NEPA claims no longer barred by the annual appropriations and restrictions originally adopted as Section 314.

COUNSEL

Michael D. Axline, Western Environmental Law Clinic, Eugene, Oregon and Victor M. Sher, Sierra Club Legal Defense Fund, Seattle, Washington, for Seattle Audubon Society, et al.

Anne S. Almy, Thomas Lee, and Louise F. Milkman, United States Department of Justice, Washington, D.C., for United States Forest Service, et al. and Secretary, United States Department of Interior.

Mark C. Rutzick and Cynthia L. Hull, Preston, Thorgrimson, Shidler, Gates and Ellis, Portland, Oregon, for Washington Contract Loggers Association, et al.

Phillip D. Chadsey and Kevin Q. Davis, Stoel, Rives, Boley, Jones & Grey, Portland, Oregon, for The Association of O & C Counties and Benton County.

OPINION

SCHROEDER, Circuit Judge:

These appeals all arise out of litigation instituted by the Portland Audubon Society (PAS) and the Seattle Audubon Society (SAS) challenging logging in old-growth national forests as violative of several federal statutes.

In appeal nos. 91-35529 and 91-35563, the defendant United States Forest Service and intervenor-defendant Washington Contract Loggers Association (WCLA), appeal from an injunction entered by the district court in Seattle requiring the Forest Service to put into effect revised standards and guidelines to ensure the viability of the northern spotted owl and enjoining, in the meantime, timber sales in spotted owl habitat in national forests in Washington, Oregon and Northern California. The district court held such planning was required under the National Forest Management Act and regulations promulgated pursuant to it that require Forest Service planning to ensure the viability of vertebrate and non-vertebrate species. *See* 16 U.S.C. §§ 1600-1687 (1985) ("NFMA"); 36 C.F.R. § 219.19.

In its appeal, the Forest Service's principal contention is that it is no longer required under the NFMA to plan for the future survival of the spotted owl because the Fish and Wildlife Service has declared the owl threatened under the Endangered Species Act, 16 U.S.C. §§ 1531-1543 (1985) ("ESA"). The Forest Service contends that it is required to plan for "viable" species, and that a species declared threatened or endangered under the ESA is no longer viable.

The district court held that the listing under the Endangered Species Act triggered new obligations under that Act but did not reduce the planning obligations of the Forest Service under the NFMA. We agree with the district court that the government's position in this case is inconsistent with the lan-

guage of the key regulation, the purpose of the applicable statutes and with the position the Forest Service itself has taken in other contexts. ²

WCLA's appeal in principal part challenges some of the district court's findings which the government does not dispute. We hold they are not clearly erroneous.

The district court's Memorandum Decision and Injunction entered May 23, 1991 are published at 771 F.2d 1081 (1991) and contain extensive findings. We affirm the district court's injunction and incorporate by reference into this Opinion the district court's Memorandum Decision.

While the district court in Seattle granted an injunction pursuant to the NFMA, the district courts in both Seattle and Portland rejected plaintiffs' claim that the logging of old-growth timber, that adversely affects owl habitat, constitutes a violation of the Migratory Bird Treaty Act, 16 U.S.C. §§ 703-711 (1985) ("MBTA"). In appeal nos. 91-35528 and 91-35782, the Seattle Audubon Society and the Portland Audubon Society appeal those rulings denying injunctive relief based on the MBTA. We affirm in those appeals as well.

In consolidated appeal nos. 91-35802 and 91-35992 the Portland Audubon Society appeals the district court's ruling denying it permission to reallege the NEPA claim we held was barred in *Portland Audubon Soc'y v. Lujan*, 884 F.2d 1233 (9th Cir. 1989), *cert. denied*, 110 S. Ct. 1470 (1990). We hereby reverse that ruling:

1. *APPLICABILITY OF THE VIABILITY
REQUIREMENTS UNDER NFMA: THE FOREST
SERVICE'S APPEAL*

A. *Background*

The NFMA requires the Forest Service to prepare management plans for its national forests to meet the multiple-use objectives of the national forest system. 16 U.S.C. § 1604(a)-(m). In keeping with the statute's mandate, the Forest Service is required to promulgate regulations that will define how the management plans are to provide for a diversity of plant and animal communities. *Id.* § 1604(g)(3)(B). The Forest Service responded by promulgating the regulation at issue in the Forest Service and WCLA appeals. See 36 C.F.R. § 219.19.¹

¹Section 219.19 provides:

Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.

(a) Each alternative shall establish objectives for the maintenance and improvement of habitat for management indicator species selected under paragraph (g)(1) of this section, to the degree consistent with overall multiple use objectives of the alternative. To meet this goal, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (a) (1) through (a)(7) of this section.

(1) In order to estimate the effects of each alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special

There are at least three major components to this regulation. First, the regulation establishes as its purpose management of the forest to maintain a "viable population" of existing spe-

habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality. On the basis of available scientific information, the interdisciplinary team shall estimate the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(2) Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the management indicator species.

(3) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted in order to coordinate planning for fish and wildlife, including opportunities for the reintroduction of extirpated species.

(4) Access and dispersal problems of hunting, fishing, and other visitor uses shall be considered.

(5) The effects of pest and fire management on fish and wildlife populations shall be considered.

(6) Population trends of the management indicator species will be monitored and relationships to habitat changes determined. This monitoring will be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(7) Habitat determined to be critical for threatened and endangered species shall be identified, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives shall be determined for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

cies. *Id.* Second, the Forest Service must select "indicator species" for the purpose of evaluating wildlife decisions. *Id.* § 219.19(a)(1)-(6). For these species, forest plans "shall establish objectives for the maintenance and improvement of habitat . . . to the degree consistent with overall multiple use objectives . . ." *Id.* § 219.19(a). Threatened and endangered species may be selected as indicators "where appropriate." *Id.* § 219.19(a)(1). A third part of this regulation requires the Forest Service to identify habitats critical to threatened or endangered species and prescribe measures to prevent their adverse modification. *Id.* § 219.19(a)(7). The Forest Service is also required to determine objectives for appropriate conservation measures for threatened or endangered species. *Id.*

In 1988, the Forest Service issued a record of decision (ROD) to amend its regional guide for the Pacific Northwest. Pursuant to NFMA requirements, these amendments specified standards and guidelines to provide for the viability of the northern spotted owl. In 1989, SAS filed suit against the Forest Service challenging the 1988 ROD. SAS alleged that the regional guide's standards and guidelines would not maintain viable populations of the owl.

On June 22, 1990, the Fish and Wildlife Service ("FWS") listed the owl as a threatened species throughout its range. The Forest Service then vacated the standards and guidelines in the regional guide and revoked the 1988 ROD. 55 Fed. Reg. 40412 (October 3, 1990). The Forest Service announced that "[a]ll Forest Service actions involving the northern spotted owl or its habitat will henceforth be carried out in compliance with the requirements of the Endangered Species Act, not 36 C.F.R. § 219.19." *Id.* at 40413.

In October 1990, SAS filed an amended complaint alleging that this Forest Service announcement notice was unlawful. SAS alleged that the Forest Service had to (1) prepare regional guidelines that ensured a viable population of the species throughout the Pacific Northwest's national forests

pursuant to the NFMA and (2) comply with the requirements of the ESA. SAS sought an injunction against all timber sales in spotted owl habitat pending preparation of such regional guidelines, as well as an accompanying environmental impact statement.

Meanwhile, Congress enacted section 318 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, Pub. L. No. 101-121, § 318, 103 Stat. 701, 745-50 (1989) ("section 318"). Section 318, which became law on October 23, 1989, was basically designed to provide a short-term supply of timber to Washington and Oregon lumber mills by limiting judicial review. On September 18, 1990 we issued our opinion finding section 318(b)(6)(A) unconstitutional under the separation of powers doctrine. *Seattle Audubon Soc'y v. Robertson*, 914 F.2d 1311 (9th Cir. 1990), cert. granted, 111 S.Ct. 2886 (1991).

Subsequently, SAS resumed its challenge to twelve proposed timber sales as failing to meet the requirements of existing environmental laws. The Forest Service argued that section 318 "occupies the field," and therefore, existing laws were no longer applicable.

The district court disagreed with the Forest Service, noting that this court had clearly ruled that, in fact, the opposite was true. "Section 318 does not, by its plain language, repeal or amend the environmental laws. . . though some sections add additional requirements." *Seattle Audubon*, 914 F.2d at 1316. On December 16, 1990, the district court ruled that twelve fiscal year 1990 timber sales advertised by the Forest Service could not be awarded because the agency had failed to comply with applicable laws. In particular, the court found that the Forest Service had failed to develop "plans for units of the national forest system" that "incorporate the standards and guidelines" required by 16 U.S.C. § 1604(g) and 36 C.F.R. § 219.19 (NFMA). The court enjoined the sales pending the Forest Service's compliance with the NFMA. The Forest Ser-

vice, however, was given leave to argue its newly raised contention that its alleged compliance with the ESA would eliminate any duties it had with regard to the owls under the NFMA.

On March 7, 1991, Judge Dwyer ruled in favor of SAS on cross-motions for summary judgment, holding that the Forest Service must comply with both the NFMA and the ESA before taking any action that will affect the owls. On May 23, 1991, after a hearing, the district court ordered the Forest Service to prepare new regional guides pursuant to the NFMA by March 5, 1992 that would ensure the owl's viability. The district court further enjoined the advertisement and award of timber sales within owl habitat in the interim. See Appendix to this opinion. This appeal followed.

B. Discussion

[1] According to the Forest Service, the sole question presented in its appeal is whether its duty under 36 C.F.R. § 219.19 to maintain a viable population of owls ceased when the owl was listed under the Endangered Species Act. Judge Dwyer in his March 7 order held that the Forest Service had violated the NFMA by failing to have a plan in place to ensure the viability of all native vertebrate species, including the northern spotted owl. He correctly observed that there is little support for the government's newly announced position that under the NFMA it need not plan for the survival of endangered species. In rejecting the Agency's position that once a species becomes threatened or endangered, only the Endangered Species Act defines the Forest Service's duties, Judge Dwyer stated that "the record shows that the Forest Service has understood at all times that NFMA continues to apply after a species is listed under ESA."

[2] This is readily apparent from the Forest Service Regulations themselves. The key part of the regulation at issue here, 36 C.F.R. § 219.19, expressly requires the planning process

under the NFMA to identify habitat "critical for threatened and endangered species" and to determine objectives "for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures . . ." *Id.* § 219.19(a)(7). The Forest Service has used threatened or endangered species as indicator species pursuant to the same regulation. *Id.* § 219.19(a)(1).

[3] Moreover, section 219.19 is not the only regulation requiring the Forest Service to plan for threatened and endangered species under the NFMA. For example, section 219.27 provides that the "minimum specific management requirements" shall "[i]nclude measures for preventing the destruction or adverse modification of critical habitat for threatened and endangered species." *Id.* § 219.27(a)(8). The Regulations were promulgated pursuant to the directive of the NFMA to provide for diversity of plant and animal communities in order to meet overall multiple use objectives. 16 U.S.C. § 1604(g)(3)(B). ~~The effect of the Forest Service's position in this litigation, were it to be adopted, would be to reward the Forest Service for its own failures; the net result would be that the less successful the Forest Service is in maintaining viable populations of species as required under its regulations, the less planning it must do for the diversity of wildlife sought by the statute. This is directly contrary to the legislative purpose of the National Forest Management Act.~~

[4] Nor is there any support in the Endangered Species Act for the Forest Service premise that a threatened or endangered species under the ESA is not a "viable" species within the definition of the Forest Service regulation. A species may be listed by the Fish and Wildlife Service under the Endangered Species Act solely because of "threatened" destruction to its habitat. See 16 U.S.C. § 1533(a)(1)(A). A species may also be listed simply because of "the inadequacy of existing regulatory mechanisms" to protect it. See *id.* § 1533(a)(1)(D). The ESA list is not a list of animals to be written off. It is a man-

date for all agencies involved to take aggressive steps to avoid a species' extinction and preserve its viability. *See id.* § 1531(b) and (c).

[5] We thus agree with the district court that the Forest Service's current, and belated, interpretation of its statutory mandate and regulation is not entitled to any deference. As the district court said in its March 7 order: "[A]n agency cannot exempt itself from duties plainly imposed by law: it cannot decide that only one of two statutes governs its activities when the laws themselves, in implementing regulations, clearly show that both apply."

The Forest Service attempts to buttress its interpretation of the law by contending that, in fact, it is now impossible for it to design a plan to maintain the viability of the spotted owl. This contention is apparently made for the first time on appeal and is not supported by evidence in the record. The Forest Service will doubtless have to coordinate its planning efforts with other agencies such as the Fish and Wildlife Service and the Bureau of Land Management ("BLM"), coordination contemplated under the Endangered Species Act. The Agency's systematic refusal to follow the law in the past, as chronicled by the district court, is not an excuse for its avoiding the concurrent requirements of the NFMA and ESA in the future.

II. THE WCLA APPEAL

In its appeal, the WCLA intervenors additionally challenge that portion of Judge Dwyer's order requiring an Environmental Impact Statement, contending that it was based upon a misinterpretation of section 318 of the Department of Interior Appropriations Act for Fiscal Year 1990, Pub. L. 101-121, 103 Stat. 743 (1989). This contention is, as a matter of law, incorrect. The district court did not "interpret" section 318 to require a particular result. It used it as a guide in fashioning a remedy and determining the appropriate time periods. *See* Appendix to this opinion.

WCLA also challenges the district court's findings concerning irreparable harm, but these challenges are without substance. The district court's findings are not clearly erroneous and the remedy fashioned was not an abuse of discretion.

III. THE MIGRATORY BIRD TREATY ACT

In appeals nos. 91-35528 and 91-35782, the Seattle Audubon Society and the Portland Audubon Society cross-appeal and appeal, respectively, the judgments of the district courts holding that the Migratory Bird Treaty Act, 16 U.S.C. §§ 703-711 (1985), does not prohibit the Forest Service and the Bureau of Land Management ("BLM") from selling and logging timber from lands within areas that may provide suitable habitat for the northern spotted owl.

The Migratory Bird Treaty Act ("MBTA") makes it illegal to "pursue, hunt, take, capture, kill, attempt to take, capture, or kill . . ." any migratory bird or "any part, nest, or egg of any such bird. . . , by any means or in any manner", 16 U.S.C. § 703, except as permitted by valid permit issued pursuant to regulations. *See* 50 C.F.R. § 21.11. The northern spotted owl is a migratory bird as defined by the regulations. *Id.* § 10.13.

The SAS and PAS contend that timber sales which destroy owl habitat are tantamount to a proscribed "taking" under the Act. Under the regulations promulgated pursuant to the MBTA, "take" is defined as to "pursue, hunt, shoot, wound, kill, trap, capture, or collect," or to attempt any such act. *Id.* § 10.12. The definition describes physical conduct of the sort engaged in by hunters and poachers, conduct which was undoubtedly a concern at the time of the statute's enactment in 1918. The statute and regulations promulgated under it make no mention of habitat modification or destruction.

Under the Endangered Species Act enacted in 1973, in contrast, the word "take" is defined in a broader way to include "harass," and "harm," in addition to the verbs included in the

MBTA definition. 16 U.S.C. § 1532(19). The broadest term, "harm," which is not included in the regulations under the Migratory Bird Treaty Act, is defined by ESA Regulation to include habitat modification or degradation. "Harm" under the Endangered Species Act definition of "take" means:

[A]n act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering.

50 C.F.R. § 17.3.

[6] We agree with the Seattle district court that the differences in the proscribed conduct under ESA and the MBTA are "distinct and purposeful." The ESA was enacted in 1973. Congress amended the Migratory Bird Treaty Act the following year, but did not modify its prohibitions to include "harm." See Pub. L. 93-300 § 1, 88 Stat. 190 (1974). Courts have held that the Migratory Bird Treaty Act reaches as far as direct, though unintended, bird poisoning from toxic substances. See, e.g., *United States v. FMC Corp.*, 572 F.2d 902 (2d Cir. 1978)(killing of migratory birds by dumping waste water); *United States v. Corbin Farm Serv.*, 444 F. Supp. 510 (E.D. Cal.), *affirmed on other grounds*, 578 F.2d 259 (9th Cir. 1978)(deaths of birds resulting from misapplication of pesticides). In *FMC Corp.*, the Second Circuit imposed strict criminal liability for poisoning birds by analogizing to principles of strict tort liability arising from dangerous conditions or substances. 572 F.2d at 906-08. That case involved the manufacture of a highly toxic pesticide. *Id.* at 906. In *Corbin Farm Serv.*, the district court simply held that the MBTA can "constitutionally be applied to impose criminal penalties on those who did not intend to kill migratory birds." 444 F. Supp. at 536. The reasoning of those cases is inapposite here. These cases do not suggest that habitat destruction, leading indirectly to bird deaths, amounts to the "taking" of migratory

birds within the meaning of the Migratory Bird Treaty Act. We are not free to give words a different meaning than that which Congress and the Agencies charged with implementing congressional directives have historically given them under the Migratory Bird Treaty Act and the Endangered Species Act. Habitat destruction causes "harm" to the owls under the ESA but does not "take" them within the meaning of the MBTA.

IV. THE APPLICABILITY OF SECTION 314

In consolidated appeal nos. 91-35802 and 91-35992, the Portland Audubon Society appeals the district court's order denying PAS leave to file an amended complaint. PAS sought to challenge certain decisions of the Bureau of Land Management to proceed with logging without preparing supplemental environmental impact statements to take into account new information concerning potential extinction of the owl. Such a claim was expressly barred by the terms of section 314 of the Fiscal Year 1989 Appropriations Bill, Pub. L. 100-446, 102 Stat. 1774, 1825 (1988). See *Portland Audubon Soc'y v. Lujan*, 884 F.2d at 1240.²

²Section 314 provides:

The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: Provided, however, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: Provided further, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

Congress reenacted that provision in 1989 for fiscal year 1990, but did not reenact the provision as part of the 1991 Appropriations Bill. Contending that the provision expired on September 30, 1990, PAS thereafter sought unsuccessfully to amend its complaint to reallege claims under the National Environmental Policy Act, 42 U.S.C. §§ 4321 et. seq. ("NEPA"). The district court certified the issue of the continued viability of the section 314 bar and we accepted jurisdiction pursuant to 28 U.S.C. § 1292(b).

The operative language of Section 314 of the 1990 appropriations bill was originally enacted as part of the 1988 appropriations bill. See Continuing Appropriations Act for Fiscal year 1988, Pub. L. No. 100-202, § 314, 101 Stat. 1329-254 (1987). It was reenacted (and extended to cover the BLM) for 1989 as Section 314. It was again reenacted for 1990 as Section 312. See Dept. of Interior and Related Agencies Appropriations Bill for Fiscal Year 1989, Pub. L. No. 100-446, § 314, 101 Stat. 1774, 1825 (1988); Department of Interior and Related Agencies Appropriations Bill for Fiscal Year 1990, Pub. L. No. 101-121, § 312, 103 Stat. 701, 743 (1989). The section was not reenacted for fiscal year 1991 and has not been renewed since. Accordingly, the question is whether the provision expired at the end of fiscal 1990. We conclude that the answer is yes.

As a general rule of thumb, appropriations acts are in force during the fiscal year of the appropriation and do not work a permanent change in the substantive law. Where, however, Congress affirmatively intends to change the substantive law by suspending or repealing a statute previously enforced, it can do so by an amendment to an appropriation bill. See *United States v. Will*, 449 U.S. 200, 221-222 (1980); *United States v. Dickerson*, 310 U.S. 554, 555-556 (1940). The question is one of legislative intent. In this case Congress has expressed its intent to alter the substantive law, but has also demonstrated its intent to make this restriction effective for only a year at a time. Congress reenacted the provisions twice,

at the expiration of each of the next two fiscal years. It did not reenact the provision for fiscal 1991.

Appellees contend that the statute itself provides that claims under NEPA be restricted for the entire time it takes the appellees to complete new plans. They rely on that portion of the section that states that the Forest Service and the BLM shall continue the management of lands under existing plans "pending the completion of new plans." This phrase however relates to administration of lands, not the duration of section 314. The language paraphrases preexisting language in the NFMA. Pursuant to the NFMA, the agencies were supposed to complete management plans by September 30, 1985. 16 U.S.C. § 1604(c). That NFMA goes on to say that:

Until such time as a unit of the national Forest System is managed under plans developed in accordance with this subchapter, the management of such unit may continue under existing land and resource management plans.

Id.

Had Congress intended to keep the restrictions of section 314 in place more than a year at a time, it could have so provided or enacted the instructions as part of permanent, substantive legislation. It would not have proceeded to consider the provision on an annual basis for three years in a row.

[7] The plaintiffs should have been granted leave to amend their complaint to allege NEPA claims no longer barred by the annual appropriations act restrictions originally adopted as Section 314.

Conclusion

For the foregoing reasons, the orders of the district court before us for review in appeal nos. 91-35528, 91-35529,

91-35563 and 91-35782 are **AFFIRMED**. The order of the district court before us in consolidated appeal nos. 91-35802 and 91-35992 is **REVERSED AND REMANDED** with instructions to allow plaintiffs leave to file an amended complaint. All parties shall bear their own costs on appeal.

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The Law Firm for the Environmental Movement

JUDGES WHO HAVE RULED ON SPOTTED OWL CASES

District Judge William L. Dwyer: Nominated by President Reagan (1987)

District Judge Helen J. Frye: Nominated by President Carter (1979)

District Judge Robert E. Jones: Nominated by President Bush (1990)

District Judge Thomas S. Zilly: Nominated by President Reagan (1988)

Ninth Circuit Judge Herbert Y.C. Choy: Nominated by President Nixon (1971)

Ninth Circuit Judge Alfred T. Goodwin: Nominated by President Nixon (1969)

Ninth Circuit Judge Thomas G. Nelson: Nominated by President Bush (1990)

Ninth Circuit Judge Harry Pregerson: Nominated by President Carter (1979)

Ninth Circuit Judge Mary Schroeder: Nominated by President Carter (1979)

EXCERPTS FROM RECENT SPOTTED OWL COURT RULINGS

November 17, 1988:

"The Service's documents also lack any expert analysis to support its conclusion [that protecting the owl under the Endangered Species Act is unnecessary]. Rather, the expert opinion is entirely to the contrary."

"[T]he Service disregarded all the expert opinion on population viability, including that of its own expert, that the owl is facing extinction, and instead merely asserted its expertise in support of its conclusions."

"Accordingly, the United States Fish and Wildlife Service's decision not to list at this time the northern spotted owl as endangered or threatened under the Endangered Species Act was arbitrary and capricious and contrary to law."

--U.S. District Judge Thomas S. Zilly
Northern Spotted Owl v. Hodel

March 29, 1989:

"The destruction of owl habitat without compliance with law is a significant and irreparable injury. Old growth forests are lost for generations, and no amount of monetary compensation can replace the environmental loss."

--U.S. District Judge Helen Frye
Portland Audubon Society v. Lujan

May 18, 1989:

"[T]he decision of the BLM not to supplement the Environmental Impact Statements prepared between 1979 and 1983 was arbitrary and capricious in light of the new, significant and probably accurate information that the planned logging of spotted owl habitat raises uncertainty about the ability of the spotted owl to survive as a species."

--U.S. District Judge Helen Frye
Portland Audubon Society v. Lujan (injunction
not issued because Court concluded it was
barred by an appropriations rider limiting
judicial review)

February 26, 1991:

"[The] legislative history leaves little room for doubt regarding the intent of Congress: The designation of critical habitat is to coincide with the final listing decision absent extraordinary circumstances."

"[T]his court is unable to find any support for the [Fish and Wildlife Service's] claim that critical habitat for the northern spotted owl was not determinable in June 1989 when the Service proposed to list the species, or when the Service issued its final rule one year later."

"The [Fish and Wildlife Service] fails to direct this Court to any portion of the administrative record which adequately explains or justifies the decision not to designate critical habitat for the northern spotted owl. Nowhere in the proposed or final rules did the Service state what efforts had been made to determine critical habitat. Nowhere did the Service specify what additional biological or economic information was necessary to complete the designation. Nowhere did the Service explain why critical habitat was not determinable. Indeed, the Service candidly acknowledged in its June 1989 proposed rule that it had not conducted the analyses required by [the ESA]....Accordingly, this Court must find the Service abused its discretion when it declined to designate critical habitat for the northern spotted owl."

"The Service's actions in June 1990 merit special mention....Despite dire assessments [about the threats to the owl and its habitat], the Service declined to designate critical habitat in its final rule, citing the same reasons it gave one year earlier. Whatever the precise contours of the Service's obligations under the ESA, clearly the law does not approve such conduct."

"Counsel for the [FWS] represented at oral argument that no information relevant to designation of critical habitat was received during the comment period between the proposed and final listing rules. The Court finds counsel's statement to strain credibility; the Service's own records indicate 23,255 comments were received during the comment period."

"[T]his Court finds the [Fish and Wildlife] Service has failed to discharge its obligations under the Endangered Species Act and its own administrative regulations. Specifically, the Service, acting on behalf of the Secretary of the Interior, abused its discretion when it determined not to designate critical habitat concurrently with the listing of the northern spotted owl, or to explain any basis for concluding that the critical habitat was not determinable. These actions were arbitrary and capricious and contrary to law."

--U.S. District Judge Thomas S. Zilly
Northern Spotted Owl v. Lujan

March 7, 1991:

"An agency cannot exempt itself from duties plainly imposed by law; it cannot decide that only one of two statutes governs its activities when the laws themselves, and the implementing regulations, clearly show that both apply."

"[T]he Forest Service has not shown that it could not have completed the [owl management] EIS by, or at least close to, the [deadline set by Congress]. Most importantly, it offered no reason why it the process was never even begun. At a minimum the process could have been well along by the date set by Congress for completion. The agency had no basis for failing even to attempt compliance with the statutes."

"The [Forest Service's] failure to date to comply, or even begin compliance, is arbitrary and capricious, and not in accordance with law."

--U.S. District Judge William L. Dwyer
Seattle Audubon Society v. Evans

May 23, 1991:

"[T]here was a considerable -- I would emphasize considerable -- amount of political pressure to create [an owl management] plan...which had a very low probability of success and which had a minimum impact on timber harvest."

--Dr. Eric Forsman,
Research Wildlife Biologist
U.S. Forest Service
(testifying in SAS v Evans)

"The records of this case and of [a separate case against the FWS] show a remarkable series of violations of the environmental laws."

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

"The agency's failure to date to comply, or begin compliance, with NFMA requirements is arbitrary, capricious, and not in accordance with law."

"When directed by Congress to have a revised [owl protection plan] in place by September 30, 1990, the Forest Service did not even attempt to comply....Had the Forest Service done what Congress directed it to do -- adopt a lawful plan by last fall -- this case would have ended some time ago."

"This is not the doing of the scientists, foresters, rangers, and others at the working levels of these agencies. It reflects decisions made by higher authorities in the executive branch of government."

"George M. Leonard, associate chief of the Forest Service, testified that the agency experts began in early 1990 the work needed to have a revised plan in place by September 30 of that year, as Congress mandated in Section 318. But the Secretaries of Agriculture and Interior decided to drop the effort. The public was not told of this decision to ignore what the law required."

May 23, 1991 (Cont'd):

"A review of proposed sales by the FWS [pursuant to the Endangered Species Act] would not be a substitute for compliance with NFMA....FWS still has no spotted owl recovery plan. Its recommendation of "prudent measures" to the Forest Service may simplify the work, but does not relieve the latter agency of its stewardship of the national forests."

"[T]he experts agree that cumulative loss of habitat is what has put the owl in danger of extinction. There is substantial risk that logging another 66,000 acres, before a plan is adopted, would push the species past a population threshold from which it could not recover."

"To have a chance of success, the [ISC] strategy would have to be adopted and followed by the agencies concerned. So far it has not been adopted by any agency."

"The ISC strategy may or may not prove to be adequate. While it is endorsed by well-qualified scientists, it is criticized by others, equally well-qualified, as over-optimistic and risky."

"To bypass the environmental laws, either briefly or permanently, would not fend off the changes transforming the timber industry. The argument that the mightiest economy on earth cannot afford to preserve old growth forests for a short time, while it reaches an overdue decision on how to manage them, is not convincing today. It will be even less so a year or a century from now."

--U.S. District Judge William L. Dwyer
Seattle Audubon Society v. Evans

September 11, 1991:

"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."

--U.S. District Judge Robert E. Jones
Lane County Audubon Society v. Jamison

December 23, 1991:

"Over eighteen months have passed since defendants designated the spotted owl as an endangered species. It would not be prudent to engage in further delay based on an unsubstantiated concern that designation of a habitat will render State and local governments and private parties uncooperative in the development of a recovery plan....As of this date, there is no recovery plan. Defendants can only state that the publication of such a plan is anticipated in February, 1992....[D]elay for the consideration of an as yet unformulated recovery plan is unwarranted."

--U.S. District Judge Thomas S. Zilly
Northern Spotted Owl v. Lujan (after FWS asked for permission to delay the critical habitat designation for 6 more months.)

February 19, 1992:

"This Court ruled in May, 1989 that there was new, significant, and probably accurate information so as to require the BLM to address the issue of the effects of its timber sale plans on the long-range survival of the northern spotted owl as a species under NEPA. Nothing has occurred since May, 1989 to relieve the BLM of its obligation under NEPA to examine the environmental impacts of the decisions it made without consideration of the effects of those decisions upon the survival of the northern spotted owl as a species. To date, the BLM has neither addressed the effects of its timber sales on the survival of the northern spotted owl as a species in a NEPA document, nor promised such a document before mid-1993 at the earliest.

"The Court finds that there is evidence which supports plaintiffs' claim that further loss of spotted owl habitat will more likely than not have an adverse effect upon the survival of the northern spotted owl as a species. The loss of this habitat is irreparable injury. This is a compelling reason to resolve plaintiffs' claim that BLM is required to put its timber sale plans to the test of public comment and hearing as required by NEPA prior to allowing any further loss of northern spotted owl habitat."

--U.S. District Judge Helen Frye
Portland Audubon Society v. Lujan

March 4, 1992:

"We agree with the district court that 'without a doubt' the Jamison Strategy as announced was to be an agency action [requiring consultation under the ESA]. In implementing the Jamison Strategy before consultation with the FWS, the BLM has violated the ESA. The district court properly enjoined implementation of the Strategy."

"In sum, neither the underlying [timber management plans] nor the Jamison 'interim management strategy' has ever been submitted to FWS for consultation pursuant to the mandate of the ESA. Accordingly, the individual sales cannot go forward until the consultation process is complete on the underlying plans which BLM uses to drive their development."

--Ninth Circuit Court of Appeals
(Judges Schroeder, Choy, and Nelson)
Lane County Audubon Society v. Jamison



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THE FOREST SERVICE APPEALS PROCESS: RHETORIC vs. REALITY

In recent months, a great deal of misinformation has been disseminated about the reasons for, and impact of, administrative appeals of proposed Forest Service timber sales. The timber industry and others have wrongly claimed that such appeals "tie up" vast quantities of federal timber, "costing" the U.S. Treasury and local communities hundreds of millions of dollars annually. Their unabashed objective is to restrict the ability of citizens to appeal government decisions that affect the national forests.

The most prevalent myths about timber sale appeals are debunked on the opposite side of this fact sheet. First, however, it is important to understand the procedural and substantive reasons that proposed Forest Service timber sales are being challenged.

Procedural Reasons for Timber Sale Appeals

- o The National Forest Management Act, passed in 1976, requires the Forest Service to develop management plans for each of its national forests. Timber sales, grazing permits, and other "implementing activities" are carried out pursuant to, and must be consistent with, those plans.
- o In the late 1980s, the Forest Service began responding to forest plan appeals by adopting a "shell game," in which the agency attempted to transfer conflict resolution from the plan stage to the timber sale proposal stage. Under the rules of this new game, citizens were told that no decisions are actually made by the plans. Instead, objections would have to be raised separately against each individual timber sale, oil/gas lease, grazing permit, or other implementing activity.
- o Thus, if citizens have concerns about the way the plan allocates forest land for logging, drilling, or other commodity uses, they must wait and raise them against each individual implementing activity proposed under the plan. The inevitable result of this shell game is an increase in the number of appeals of timber sale and other development proposals.

Substantive Reasons for Timber Sale Appeals

- o In addition to the impact of the shell game, appeals have increased as a result of agency policies geared to maximize timber production and other consumptive uses of the forest -- even where doing so might violate applicable environmental laws. A 1991 General Accounting Office study found that Forest Service "land use priorities, budgets, and staffing have often reflected the pattern of meeting grazing, logging, and mining objectives first and providing for wildlife as circumstances permitted." It is not coincidental that a federal judge ruled, almost simultaneously, that the Forest Service had "deliberately and systematically refused" to comply with laws protecting wildlife.
- o At a minimum, key agency personnel recognize that inadequate environmental analyses are a leading cause of timber sale appeals. Nearly three years ago, the Forest Service appeals and litigation coordinator recommended "major funding commitments to rebuild timber sale inventories, and to conduct for them the legally sufficient environmental analyses." He also warned that "legislative attempts to modify agency NEPA, planning, or appeal procedures simply puts attention in the wrong place and postpones the inevitable." To date, the Forest Service has ignored his warning and refused to act on his recommendations.
- o Thus, numerous timber sales have been proposed in recent years without first having been analyzed to determine their environmental impacts. In many cases, the proposed sales, if allowed to proceed, would violate laws governing forest management, water quality, or fish and wildlife protection.

[OVER]

TIMBER SALE APPEALS: RHETORIC vs. REALITY

RHETORIC: Timber sales are automatically stopped whenever they are appealed.

REALITY: The Forest Service has broad discretion to proceed with sales – even where an appeal has been filed. The agency's rules expressly allow a timber sale to be implemented during review of an appeal unless the Forest Service itself decides to hold off [36 CFR § 217.10].

RHETORIC: Timber sale appeals are tying up large volumes of National Forest timber.

REALITY: One quick example shows how untrustworthy this claim is. A recent timber industry study claims that in FY '90 "over 70% of all timber sale appeals were found to have no merit." That statement is absolutely false! Nearly 40% of all appeals were filed against one very controversial proposal in Arkansas – and the Forest Service withdrew the sale because of the tremendous "public concern over management" of the proposed sale area. It is impossible for 70% of the appeals in FY '90 to have had no merit when the agency concluded in one fell swoop that 40% of the appeals did have merit.

The truth is, according to Forest Service figures, that more than 85% of all commercial timber sales, totaling 77% of the authorized volume, proceeded without any challenge in FY '90. Moreover, the Forest Service issued stays affecting only 4% of that volume.

As described both above and below, sales are not delayed simply because an appeal is filed. Under Forest Service procedures, there is generally plenty of time to resolve appeals between the initial decision to proceed with a sale and its ultimate award to a timber company. If, on review, a proposed sale were found to be flawed, it would, and should, be delayed until those flaws are corrected.

RHETORIC: Many of the timber sales appeals are "frivolous."

REALITY: Neither the Forest Service nor the industry can document that claim. Black's Law Dictionary defines a "frivolous appeal" as "one in which no justiciable question has been presented and [which] is readily recognizable as devoid of merit in that there is little prospect that it can ever succeed." In addition, the Forest Service's own regulations require dismissal of an appeal without further action whenever "the requested relief cannot be granted under [existing] law, fact, or regulation" [36 CFR § 217.11].

If an appeal is truly frivolous, it could not possibly delay a sale because its lack of substance would be "readily recognizable" and the appeal would be subject to immediate dismissal.

RHETORIC: A hidden impact of appeals is the time and expense of reworking both the appealed sale and other sales that are being planned.

REALITY: If an appeal identifies substantive or procedural deficiencies in a proposed timber sale, that sale, as well as any others that suffer from the same flaws should be reworked. If an appeal fails to identify any substantive or procedural deficiencies, it should be summarily dismissed as frivolous and would not require reworking any proposed or planned sales.

Consider this analogy: a company with flaws in its manufacturing process that result in dangerously defective products has an obligation to recall all defective goods – not just those already found by consumers. Likewise, the Forest Service is obliged to rework both flawed sales that have been appealed and all other sales that have similar problems.

RHETORIC: Timber sales appeals cost the Federal government and local communities hundreds of millions of dollars annually in lost revenues.

REALITY: These claims were made in a recent timber industry report. They cannot be substantiated. The sole basis of the industry's cost estimate is an incorrect assumption that every timber sale which is appealed is also cancelled and not replaced by a legal sale.

As shown above, however, sales are not delayed or cancelled unless they are legally flawed, in which case they should be delayed until the flaws are corrected. And flawed sales are often replaced with other planned sales.

The industry appears to be suggesting, inappropriately, that the government should continue selling timber that would damage fisheries and wildlife, or cause other environmental impacts, simply to ensure greater financial returns to the Treasury.



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FOREST SERVICE EFFORT TO ELIMINATE APPEALS IS ON FAST TRACK

A new Forest Service proposal to abolish administrative appeals of timber sales, oil and gas leases, and other forest management decisions is the most recent in a series of efforts to insulate the agency's actions from public scrutiny.

In what can only be described as an Orwellian gesture, the Forest Service claims the new rules would "provide enhanced notice of, and opportunity to comment on, proposed Forest Service actions", by substituting pre-decisional notice and comments for post-decisional appeals. However, even a cursory review of the proposed regulation reveals that it would actually reduce opportunities for public participation in Forest Service decision-making, not just by eliminating appeals, but by significantly restricting opportunities for notice and comment as well. Moreover, the agency offers no rational basis for its proposed rule – only unsubstantiated rhetoric.

In short, the new proposal flies in the face of good government. Here are just a few of the things that the proposed rules would do to insulate Forest Service decisions:

1. All rights to have Forest Service timber sale, oil and gas lease, and other project-level decisions reviewed by a higher level official would be abolished.
2. The Forest Service attempts to justify substituting pre-decisional notice and comments for informal post-decisional appeals by describing the success some national forests have had with a voluntarily adopted pre-decisional comment period. According to the Forest Service, when a pre-decisional comment period was provided, conflicts were resolved, decisions were improved, and there "were fewer post-decisional appeals."

If the Forest Service's own experience revealed that pre-decisional comment periods improve decisions and **reduce appeals**, then the logical conclusion would be to adopt the notice and comment process nationwide, but retain the appeals process so that people can still seek review by higher-level officials of those decisions that are still unsatisfactory.

3. Contrary to Forest Service claims, the new proposal would reduce public participation by shrouding many agency activities in secrecy. In fact, many decisions that are currently appealable would be exempt from the public notice and comment requirements altogether.

For example, the public would not be allowed to know about or comment on timber sales to log trees affected by disease or insects. The Forest Service is planning to log huge tracts of national forests in eastern Oregon and Washington that are affected by insects and disease – but the new rules would allow those sales to go through without public notice or input. The new proposal would also exempt salvage sales in spotted owl habitat from the notice and comment provisions.

4. Despite claims of expanded notice and opportunity for comment on Forest Service decisions, the new rules would shorten the time period for comment from 45 days to less than 30 days. Under the current appeal rules, an appeal must be postmarked within 45 days of the agency's decision. However, the new proposal mandates that comments be received within 30 days after a notice is published in a local newspaper in the area of the proposed sale.

(Continued on Reverse)

ELIMINATING FOREST SERVICE APPEALS (Continued)

5. As described above, the only way citizens can find out about proposed timber sales, oil/gas leases, or other agency decisions under the new rules would be to subscribe to a wide variety of daily and weekly newspapers. For example, to track timber sales on national forests in California, a resident of Yreka would have to subscribe to 43 different daily and weekly newspapers.

Under the current appeals process, citizens can be included on a mailing list to receive notice of timber sales and other Forest Service decisions on a forest-by-forest basis. However, that system is dropped from the proposed rule, which will make it much more difficult for people to track Forest Service activities. (A complete, state-by-state list of newspapers needed to track Forest Service decisions is attached.)

6. The new rules purport to establish a mechanism encouraging and providing a "meaningful" opportunity to comment on Forest Service proposals. However, even if people subscribed to all of the requisite newspapers, they still would not have enough information to comment "meaningfully" because the notice the Forest Service proposes will provide virtually no details about the action or its environmental impacts.

Thus, a person would have to contact the appropriate Ranger District to get the detailed background information about the proposal, such as the Environmental Assessment and analysis files. Many Ranger Districts require the requests in writing -- in some cases pursuant to the Freedom of Information Act -- and charge copying fees before releasing the files and assessments.

In sum, it would be a practical impossibility to receive notice of a proposal, obtain the detailed information that would allow a "meaningful" review, write comments on the proposal, and have them delivered to the Forest Service within 30 days.

7. The new proposal is more than just an attempt to abolish the appeals process. In order to ascertain its full impacts, the proposal must be viewed in the context of concurrent Administration efforts to insulate Forest Service activities from all forms of review.

First, the proposal to eliminate appeals of timber sales and other project-level activities comes in the wake of repeated Forest Service assurances that appeals would be allowed for individual projects in lieu of appeals of forest plans.

As the first national forest management plans came on line over the past five years, the Forest Service consistently rejected appeals on the grounds that final decisions are made at the project-level, not at the forest plan level. In so doing, the agency expressly guaranteed citizens that they would be able to raise their concerns in appeals of those project-level activities. Now, as those projects are being appealed, the Forest Service wants to pull the rug out from under concerned citizens by reneging on its earlier promises.

Second, despite Forest Service assurances that citizens will be able to sue over any decisions that they are unhappy about, the agency is actively lobbying Congress to cut off judicial review of its decisions. Last summer, Agriculture Secretary Edward Madigan told reporters: "We could manage [the national forests] better if we were free from the interference of the federal courts [and] we urge Congress to do that expeditiously."

Finally, the Bush Administration is supporting pending legislation in both the House and Senate that would effectively eliminate judicial review of many timber sales and other project level decisions.

NEWSPAPERS NEEDED TO FIND OUT ABOUT
PROPOSED FOREST SERVICE TIMBER SALES (BY STATE) (389)

ALABAMA (7)

Montgomery Advertiser
Northwest Alabamian (Haleyville)
The Andalusia Star
The Tuscaloosa News
The Anniston Star
The Daily Home (Talladega)
Tuskegee News

ALASKA (7)

Anchorage Daily News
Anchorage Times
Juneau Empire
Ketchikan Daily News
Petersburg Pilot
Wrangell Sentinel
Sitka Sentinel

ARIZONA (15)

Arizona Republic (Phoenix)
Arizona Daily Sun (Flagstaff)
Southern Utah News (Kanab, UT)
Red Rock News (Sedona)
The Daily Dispatch (Douglas)
The White Mountain Independent (Show Low)
Nogales International
Sierra Vista Herald and Bisbee Review
Eastern Arizona Courier (Safford)
The Arizona Daily Star (Tucson)
Prescott Courier
Foothills Sentinel (Cave Creek)
Arizona Silver Belt (Globe)
Mesa Tribune
Payson Roundup

ARKANSAS (7)

Arkansas Democrat (Little Rock)
Courier-Democrat (Russellville)
Stone County Leader (Mountain View)
Newton County Times (Jasper)
Johnson County Graphic (Clarksville)
Southwest Times Record (Fort Smith)
The Daily World (Helena)

CALIFORNIA (43)

Sacramento Bee
Los Angeles Times
Pasadena Star News
Inland Valley Bulletin (L.A.)
Daily News (L.A.)
Antelope Valley Press (L.A.)
San Diego Union
Orange County Register (Santa Ana)
Mountain Democrat (Placerville)
Inyo Register (Bishop)
Siskiyou Daily News (Yreka)
Tahoe Daily Tribune (So. Lake Tahoe)
Lassen County Times (Susanville)
Chester Progressive (Plumas County)
Intermountain News (Burney)
Santa Barbara News Press
Star Free Press (Ventura)
Salinas Californian (Monterey)
The Bakersfield Californian (Kern)
Telegram Tribune (San Luis Obispo)
Chico Enterprise Record
Ukiah Daily Journal
Modoc County Record (Alturas)
Feather River Bulletin (Quincy)
Portola Reporter
Indian Valley Record (Greenville)
Oroville Mercury Register
San Bernadino Sun
Mountain News (Blue Jay)
Big Bear Life and Grizzly
Yucaipa News Mirror
Idyllwild Town Crier
Porterville Reocder
Record Searchlight (Redding)
Fresno Bee
Times Standard (Eureka)
Del Norte Triplicate (Crescent City)
The Kourier (Willow Creek)
The Union Democrat (Sonora)
Grass Valley Union
Mountain Messenger (Downieville)
Auburn Journal
Sierra Sun (Truckee)

COLORADO (31)

The Denver Post
Coloradoan (Fort Collins)
Greeley Tribune
Boulder Daily Camera
Clear Creek Courant (Idaho Springs)
Sulphur Sky High News (Granby)
Sentinel (Grand Junction)
Delta County Independent (Delta)
Gunnison Country Times
Telluride Times-Journal
Montrose Daily Press
Pueblo Chieftain
Daily News Press (Castle Rock)
Herald Democrat (Leadville)
The Mountain Mail (Salida)
Fairplay Flume
Gazette Telegraph (Colorado Springs)
Valley Courier (Alamosa)
Steamboat Pilot (Steamboat Springs)
Northwest Colorado Daily Press (Craig)
Middle Park Times (Kremmling)
Jackson County Star (Walden)
Durango Herald
The Glenwood Post (Glenwood Springs)
Aspen Times
Meeker Herald
Summit Sentinel (Frisco)
Eagle Valley Enterprise (Eagle)
Vail Trail (Minturn)
Rifle Telegram
Valley Journal (Carbondale)

FLORIDA (5)

The Tallahassee Democrat
The Weekly Journal (Bristol)
The Ocala Star Banner
The Lake City Reporter
The Daily Commercial (Leesburg)

GEORGIA (9)

The Times (Gainesville)
Walker County Messenger (LaFayette)
The News Observer (Blue Ridge)
Dahlonega Nugget
North Georgia News (Blairsville)
Clayton Tribune
Northeast Georgian (Clarksville)
Chatsworth Times
Monticello News

IDAHO (22)

Lewiston Morning Tribune
Clearwater Progress (Kamiah)
Idahonian (Moscow)
Missoulain (Missoula, MT)
Coeur d'Alene Press
Idaho County Free Press (Grangeville)
The Idaho Statesman (Boise)
Mountain Home News
The Idaho City World
The Advocate (Cascade)
The Messenger-Index (Emmett)
Idaho State Journal (Pocatello)
The Challis Messenger
Signal American (Weiser)
Idaho Statement (Boise)
Council Record
Star News (McCall)
The Recorder-Herald (Salmon)
The Times News (Twin Falls)
South Idaho Press (Burley)
Wood River Journal (Hailey)
The Post Register (Idaho Falls)

ILLINOIS (2)

Milwaukee Journal (WI)
Southern Illinoisian (Carbondale)

INDIANA (3)

Milwaukee Journal (WI)
Sunday Herald Times (Bloomington)
Tell City District

KENTUCKY (8)

Lexington Herald-Leader
Morehead News
The Clay City Times
Jackson County Sun (McKee)
The Sentinel-Echo (London)
Commonwealth-Journal (Somerset)
McCreary County Record (Whitley City)
Manchester Enterprise

LOUISIANA (5)

Alexandria Daily Town Talk
Minden Press Herald
Natchitoches Times
Leesville Leader
Winn Parish Enterprise (Winnfield)

MAINE (3)

Milwaukee Journal (WI)
The Union Leader (Manchester, NH)
The Lewiston Sun

MICHIGAN (13)

Milwaukee Journal (WI)
Ironwood Daily Globe
Iron River Reporter
Daily Press (Escanaba)
Mining Journal (Munising)
Evening News (Sault Ste. Marie)
Cadillac Evening News
Lake County Star (Baldwin)
Alcona County Review (Harrisville)
Manistee News Advocate
Oscoda County Herald (Mio)
Iosco County News Herald (East Tawas)
Fremont Times-Indicator

MINNESOTA (10)

Milwaukee Journal (WI)
Bemidji Pioneer
Blackduck American
Cass Lake Times
Western Itasca Review (Deer River)
Walker Pilot Independent
Duluth News-Tribune
Cook County News-Herald (Grand Marias)
Ely Echo
Mesabi Daily News (Virginia)

MISSISSIPPI (1)

Clarion-Ledger (Jackson)

MISSOURI (12)

Milwaukee Journal (WI)
Rolla Daily News
Springfield News Leader
Fulton Sun
Prospect News (Doniphan)
Current Wave (Eminence)
Houston Herald
Daily American Republic (Poplar Bluff)
The Independent-Journal (Potosi)
The Democrat-News (Fredericktown)
The Salem News
West Plains Daily Quill

MONTANA (16)

Montana Standard (Butte)
Montana Standard, Silver Bow County
Ravalli Republic (Hamilton)
Billings Gazette
Carbon County News (Red Lodge)
Ekalka Eagle
The Daily Interlake (Kalispeel)
Bozeman Daily Chronicle
Independent Record (Helena)
Western News (Libby)
Tobacco Alley News (Eureka)
Sanders County Ledger (Thompson Falls)
Great Falls Tribune
Choteau Acantha
The Eagle (Stockett)
Mineral Independent (Plains)

NEBRASKA (4)

The Omaha World Herald
The North Platte Telegraph
The Valentine Newspaper
The Chadron Record

NEVADA (8)

Elko Daily Free Press
Ely Daily Times
Twin Falls (ID) Times News
Humboldt Sun (Winnemucca)
Reno Gazette Journal
Mono County Review (Bridgeport, CA)
Tonopah Times/Bonanza
Las Vegas Review Journal

NEW HAMPSHIRE (3)

Milwaukee Journal (WI)
The Union Leader (Manchester)
The Lewiston Sun (ME)

NEW MEXICO (13)

Rio Grande Sun (Española)
Farmington Daily Times
Taos News
Grants Daily Beacon
DeFensor-Cheiftain (Socorro)
Torrance County Citizen (Estancia)
Albuquerque Journal
The Hearald (Truth or Consequences)
Catron County Courier (Reserve)
Silver City Daily
Alamogordo Daily News
Carlsbad Current Argus
Ruidoso News

NEW YORK (2)

Milwaukee Journal (WI)
Ithaca Journal

NORTH CAROLINA (9)

The Asheville Citizen-Times
Graham Star (Robbinsville)
The Sun Journal (New Bern)
McDowell News (Marion)
The Highlander (Highlands)
The Transylvania Times (Brevard)
Cherokee Scout (Murphy)
Montgomery Herald (Troy)
The Franklin Press

NORTH DAKOTA (4)

Bismarck Tribune
Fargo Forum
Dickinson Press
Williston Daily Herald

OHIO (3)

Milwaukee Journal (WI)
The Athens Messenger
The Ironton Tribute

OKLAHOMA (1)

Tulsa World

OREGON (24)

The Oregonian (Portland)
The Bulletin (Bend)
Sisters Nugget
Herald and News (Klamath Falls)
Lake County Examiner (Lakeview)
Blue Mountain Eagle (John Day)
Madras Pioneer
Central Oregonian (Prineville)
Burns Times/Herald
Mail Tribune (Medford)
Curry Coastal Pilot (Brookings)
Grants Pass Courier
Curry County Reporter (Gold Beach)
The World (Coos Bay)
Corvallis Gazette-Times
Headlight Herald (Tillamook)
Siuslaw News (Florence)
Newport News Times
East Oregonian (Pendleton)
The News-Review (Roseburg)
Baker City Herald
Wallowa County Chieftain (Enterprise)
The Observer (La Grande)
Register-Guard (Eugene)

PENNSYLVANIA (4)

Milwaukee Journal (WI)
Warren Times Observer
Bradford Era
Ridgway Record

SOUTH CAROLINA (7)

The State (Columbia)
Newberry Observer
Seneca Journal and Tribune
Index-Journal (Greenwood)
News and Courier (Charleston)
Berkely Independent (Moncks Corner)
Augusta Chronicle

SOUTH DAKOTA (3)

Rapid City Journal
Nation's Center News (Buffalo)
Lemmon Leader

TENNESSEE (7)

Knoxville News Sentinel
Polk County News (Benton)
Daily Post-Athenian (Athens)
Monroe County Advocate (Sweetwater)
Greenville Sun
Johnson City Press
Elizabethtown Star

TEXAS (5)

The Lufkin Daily News
The Houston Post
The Courier (Conroe)
The Beaumont Enterprise
Denton Record-Chronicle

UTAH (16)

Salt Lake Tribune
Uintah County Herald (Evanston)
Ogden Standard Examiner
Logan Herald Journal
Vernal Express
Uintah Basin Standard (Roosevelt)
The Daily Spectrum (St. George)
Richfield Reaper
Beaver Press
Millard County Chronicle-Progress (Fillmore)
Sun Advocate (Price)
Mt. Pleasant Pyramid
Emery County Progress (Castle Dale)
The Times Independent (Moab)
The San Juan Record (Monticello)
The Daily Herald (Provo)

VERMONT (2)

Milwaukee Journal (WI)
Rutland Herald

VIRGINIA (9)

Daily News Record (Harrisonburg)
Shenandoah Valley Herald (Woodstock)
The Reocdrer (Monterey)
News-Gazette (Lexington)
Virginian Review (Covington)
Daily News Leader (Staunton)
Roanoke Times & World-News
Bristol Herald Courier
Southwest Virginia Enterprise (Wytheville)

WASHINGTON (19)

The Seattle Post-Intelligence
Statesman-Examiner (Colville)
Newport Miner
Republic News Miner
Columbian (Vancouver)
Enterprise (White Salmon)
Chronicle (Chehalis)
Everett Herald
Skagit Valley Herald (Mt. Vernon)
Valley Record (North Bend)
Enumanclaw Courier Herald
Omak Chronicle
The Gazette Tribune (Oroville)
Methow Valley News (Twisp)
Daily Olympian (Olympia)
Mason County Journal (Shelton)
Peninsula Daily News (Port Angeles)
The Daily World (Aberdeen)
The Wenatchee World

WEST VIRGINIA (7)

Milwaukee Journal (WI)
The Intermountain (Elkins)
The Parsons Advocate
The News Leader (Richwood)
The Pocahontas Times (Marlinton)
The Grant County Press (Petersburg)
The Register/Herald (Beckley)

WISCONSIN (8)

Milwaukee Journal
Milwaukee Sentinel
Park Falls Herald
Glidden Enterprise
The Daily Press (Ashland)
Sawyer County Record (Hayward)
The Star News (Medford)
Rhineland Daily News

WYOMING (12)

Casper Star-Tribune
Sheridan Press
Buffalo Bulletin
Lovell Chronicle
Northern Wyoming Daily News (Worland)
Greybull Standard
Laramie Daily Boomerang
Rawlins Daily Times
Cody Enterprise
Powell Tribune
The Dubois Frontier
Wyoming State Journal (Lander)



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May 16, 1991

Mr. F. Dale Robertson
Chief (1920)
Forest Service
U.S. Department of Agriculture
P.O. Box 96090
Washington, D.C. 20090-6090

Dear Chief Robertson:

Please find enclosed the comments of the Sierra Club Legal Defense Fund on the Forest Service's Advance Notice of Proposed Rulemaking for National Forest System Land and Resource Management Planning.

Sincerely,

Kevin Kirchner
Staff Attorney

enclosure

These comments on the Advance Notice of Proposed Rulemaking (ANPR) for National Forest System Land and Resource Management Planning are submitted on behalf of the Sierra Club Legal Defense Fund. The Legal Defense Fund is a non-profit, public interest law firm, separate from the Sierra Club, that represents citizen groups in litigation to protect our nation's natural resources and to enforce federal environmental laws. In 1990, the Legal Defense Fund represented more than 100 organizations (with combined memberships of several million individuals) in over 75 lawsuits.

Overview

The ANPR clearly moves National Forest planning in a new direction. Though the proposed changes are intended to "simplify" the forest planning process and to adapt it "to changing needs and circumstances,"¹ it is not clear that the proposal will improve on-the-ground management. On the contrary, the ANPR contains numerous provisions that significantly diminish the environmental protection mandates of the National Forest Management Act (hereafter "the Act") including some that:

- o deviate from the Act's express language;
- o undercut the National Environmental Policy Act (NEPA) process; and
- o unreasonably expand administrative flexibility.

In short, the ANPR moves forest management not just in a new direction but in a wrong direction. It represents a misguided attempt by the Forest Service to scuttle forest planning and its accompanying environmental analyses. In recent years, the Forest Service has taken a number of steps in the direction of resource protection. However, the ANPR appears to be motivated by the agency's desire to restore administrative discretion and avoid compliance with the forest planning dictates of the Act.

At the time the Act was passed, Congress clearly intended that the Forest Service should engage in forest planning. Congress established a structure in the Act that required the Forest Service to develop land and resource management plans for each unit of the National Forest System. In these plans, the Forest Service is legally obliged to develop long-range development schemes for each National Forest, to determine which lands are suitable for timber harvesting and other purposes, and to reconcile the sometimes conflicting management needs of the various multiple uses, such as timber harvesting and wildlife management. Congress specifically called for the integration of the enumerated multiple uses (outdoor recreation, wilderness, range, timber, watershed, wildlife, and fish) in a detailed, comprehensive management plan.²

Congress also required the Forest Service to convene a Committee of Scientists to generate implementing regulations for the Act. The regulations developed by the Committee were designed to provide more specific detail to guide the generation and revision of forest plans. By designating a Committee of Scientists to develop regulations

¹ 56 Fed. Reg. 6508-09.

² See 16 U.S.C. § 1604(g).

under the Act, Congress recognized the need for independent scientific review of Forest Service management and planning processes.

Following passage of the Act and development of the implementing regulations, the Forest Service began the process of developing and implementing the first generation of forest plans. Unfortunately, that process is still ongoing. Nearly fifteen years after the Act was signed into law the Forest Service still has not completed all of the first generation of forest plans.

Obviously, the Forest Service has had enormous difficulties in developing and implementing these plans. The Administration's 1981 attempt to sabotage the work of the Committee of Scientists by arbitrarily rewriting the implementing regulations caused substantial delays in the planning process. Although some of the most objectionable of those proposals were modified or withdrawn in response to public and Congressional pressure, the Forest Service still received unprecedented public opposition to its first generation of plans. The concerns voiced by those citizens were validated when the agency lost several court cases in which environmental plaintiffs challenged the new forest plans.³

The Forest Service has developed a rather predictable response to these rulings and to other claims that its forest plans fail to comply with federal environmental laws: forest plans don't mean anything. Thus, rather than satisfying the numerous legal requirements set forth by Congress in the Act concerning what decisions must be made in forest plans, the Forest Service has argued that it has no legal obligation to make any decisions in those plans. A corollary of this argument is that since no decisions are made in forest plans, neither the forest plan nor its accompanying EIS are judicially reviewable.

The Forest Service fully developed this argument in the Chief's decision on the administrative appeals of the Flathead National Forest NFMA forest plan. In subsequent litigation over the Flathead plan, its EIS, and the biological consultation on the plan, the Forest Service has refined these legal arguments.⁴ Essentially, the agency has argued that it makes absolutely no decisions in a forest plan that will have any on-the-ground impacts. The Forest Service has also contended in the Flathead litigation that despite the enormous and costly efforts that forest planning has entailed, when it comes to site-specific projects, all options concerning development are preserved.

Of course, these arguments have not precluded the Forest Service from arguing in litigation over site-specific timber sales that the key decisions and environmental analyses were performed in the forest plan. Thus, the Forest Service has created its own version of the shell game: decisions and environmental analyses are performed in whichever

³ See, e.g., Sierra Club v. Cargill, 732 F. Supp. 1095 (D. Colo. 1990); Citizens for Environmental Quality v. United States, 731 F. Supp. 970 (D. Colo. 1989).

⁴ See generally, pleadings in Resources Limited v. Robertson, D. Montana, Civ. No. 8941-HCCL, and Swan View Coalition v. Turner, D. Montana, Civ. No. 89121-HCCL.

documents are not currently being challenged in court.⁵

The ANPR seeks to continue and expand this hoax on the American public. Rather than admitting that the first generation of forest plans failed miserably to comply with the legal requirements of the Act, the National Environmental Policy Act (NEPA), and other federal laws, the Forest Service tries to shift the focus of its planning obligations to the site-specific project level. This approach is fundamentally at odds with the Act, which requires that many important decisions be made in the forest plan, at the forest-wide level.

In addition, this attempt to avoid any real decision-making and analysis at the forest plan stage comes after hundreds of millions of dollars of federal funds have been spent on forest planning and the public has been deluded concerning the import and significance of decisions made in forest plans.⁶

By proposing to adopt a "need for change" approach, the Forest Service simply continues its abject failure to engage in comprehensive forest planning. Rather than develop the broad range of alternative development schemes that both the Act and NEPA require when the Forest Service revises forest plans, the agency attempts to avoid scrutiny of its basic direction by limiting analysis to minor tinkering with the first generation of forest plans.

If the Forest Service desires to ignore the requirements of a broad range of alternative development schemes when developing or revising forest plans, its only available alternative is to ask Congress to repeal the pertinent provisions of the Act and NEPA. The Forest Service cannot administratively repeal these legal requirements by promulgation new implementing regulations under the Act.

The following comments address some of the issues not included in the ANPR, but for which the agency specifically requested input. In addition, we have provided examples of ANPR provisions that illustrate the concerns identified this overview. However, these comments should not be interpreted as acquiescence either in the basic framework set out in the ANPR or in any specific provisions not addressed.

General Comments

Convening a Committee of Scientists

The ANPR represents such a dramatic departure from the revision process established under the current regulations that it would be unwise and inappropriate to

⁵ See also the discussion under "Project Level NEPA Procedures" infra.

⁶ See United States General Accounting Office Report demonstrating that the Forest Service spent \$2.5 million developing the Boise National Forest NFMA plan and \$2.1 million developing the Clearwater National Forest plan (these were only partial costs).

proceed further without first convening a committee of scientists to provide advice and counsel. The Act expressly authorizes the appointment of such committees "when considering revisions of the regulations."⁷

Although appointment of a committee of scientists should, appropriately, have preceded issuance of the ANPR, there is still ample time to do so now. In fact, it would be senseless to proceed any further without reconvening such a panel. Moreover, prior to making any appointments, the Forest Service should solicit recommendations from interested organizations to ensure that the committee is adequately balanced so that "an effective interdisciplinary approach is proposed and adopted."⁸ The ANPR fails to meet that standard.

Simplifying the Planning Process

One of the major recommendations of the "Critique of Land Management Planning," initiated by the Forest Service in 1989, was to simplify, clarify, and shorten the planning process. In elaborating on this recommendation in the context of the proposed rule changes, the ANPR states that "the existing regulation establishes procedural and analytical requirements that are in some areas significantly more complex than required by NFMA."⁹

While there are no doubt examples of such provisions in the existing regulation, the additional details are, more often than not, included for sound policy reasons. The Act is a hybrid: it is prescriptive in some areas but gives the Forest Service discretion in others.¹⁰ As a result, the Committee of Scientists often recommended supplementary language to clarify specific provisions and to fully implement the intent of the Act. Yet, the absence of an express mandate in the Act itself ought not justify utilization of, and reliance on, the plain language of the statute in every instance. If that were true, regulations would always be nothing more than an exact restatement of the underlying law.

In an effort to simplify, clarify, and shorten the planning process, the ANPR strips away much of the supplementary language added to the current regulations.¹¹ In addition, the ANPR states that "the composite effect of such changes can be a significant reduction in the length of the regulation,...and a positive step toward better understanding and

⁷ 16 U.S.C. § 1604(h)(1) (emphasis added).

⁸ Id.

⁹ 56 Fed. Reg. 6513.

¹⁰ See e.g., Wilkinson and Anderson, Land and Resource Planning in the National Forests, 64 Oregon Law Review 13 (1985) [hereafter cited as "Wilkinson."].

¹¹ That is not to say that we believe all of the provisions of the current regulations are in accord with the Act. Indeed, we cite several examples of such non-conformity below.

simplification of forest planning."¹²

It is not certain, however, that the ANPR always clarifies the process. Nor it is clear why reducing the length of the rule is necessarily a good idea, or how deleting "information of an explanatory nature" can lead to a "better understanding" of the process.¹³ Furthermore, some of the proposed changes, if adopted, would likely complicate and lengthen the process as interested parties wrangle over their meaning. This is particularly true regarding those provisions, described in more detail in the "section-by-section" analysis, that dilute express requirements of the Act.

Where the Act imposes specific requirements on the Forest Service, they must be included in the proposed regulations for forest plan revisions. In those cases where the Forest Service has more latitude under the Act, the ANPR's proposals should be examined in connection with the purposes of the Act, its legislative history, and new information that has been generated over the past decade, to determine whether or not the change is beneficial.

Project Level NEPA Procedures

The degree of detail needed in project level NEPA procedures is at the heart of the ANPR's proposal to shift virtually all decision-making away from the plan level. This issue is discussed in more detail in the Overview. However, it is also worth citing another recent Forest Service proposal that amply demonstrates the shell game being played.

Although the Forest Service has taken the position in the Flathead National Forest litigation and in the ANPR that decisions are project level, not at the forest plan level,¹⁴ the agency recently published a notice that would exempt a whole new class of project level decisions from NEPA's requirements. Under the new proposal, timber sales involving less than one million board feet of merchantable timber and the construction of less than one mile of roads would be categorically excluded from NEPA coverage.¹⁵

Thus, despite the Forest Service's contention in the ANPR that it will conduct site-specific environmental analyses at the project level stage, it has already begun to pull the rug out by adopting categorical exclusions through the Forest Service Manual.

Changes in Administrative Appeal Procedures

Although the ANPR cites "significant problems" with the appeals process, no specific

¹² 56 Fed. Reg. 6514.

¹³ Id.

¹⁴ See text accompanying notes 4-5, supra. See also ANPR 219.33.

¹⁵ 56 Fed. Reg. 19718, 19745.

data supporting that claim is provided. Rather, an "example" is provided that simply mentions "concerns" about costs and about appellants using the process "to cause intentional delays."¹⁶ The ANPR concludes from these "examples" that there is a need to "streamline the process and ensure that it is used for its intended purpose."¹⁷

If there were evidence that the appeals process is being systematically abused, there would be cause for concern. However, not only does the ANPR fail to offer any such evidence, but all of the reviews conducted to date are to the contrary.

In February, 1989, the General Accounting Office (GAO) examined the appeals process in Forest Service Regions 1 and 6, which together account for 55% of all timber sold on the national forests.¹⁸ The GAO found that:¹⁹

- (1) appeals of forest plans did not delay any timber sales because the Forest Service requires separate appeals to be filed on specific timber sales;
- (2) only six percent of the total timber sale volume offered in Regions I and VI in fiscal year's 1986 and 1987 was appealed; and
- (3) less than one percent of the total timber sales volume was delayed by these appeals.

Moreover, the GAO concluded that of the delays that did occur, nearly all were caused by the Forest Service's failure to meet the required deadlines -- in many cases because the agency had not completed the necessary environmental analyses in time for appeals to be processed.²⁰

It would be understandably disturbing to the Forest Service if some of this admittedly small percentage of timber sales that are delayed were held up by frivolous appeals. Although the GAO did not address this issue directly, its conclusion that the Forest Service was responsible for most of the delays suggests that frivolity of appeals was not a factor. More importantly, the Forest Service has a provision in its current appeals regulations that expressly requires dismissal without review of frivolous appeals. The

¹⁶ 56 Fed. Reg. 6515.

¹⁷ Id.

¹⁸ Forest Service: Information on the Forest Service Appeals System (GAO/RCED-89-16BR, February 16, 1989). See also Information on the Forest Service Appeals System (Statement of John W. Harman, GAO/T-RCED-89-43, May 18, 1989).

¹⁹ Id. at 23.

²⁰ Id. at 16-18, 23-25.

regulation states:

A Reviewing Officer shall dismiss an appeal and close the appeal record without decision on the merits when...[t]he requested relief or change cannot be granted under law, fact, or regulation....²¹

It is clear, then, that based on the available data the appeals process is not being abused by appellants to cause intentional delay. To the extent that delays occurred under the old appeals regulation – and they were the exception, not the rule – they were largely attributable to the agency's failure to meet its own deadlines. Where a frivolous appeal is filed, the agency has ample authority, indeed is mandated, to dismiss it.

Concerns regarding the cost of handling the appeals is understandable, particularly in times of tight budgets. However, budgetary constraints ought not be used as an excuse to insulate agency decision making from review. On the contrary, the solution is to allocate – or if necessary, reallocate – resources to ensure that the environmental analyses prepared in support of proposed projects are legally and scientifically adequate and are conducted in a timely manner. As the ANPR correctly points out: "[E]fficient and effective compliance with the requirements of NEPA is an integral part of the successful and timely implementation of a forest plan."²²

This theme is underscored by the comments of the Forest Service appeals and litigation manager, Larry Hill, at a Congressional Research Service Symposium on Appeals in November 1989. The Symposium was held in the wake of Congressional debate over the Forest Service timber sale program in the Pacific Northwest and its enactment of legislation temporarily restricting administrative and judicial appeals. Rather than find fault with the appellants, Mr. Hill echoed the GAO's findings regarding the appeals process, concluding that:

Long run successful resolution of timber flow problems will require major funding commitments to rebuild timber sale inventories, and to conduct for them the legally sufficient environmental analyses. As the GAO points out, this is the problem, this is the opportunity. Legislative attempts to modify agency NEPA, planning, or appeal procedures simply puts attention in the wrong place and postpones the inevitable.²³

Nonetheless, the ANPR suggests two options for modifying the appeals process. The first would eliminate administrative appeals entirely by substituting a process that provides

²¹ 36 C.F.R. § 217.11(a)(2) (emphasis added).

²² 56 Fed. Reg. 6514.

²³ Statement of Larry Hill, in Baldwin, Pamela, "Appeals of Federal Land Management Plans and Activities: A Report on a CRS Research Workshop", CRS Report No. 90-104 A (February 20, 1990), at Appendix 1, page 4 (emphasis added).

a public comment period on the proposed decision document, after which the agency would be "allowed" to "consider" the comments and make "appropriate" revisions before rendering a final decision.²⁴ The second option would limit appeals only to those issues raised during opportunities for public comment.²⁵

Even if there were some support or justification for the ANPR's reliance on "significant problems," which there is not, its suggested options still would not solve those putative problems.

First, the "intended purpose" of the current appeals regulation is to provide "a process by which a person or organization interested in the management of the National Forest System may obtain review of an intended action by a higher level official."²⁶ The option suggesting elimination of any opportunity for appeal conflicts on its face with the "intended purpose" of the appeal regulation and should, therefore, be disregarded on that basis alone.

Assuming *arguendo* that there were no such conflict, this option still should not be adopted because it abolishes what may be the most important element of the appeals process: supervisory review. Simply stated, there is no substitute for a fresh examination by someone other than the deciding officer. A new, pre-decisional comment period is unlikely to generate any significant additions to the administrative record where an earlier round of notice and comment preceded it. More importantly, it lacks the procedural and substantive benefits of a structured appeal, even where, as with the Forest Service, that process is informal.

The second option also fails to address the perceived problems, and it may effectively preclude appeals altogether in some cases as well. While at first blush it may seem logical to limit appeals to issues already raised during opportunities for public comment, the actual effect of such a rule would be to place an unreasonable burden on citizen appellants and to insulate potentially illegal or inappropriate agency activities from further review.

There are numerous situations where limiting potential appellants to issues previously raised would be unwise and inappropriate. First, it assumes there was an earlier opportunity to raise the issues. Public comment periods are not provided for all agency activities.²⁷ Indeed, the ANPR proposes a process for "minor" amendments to forest plans that generally precludes public comment.

²⁴ Id.

²⁵ Id.

²⁶ 36 C.F.R. § 217.1(a).

²⁷ See e.g., text accompanying note 15, supra.

Second, the suggested option would require potential appellants to be more prescient than the Forest Service when it comes to identifying the implications of the agency's proposals. This is particularly true in the case of forest plans. The Forest Service can hardly expect citizens or organizations to predict every issue that might arise in the succeeding 10-15 years when the agency itself acknowledges that it is

impossible for a forest plan to identify all of the projects to be implemented[,]...new information regarding the relationship and effects of actions within any given ecosystem are constantly being developed[, and] no matter how sophisticated forest models become, it is doubtful that the order and relationship of possible activities can ever be forecast with enough precision to fulfill environmental laws or the realities of a changing world at the plan approval stage.²⁸

Finally, it is not clear that, even if it were possible to identify every issue that might arise over the course of a plan or project, limiting appeals to the issues raised would streamline the appeals process. On the contrary, it may lead potential appellants to raise every conceivable issue during the comment period rather than to narrow their focus to those issues that are of particular and immediate concern. Thus, it could lead to a process more complex and time-consuming than the one that is currently in place.

In sum, the Sierra Club Legal Defense Fund does not believe that the Forest Service appeals regulations are in need of amendment. There is no data establishing either that a significant problem exists or that there is a need for change. Further attempts to tinker with the appeals process are more likely to insulate agency decision making than to streamline the appeals process. Instead, the Forest Service should heed the advice of the GAO and Mr. Hill: allocate additional resources to ensuring that adequate environmental analyses are prepared in a timely manner for all proposed activities on the national forests.

Illustrating the Problems Plaguing the ANPR

Vagueness

In spite of its purported goal of clarifying the planning process,²⁹ many sections of the ANPR are extraordinarily vague. This vagueness suggests either that the Forest Service is still unsure of important concepts, or that the amendments are meant to reduce the agency's accountability to the public.

For example, the ANPR fails to adequately distinguish between revision of a plan and major and minor amendments to a plan. Yet "minor amendments" can be made, with minimal public notice, and who knows what NEPA compliance, whenever "conditions at a

²⁸ 56 Fed. Reg. 6519 (emphasis added).

²⁹ 56 Fed. Reg. 6513.

project location warrant a site-specific exception to the forest plan.³⁰ Such site-specific exceptions can completely undermine the goals and standards set forth in the plan. This approach at the site-specific level is completely unacceptable.

It is also very difficult to figure out just what the differences are between "allowable sale quantity" (ASQ) and "long-term sustained yield timber capacity," (LTSYC) and how these relate to "regulated volume" and the whole suitable lands issue. It appears that section 219.40(c)(1), concerning nondeclining yield, is playing tricks with the suitability concept and with the requirements of section 13 of the Act. Under nondeclining yield, why should sales ever hit the LTSYC level if ASQ is lower? How can timber sale levels possibly be required "as a general rule" to be constant or increasing over time when it is obvious that concern for biodiversity, endangered and threatened species, and "New Perspectives" demand that the cut from the National forests decline?

Salvage Sales

In at least two places the regulations appear to violate the Act's section 13 requirement that salvage sales be sold above the nondeclining yield limit only if it is not feasible to substitute such timber for regulated volume. The proposed provisions, which appear in the last sentence of 219.40(c)(1) and in 219.41(c) are directly contrary to Section 13 of the Act and must not be included in any final regulations.

Clearcutting

Section 219.40(f) offers two of the clearest – though by no means the only – examples of ANPR provisions that are contrary to the Act. Paragraph (f)(2) states that clearcuts will be shaped and blended to the terrain "to achieve aesthetic, wildlife habitat, or other direction established in the forest plan." Yet section 6(g)(3)(f)(iii) of the Act requires "shaping and blending" of clearcuts always.

In addition, ANPR paragraph (f)(3) drops the requirement to establish maximum size limits for clearcuts. Yet section 6(g)(3)(F)(iv) mandates such size limits.

Biological Diversity and Threatened/Endangered Species

Despite agency pronouncements about New Perspectives and significant advances in the science of biodiversity, the ANPR completely avoids addressing many fundamental issues. In particular, it:

- o ignores the impacts of habitat fragmentation and the importance of biological corridors;
- o weakens protection for listed endangered and threatened species (removing even the minimal "viable populations" requirement); and

³⁰ Section 219.37(c)(3)(ii).

- o appears to reduce "sensitive species," which currently are designated and protected at a regional level, to a category of creatures selected only at the forest level for special attention – probably leading to inconsistent treatment and lack of coordination across the range of many sensitive species.

These and other provisions of the ANPR do not appear to have had the benefit of any input from the agency's best biologists.

Future Forest Plans

It is essential that any new regulations covering the next round of forest plans require that the plans truly take stock of what has and has not been accomplished during the first round. The ANPR fails to do so.

One of the biggest faults of the first round of plans was the agency's failure to collect adequate baseline data about a wide range of forest resources. In California, at least, there was a clear policy decision not to collect new data, which, as a decade rolled by with no completed plans, turned out to be a disastrous policy. Basic data collection is still essential – and that does not mean simply monitoring plan "outputs."

Therefore, the following elements are imperative in whatever regulations are ultimately adopted to govern future forest planning:

(1) The existing regulation 219.12(d) on inventory and data requirements, which was of particular concern to the Committee of Scientists but is not included in the ANPR, should be restored.

(2) Plan revisions must not be based simply on analyses "commensurate with the data available" [section 219.36 (d)], since such information is often grossly inadequate. Rather the ANPR should impose an affirmative duty on the agency to develop or otherwise acquire whatever data is needed to conduct the type of analyses required by the Act and NEPA.

(3) The EIS display of alternatives must clearly compare actual outputs and environmental effects with those that were projected under the forest plan and EIS. Moreover, in order to facilitate more realistic planning decisions the next time around, there should be a comparison of actual budgets for the forest, by program, with the budget that would have been necessary for full implementation of the plan, and a discussion of the implications of any shortfalls.

(4) Finally, NFMA section 6(g)(3)(D) requires that the plan revision documents examine whether all "intensified management practices" assumed in calculating the cut under the current plan were actually carried out and, if not, how much the cut must be reduced for the land base upon which the cut was calculated. The ANPR simply ignores this explicit requirement of the Act.

Introducing the Concept of Community Stability is Illegal

Paragraph (b) of ANPR section 219.30 identifies 10 principles that will guide all future revisions of forest plans. More specifically, the principles "reflect the statutory and administrative principles which guide National Forest System resource planning and management." The sixth principle adds the concept of community stability to forest plans by providing that plans should "gradually phase in changes which have significant impacts on people and communities."³¹

There are several serious concerns with this provision, not the least of which is that it is patently illegal: there is no authority whatsoever in NFMA or other federal laws for basing forest planning decisions generally on community stability.³² In fact, all indications are to the contrary. Although Congress has provided for limited consideration of community stability in certain, narrowly defined situations,³³ it refused to do so when it enacted the National Forest Management Act, a comprehensive forest planning statute, in 1976.

In addition, the proposal to "phase in" changes is in direct conflict with the immediately preceding language of that paragraph, which states that forest plans should be able to be "readily and efficiently adjusted in response to changing conditions and new information."³⁴ Not only does it lack any authority in existing law, but phasing in the changes would appear to subjugate all other multiple uses to the unauthorized and undefined concept of community stability.

³¹ ANPR 219.30(b)(6).

³² In 1987, James P. Perry, then-deputy assistant general counsel, Natural Resources Division, Office of General Counsel, U.S. Department of Agriculture, wrote that

There is no statutory or regulatory definition in the United States Code or the Code of Federal Regulations for the terms "dependent community" or community stability", nor is there any statutory requirement to maintain community stability generally applicable to all National Forest System or BLM lands.

Perry, James P, "Community Stability: Is There A Statutory Solution?", LeMaster and Beuter, Community Stability in Forest Based Economies: Proceedings of a Conference in Portland, Oregon, November 16-18, 1987, (Timber Press 1988)

³³ See e.g., Sustained Yield Act of March 29, 1944 (16 U.S.C. § 583) [authorizing establishment of specific sustained-yield units on National Forest System lands near dependent communities wherein timber would be made available at reduced rates]; and Public Law 95-233, 16 U.S.C. § 472a(e)(1)(C) [community stability is a factor the agency considers in determining whether to use oral or sealed bidding on timber sales].

³⁴ Id.

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Finally, this provision is extraordinarily vague. Nowhere are the terms "phase in", "significant impacts", or "people and communities" defined. Nor is it clear how this provision interacts with the requirements of the Endangered Species Act, the Clean Water Act, and other federal environmental laws.

In view of the absence of statutory authority, the inconsistency with existing laws, and the lack of definitions, the last clause of paragraph (b)(6) should be deleted.

Conclusion

Whether considered in the context of the current forest planning regulations or as a separate entity, the ANPR constitutes an ill-advised and inappropriate departure from the National Forest Management Act. It contains numerous provisions that ignore or violate both the Act and NEPA.

The Sierra Club Legal Defense Fund appreciates the time and effort that have gone into the drafting of the ANPR. However, the proposal is so flawed, both in concept and design, that the only viable alternative is to scrap the ANPR in its entirety and go back to the drawing board. We strongly encourage the Forest Service to do so.