

**EMERGENCY SALVAGE TIMBER SALE
PROGRAM PROVISIONS**

JOINT HEARING
BEFORE THE
SUBCOMMITTEE ON
FORESTS AND PUBLIC LAND MANAGEMENT
OF THE
SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
AND THE
TASK FORCE ON SALVAGE TIMBER
AND FOREST HEALTH
OF THE
HOUSE COMMITTEE ON RESOURCES
ONE HUNDRED FOURTH CONGRESS
FIRST SESSION
ON THE
EMERGENCY SALVAGE TIMBER SALE PROGRAM PROVISIONS

NOVEMBER 29, 1995

PART 2



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¹No Minority Members were recommended for appointment to the Task Force by the Ranking Minority Member of the Full Committee. All Minority Members of the Full Committee were notified of each hearing and were welcome to participate.

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EMERGENCY SALVAGE TIMBER SALE PROGRAM PROVISIONS

WEDNESDAY, NOVEMBER 29, 1995

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, AND THE TASK FORCE ON SALVAGE TIMBER AND FOREST HEALTH OF THE HOUSE OF REPRESENTATIVES RESOURCES COMMITTEE,

Washington, DC.

The Senate Subcommittee on Forests and Public Land Management and the Timber Salvage Task Force of the House Resources Committee met, pursuant to notice, at 9:35 a.m. in room SD-366, Dirksen Senate Office Building, Hon. Larry E. Craig, presiding.

OPENING STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Good morning, and welcome to the joint hearing of the Senate Subcommittee on Forests and Public Land Management and the Timber Salvage Task Force of the House Resources Committee.

I want to welcome our House colleagues and recognize them for the attention they have given to the need for forest health restoration and timber salvage sales. The House Task Force has conducted a series of oversight hearings on the implementation of salvage provisions of the Rescissions bill, which is now Public Law 104-19. These provisions originated in the House, and I am extremely pleased to conduct this hearing jointly today with my colleague Congressman Cooley and other colleagues of his that may be joining us.

Today's hearing is a follow-up to an August 10 oversight hearing I chaired to evaluate the administration's effort shortly after the Rescissions bill was signed. At that time Undersecretary of Agriculture Jim Lyons invited us to wait 100 days and to check back on progress that would be made and the accomplishments that would be achieved by them. I promised to take Mr. Lyons up on his offer, and this is approximately 100 days since that time.

This past February, before our House colleagues started their work on the forest health issue in the Rescissions bill, the administration came forward and announced a fiscal year 1995 programmed salvage sale level of 1.6 billion board feet nationwide for the Forest Service. This is roughly the same level of salvage that has existed for each of the last several years, reflecting a program in place before the 1994 fires.

Now, after the horrible fires of 1994, after announcement of the Western Forest Health Initiative, after the bitter debate over the provisions of the Rescissions bill, and with fiscal year 1995 timber sales data complete, we find that the Forest Service offered approximately 1.8 billion board feet of volume for sale, but actually sold 1.4 billion board feet. At least 154 million board feet went unsold for reasons that we will hear about shortly from the General Accounting Office.

The BLM's original programmed salvage target for fiscal 1995 was 64 million board feet. The Agency sold a total of 68 million board feet. To me these figures do not show the administration is acting with the urgency to accelerate the timber salvage program in order to utilize burned trees while they still have value. I say that in reference to the chart that I have just had the staff put up. Many species lose more than 50 percent of volume in the first 2 years after the fire. This chart shows 30-inch diameter trees. Damage, of course, is much greater, deterioration much more rapid, in smaller trees. Salvage sales must be logged within 2 to 3 years or opportunity is lost, volume is lost, and of course value is gone.

To put this all in context, consider that a year ago the Forest Service estimated the national forests contained a volume of 18 billion board feet of dead or dying timber. Since that estimate was made, a 1995 outbreak of the southern pine beetle across eight southern States has caused severe mortality. We are barely getting started on the job that needs to be done, and of course done now.

But quite apart from the loss of time, money, and opportunity associated with the results so far, the simple fact is that nothing really changed from the administration's original fiscal year 1995 budget plan. Notwithstanding all the rhetoric associated with addressing a serious forest health situation, and quite contrary to all the environmental posturing associated with the provisions of the Rescissions bill, no more trees were harvested or acres rehabilitated than business as usual would have permitted. If there is anything unique about the administration's performance it is that it represents business as usual, but at an unusually high price, as interagency dithering increased operational cost significantly.

Those are my and my staff's evaluations. Now I would like to turn to my counterpart from the House, Congressman Wes Cooley, for his opening comments, and then we will begin taking testimony.

STATEMENT OF HON. WES COOLEY, U.S. REPRESENTATIVE FROM OREGON

Representative COOLEY. Thank you, Senator Craig, for inviting our task force to take part in this hearing. It is a pleasure to be here.

Our charge from our chairman of Natural Resources, Chairman Young, was to ride herd on these agencies so they could aggressively implement Public Law 109-14 and to implement the new salvage law as presented and signed by President Clinton as he promised to do so.

We held four hearings in the field, actually three in the field and one in Washington. At each hearing we sought specifics from the Forest Service. At each hearing we found that field people wanted

to comply with the law but were prevented from doing so because of the bureaucratic process by the Clinton administration. In your beautiful State of Idaho, we learned from the Forest Service personnel that they were constrained by the MOAs, which were supposedly designed to expedite salvage sales and which were prohibiting from doing so.

In Medford, Oregon, in my district, and in Redding, California, we learned that when we requested basic information about the salvage in Region 4 and 5 from the National Forest Service we were surprised to hear that they could not provide us this information without first clearing it with the U.S. Justice Department, and this was the excuse they used for not providing us information on the amount of salvage which they were presenting at the time for sale. This was done under oath, and we have it in their written statements. We found it very peculiar to find that we could not get information from the U.S. Forest Service without first having it cleared by the Justice Department. All we requested was facts. We did not want any national security secrets. We felt that Congress should have the ability to ask for these facts, but yet we were denied the facts in these field hearings without first approval from the Justice Department.

We had a very interesting debate and discussion with the agencies in Washington. We learned that our expectations were quite different than that of the Forest Service in terms of how much dead and dying salvage timber would be harvested under the new salvage law. We had given the Forest Service discretion to prepare salvage sales, and we now know that the administration has withdrawn this discretion. The flexibility that we put in the law was simple. We made it unavailable to the Forest Services in the field. We felt that that was really opposite of the intent of the law. We felt that that discretionary part in the Public Law would allow the Forest Service to proceed with salvage where they were prohibited in the past, and according to the Forest Service and their testimony they had been hampered by the MOA rather than helping them expedite sales.

Congress passed a crystal clear law and the foresters on the ground wanted to comply. We felt that the foresters were very much willing to proceed, but were being hampered. They wanted to provide more salvage to improve the environment of the forest. They felt that salvaging wood increased the environmental clean-up of the forests where we were having problems. But the Administration refused to let them, and that's why we want to get into the issue today.

I want to thank Chairman Craig and other members that have participated in this task force. I would like to now turn over, with your permission, to our vice chair of the task force, Mrs. Chenoweth from Idaho, for her opening statement.

Senator CRAIG. Helen, welcome to the committee.

**STATEMENT OF HON. HELEN CHENOWETH, U.S.
REPRESENTATIVE FROM IDAHO**

Representative CHENOWETH. Thank you, Mr. Chairman, and thank you, Wes. I appreciate my senior senator, Larry Craig, for hosting this task force in his subcommittee today.

I am constantly amazed at all the mis-information that is printed about what we are trying to accomplish with the timber salvage law. I read an article in the Washington Post by Jessica Mathews the other day that said our salvage law was such an awful piece of environmental legislation, and in light of what is happening in the West, and especially the Northwest, the article seemed incongruous. We have had hundreds of mill closures in the Northwest, and to say that we have had 133,000 lost jobs, including timber and mill workers and support jobs, is probably an under-estimate. Timber harvests in the mountain States and Pacific Northwest are almost non-existent and our forests, a renewable public resource, are rotting.

Over 35 billion board feet of timber is dead or dying because forests are not being managed. Section 1611(b) of FRPA requires already that salvage logging of dead and dying timber take place, and this year, because of the state of our forests' health in the Northwest, Congress again swiftly passed a law to address the dire situation in the forests. The law provides all the tools to increase timber salvage sales from public lands. If properly implemented, this law would increase Federal revenues, it would cut Federal red tape, improve the health of our forests, employ loggers, road builders, mill workers, and provide a payroll and funds for schools. It would replace dead and dying stands with new stands of young, healthy timber.

I do not understand why the salvage situation and our response can be viewed as anything but positive. I argue that we should have timber sales targets in the law, and I wanted to be able to bring the chief of the Forest Service before us and ask why have you not achieved the specific salvage level that Congress told you to achieve. Still the law is very clear as written. The law says that the Secretary "is to achieve to the maximum extent feasible a salvage timber sale volume level above the programmed level to reduce the backlog volume of salvaged timber." If anyone who will be testifying before us can explain to me what they do not understand about this language, I would like to know.

Our task force has not heard any testimony of progress in reducing the 35 million board feet of backlog salvageable volume in our national forests. I was very hopeful that our task force would see the wheels in motion in our forests once the salvage law passed. The only thing that is in motion is the perpetuation of the bureaucracy.

Mr. Chairman, I thank you very much again for allowing us to be part of your Timber Salvage Task Force Hearing. Thank you.

Senator CRAIG. Helen, thank you. And of course, Wes, thank you. Let us rotate back and forth here for anyone else who wishes to make opening statements. Let me turn to Senator Craig Thomas of Wyoming.

STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Senator THOMAS. Thank you, Mr. Chairman. Mr. Chairman, I simply would ask to have my statement included in the record. I am anxious to hear the testimony.

Senator CRAIG. Without objection.

[The prepared statement of Senator Thomas follows:]

PREPARED STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Thank you, Mr. Chairman, for holding this hearing today to further discuss Section 2001 of the "Emergency Supplemental Appropriations and Rescissions Act of 1995." President Clinton signed this measure into law on July 22, 1995, and I look forward to hearing what steps the administration has taken to expedite the process of removing dead and dying timber on our national forests.

I think everyone here agrees that it is necessary to remove salvage timber that is highly susceptible to wildfire, disease, bug infestation and other counter-productive consequences. Over the past several years, increased tree and brush density has resulted in a dangerous build-up of fuel loads on national forest lands, and we are all aware of the devastating results. In 1994 alone, six billion board feet of timber was destroyed by wildfire even though the federal government spent \$950 million fighting fires in the Western states. Unfortunately, only one billion board feet of salvaged timber was harvested. Similarly, over four million acres of timber was destroyed on BLM lands.

In the coming years, this nation will witness an increase in catastrophic fires and bug infestation on our nation's forests unless we act now and carry out emergency salvage timber operations. We owe it to future generations to reinstate proper forest health initiatives and sound management techniques. Salvage timber sales will help restore a natural balance in the forests and remove dead and diseased timber in all regions of the country.

The timber salvage amendment agreed to by the Congress and the President addresses the need to accelerate salvage timber sales. Since most salvage timber depreciates beyond commercial use within six to 24 months, removing dead, dying and infested trees in a timely manner is critical. Unfortunately, the lengthy appeals process currently in place does not allow salvage timber to be properly harvested and delivered to the marketplace before much of the lumber loses its value. In the GAO's testimony, Mr. Meissner refers to many salvage timber sales that were "delayed or altered," that resulted in deteriorated and unmarketable lumber. These judicial challenges combined with the time needed to comply with environmental laws have halted a large number of salvage timber sales.

One of the main provisions of the salvage timber initiative allows federal agencies to prepare a single document that consists of an environmental assessment—required by the National Environmental Policy Act—and a biological evaluation required by the Endangered Species Act. However, designated wilderness sites and nesting areas of endangered birds are exempt from salvage timber sales. This is not bypassing environmental concerns—it is a procedure that provides flexibility and preserves time. Furthermore, excluding salvage timber sales from administrative appeals and limiting the time for filing lawsuits to 15 days after a sale is announced is another management tool that will save time, which in turn could save millions of board feet of high quality, marketable timber.

Unfortunately, salvage timber sales have become a cumbersome process magnified by an administration reluctant to harvest timber. An estimated 21 billion board feet of salvage timber exist on Forest Service lands and the Forest Service averaged just 1.8 billion board feet annually during the past several years. Additionally, President Clinton promised an annual harvest of 1.1 billion board feet of timber in his Pacific Northwest forest plan. However, in Fiscal Year 1994, only 247 million board feet of timber was offered on both Forest Service and BLM lands. The salvage timber proposal was agreed to in a bipartisan fashion and I trust the administration is delivering on its pledge to "carry out the objectives of the relevant timber-related activities authorized by this Act."

Clearly, it is vital to remove dead and dying timber from our National Forests. Although the salvage timber amendment is only a short-term solution to this ever-growing problem, it is an opportunity for the administration to come to the snubbing post and effectively carry out this program. The salvage timber provision is critical to the health and progress of our national forests, and I look forward to hearing from our guests today. Thank you, Mr. Chairman.

Senator CRAIG. Mr. Metcalf.

STATEMENT OF HON. JACK METCALF, U.S. REPRESENTATIVE FROM WASHINGTON

Representative METCALF. Thank you very much. I specifically thank the chairman for this hearing. We have an immense con-

servation effort underway to create jobs, the opportunity to converse a vast amount of valuable lumber that will soon be lost, much has already been lost, and that is a criminal waste. We must proceed on this.

Thank you, Mr. Chairman.

Senator CRAIG. Senator Conrad Burns.

STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. I have a statement, Mr. Chairman, but I would just ask that it might be entered into the record. I see we have a large witness list. I know we are just fiddling around and there are a lot of people that do not care whether we harvest or not, and we want to know why. There is my statement. I am going to ask them why.

[The prepared statement of Senator Burns follows:]

PREPARED STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

I thank the Chairmen of these Committees for calling this hearing today. I will keep my statement brief today in respect to the number of members present, who I am sure will want to make statements as well.

I take personal interest in this issue, since the measure directly effects my state of Montana and I worked hard for its inclusion in the Rescissions package.

The issue of timber salvage in our National Forests is extremely important to the future of our public lands. For years I have talked about the fact that the forests that we seek to protect need our attention. For too many years land management organizations have been stalled in efforts to provide for the future health of National Forests. These lands and their health are important to both the use by a multitude of activities, but for the economic stability for the future of our rural communities.

The purpose behind section 2001 of the Rescissions bill was to provide an opportunity for federal lands to be open to timber salvage. To open sales in areas devastated by fire in previous years to salvage sales for both the health of the forest and the economic stability of many of our smaller rural communities in the western states.

In my state of Montana, even though we passed this measure, has still had delays in the implementation of the salvage sales due to interference from members of Congress. Much of the timber that could have been used to build new homes in our country will have no value by the time that wood is brought out of the forests.

The implementation of this section was to allow the burnt and dying trees out of the National Forests that were burned so badly during the summer of 1994. This is timber that will waste away and create a danger for the continued health of the forests. These dead and dying trees create a definite health hazard to the future of our public forests. I believe that for the future of rural communities and for the health of our forests it is extremely important that we move forward with the implementation of Section 2001.

I would like to commend the Chairmen of the Resources based Committees for their dedication to the health of the forests and for rural America. I look forward to hearing what has occurred and what the future holds for our National Forests. Thank you, Mr. Chairman.

Senator CRAIG. Thank you very much, Conrad. Wes.

Representative COOLEY. Congressman Cremeans.

STATEMENT OF HON. FRANK CREMEANS, U.S. REPRESENTATIVE FROM OHIO

Representative CREMEANS. Mr. Chairman, I am here to listen to both sides. I very much enjoyed our hearings in the Northwest, including your testimony. As a member from Ohio I have an open mind and I look forward to this hearing.

Senator CRAIG. Congressman, thank you. It looks like that will conclude our opening statements. Let us turn then to the first panel.

The first panel is made up of Mr. James Meissner, who is the Associate Director of Natural Resources Management Issues, U.S. General Accounting Office in Seattle. He is accompanied by Robert Arthur, Senior Evaluator of the U.S. General Accounting Office in Portland.

Mr. Meissner and Mr. Arthur, welcome to the committee. Please proceed. We would ask you to adhere at least in the first instance to the 5 minute rule. Depending on the length of questions we will get beyond that I am sure. You can go right ahead with your opening comments.

STATEMENT OF JAMES K. MEISSNER, ASSOCIATE DIRECTOR, NATURAL RESOURCES MANAGEMENT ISSUES, U.S. GENERAL ACCOUNTING OFFICE, SEATTLE, WA, ACCOMPANIED BY ROBERT ARTHUR, SENIOR EVALUATOR, U.S. GENERAL ACCOUNTING OFFICE, PORTLAND, OR

Mr. MEISSNER. Mr. Chairman, my name is Jim Meissner and I am the Associate Director for Natural Resources, but I am also the Regional Manager of GAO's Seattle field office. I am also from Seattle. Bob Arthur, which you introduced before, is from our Portland office.

I would like to deviate a little bit because some of the background material in our prepared statement is the same material that you have and also that has been presented by other members. I would like to hone in on a couple of things. It may appear as if there is a little bit of difference in the data that you presented, as well as what the Forest Service is going to present later, and I want to clear that up. There are not any differences in the data, and we want to make sure that we do not get off in an argument about data when there really are not any differences.

Senator CRAIG. Thank you. I think that is important.

Mr. MEISSNER. Mr. Chairman, members of the subcommittee, and members of the Timber Salvage Task Force, we are pleased to be here to discuss the Forest Service's salvage sale program. In the past, as you have said, many sales have been altered, delayed, or withdrawn, and as a result of that time has deteriorated the salvage timber and some of it has become non-marketable. As a result of that condition and as a result of the fires which occurred in the summer of 1994, you passed legislation and established an emergency salvage timber sale program as part of the Rescissions Act of 1995.

The Senate Energy Committee and the House Resources Committee have specifically asked us here to discuss two items, whether the emergency salvage sale program addressed the primary causes of salvage sales being altered, withdrawn, or delayed, and why some salvage sale offers have received no bids.

In summary, our data indicates on the work we have done so far, that while the emergency program for sale of salvage timber addresses the factors which have been historically described as causing the problems of delaying or altering the sales of salvage, too

few sales have occurred since the Rescissions Act was signed by the President to positively establish the impact of that bill.

Secondly, some salvage sale offerings have failed to receive bids, primarily because the terms and conditions in those sales were unacceptable to potential purchasers.

And third, more comprehensive information on the universe of marketable salvage timber may benefit congressional decision makers as they assess the impact of this program and whether additional resources might be needed to support it.

A couple of things about the data. The Forest Service estimated in fiscal year 1995 budget submission that it would offer 1.6 billion board feet. In its 1996 budget submission, they said they would offer 1.5 billion board feet. The Forest Service officials that we have talked to have described the following four items as causing the problems of altering, delaying, or withdrawing salvage sales. One, the time needed to ensure compliance with environmental laws and regulations. Two, administrative appeals and judicial challenges filed in the courts. Three, the time needed for interagency consultation. And four, not having enough staff to get the work done.

As you know, the Rescissions bill directly dealt with most of those particular things that the Forest Service had suggested.

In addition, on August 9 the Departments of Agriculture, Commerce, and the Interior, and EPA, signed a memorandum of agreement to, among other things, reduce the time needed to comply with existing environmental requirements and to improve inter-agency cooperation.

The establishment of the emergency program has had an impact. As of September 1, the Forest Service had predicted that they would offer for sale 1.7 billion board feet of salvage timber in 1995, and that in 1996 they would put forward 2.1 billion board feet. However, despite the fact that the Rescissions bill dealt with the problems that had been identified, the program in terms of actual sales is not exactly the same as the volume offered.

In addition, we observed that the Forest Service's efforts to directly rehire staff who have experience in preparing sales has had little success. As of November 6, the Forest Service had rehired only 3 individuals nationwide. Although rehiring has been slow, the volume offered has still increased. Actually in fiscal year 1995 the Forest Service offered almost exactly 1.85 billion board feet of timber. That is more than 100 million board feet more than they said they would offer as of September 1, and 200 million more than they said in their original budget submission.

We need to look at that 1.85 billion board feet that was offered. Of that 1.85 billion, only 1.3 of that amount was actually sold during 1995. The extra 100 million that I think that you see in your data was left over sales from the prior year. So of the 1.85 put forward this year, 1.3 was actually sold. The difference is 550 million board feet. Approximately 200 million board feet of that was no bid sales. The other 350 million board feet of that is somewhere in the process between being offered for sale and perhaps being sold. There is no evidence that all of that will be sold.

In addition to some general information that we obtained as part of this review, we also looked at two specific forests, the Wenatchee National Forest in Washington State, and the Boise National For-

est in Idaho. Those two particular locations met all the criteria that we were looking for. One, they had large salvage sale programs. Two, they had a large available pool of salvage sale material. Three, they had a large number of no bid sales. And four, they had some sales that had been rebid after the original no bid.

We found that in those particular locations, just in those two locations, they had 36 sales for 285 million board feet. Ten of their sales, involving 105 million board feet, received no bids. Of those 10 sales, they reoffered 6, after they changed the terms and conditions of the contracts. As a result 4 of those did sell.

Mr. Chairman, I would like to just conclude with a comment on the data. We believe that it is important that the Congress have adequate information on the extent to which the act has helped the Forest Service expedite and streamline its salvage sale program. The Forest Service is now implementing a system for generating data in a semiannual report which will provide Congress with some useful information. However, as we understand it, although the Forest Service is planning to report information on the volume of timber it believes it can offer for sale within existing staffing levels, it is not planning to report on the total marketable salvage timber that might be available.

We believe that it is important to know the total universe of marketable salvage timber that can be offered for sale so that decisions can be made on whether to redirect greater resources to this program, and ultimately decide whether the program is a good idea or not.

Mr. Chairman, either Bob or myself are open for any questions. [The prepared statement of Mr. Meissner follows:]

PREPARED STATEMENT OF JAMES K. MEISSNER, ASSOCIATE DIRECTOR, NATURAL RESOURCES MANAGEMENT ISSUES, U.S. GENERAL ACCOUNTING OFFICE, SEATTLE, WA

Mr. Chairman, members of the subcommittee, and members of the Timber Salvage Task Force, we are pleased to be here today to discuss the Forest Service's program for selling salvage timber. As you are aware, salvage timber is dead or dying timber, much of which would be marketable if harvested before it deteriorates. In the past, many sales of salvage timber were delayed, altered, or withdrawn, and as a result, some of the timber deteriorated and became unmarketable. In response to the millions of acres of salvage timber resulting from the devastating fires of 1994, the Congress established an emergency salvage timber sale program as part of the Rescissions Act¹ in July 1995. This program was intended to increase the amount of salvage timber offered by, among other things, easing environmental procedures and eliminating the administrative appeals process.

As part of ongoing concerns about expediting the sale of salvage timber, the Senate Energy Committee and the House Resources Committee asked us to identify the reasons why salvage sales were being delayed, altered, or withdrawn. Recognizing that the emergency salvage sale program has existed only since late July, you asked us to provide our observations on whether the program has increased the amount of salvage timber being offered. Specifically, you asked that we discuss (1) whether the emergency salvage program addressed the primary causes of salvage sales being delayed, withdrawn, or altered and (2) why some salvage sale offers received no bids.

In summary, our work to date indicates that:

While the emergency program for the sale of salvage timber addresses the factors that in the past have been identified as the primary causes of or reasons for salvage sales being delayed, withdrawn, or altered, it is too early to say to

¹Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (P.L. 104-19, July 27, 1995).

what extent these changes will increase sales because few sales have begun since the program became effective.

Some salvage sale offerings have failed to receive bids primarily because the terms and conditions of the sales, such as the minimum bid or specific logging requirements or the volume of timber being offered, were unacceptable to potential purchasers.

In addition, because of the short-term nature of the emergency salvage sale program, more comprehensive information on the universe of marketable salvage timber may benefit congressional decision-makers as they assess the impact of the program and whether additional resources are needed to support it.

BACKGROUND

The Forest Service estimates that the national forests contain more than 18 billion board feet of dead or dying timber. Some of this timber is inaccessible or too deteriorated to be of commercial value. According to preliminary April 1995 Forest Service estimates, however, perhaps as much as two-thirds of it could be marketable. Selling such timber can lessen future fire dangers and sometimes improve forest health, as well as provide a supply of timber to mills. However, time is critical in selling such timber. It can deteriorate rapidly, making harvest economically unfeasible.

The Forest Service estimated in its fiscal year 1995 budget request, that it would offer about 1.6 billion board feet of salvage timber for sale in fiscal year 1995. In its fiscal year 1996 budget request, the estimate was 1.5 billion board feet. However, according to Forest Service officials, past salvage sales have traditionally been delayed, withdrawn, or altered because of (1) the time needed to ensure compliance with environmental laws and regulations, including the National Environmental Policy Act and the Endangered Species Act; (2) appeals filed through the agency's administrative appeals process or judicial challenges filed in the courts; (3) the time needed for interagency consultation; and (4) insufficient numbers of foresters, engineers, scientists, and technicians to prepare salvage sales.

The 1995 Rescissions Act, passed by the Congress and signed by the President in July, called for reducing the salvage timber backlog by achieving "to the maximum extent feasible, a salvage timber sale volume level above the programmed level" through calendar year 1996. Among other things, the act (1) eased procedural requirements for complying with certain environmental laws; (2) exempted salvage sales from administrative appeals and limited the time for filing lawsuits to 15 days after a sale is announced for bid; and (3) provided that former Forest Service employees who could assist in preparing timber for sale could be reemployed without repaying the voluntary separation incentive payment they received.

On August 1, the President stated his intention to carry out the objectives of the emergency program in an environmentally sound manner. On August 9, the Departments of Agriculture, Commerce, and the Interior and the Environmental Protection Agency signed a memorandum of agreement to, among other things, reduce the time needed to comply with the existing environmental requirements and to improve interagency cooperation.

The establishment of the emergency program had an effect on the amount of salvage timber the Forest Service planned to offer for sale. As of September 1, the Secretary of Agriculture reported that the Forest Service estimated that it would offer about 1.7 billion board feet of salvage timber for sale in fiscal year 1995, 2.1 billion board feet in fiscal year 1996, and 700 million board feet during the first quarter of fiscal year 1997 for a total of 4.5 billion board feet. The Forest Service indicated that the estimated total might vary by as much as 25 percent and that meeting this goal was dependent on its ability to increase its sales staff.

ACTIONS TO DATE SHOULD HELP TO EXPEDITE THE SALE OF SALVAGE TIMBER

The Rescissions Act and the memorandum of agreement among the federal agencies address what had been described as the primary causes of or reasons for salvage sales being delayed, withdrawn, or altered. While we believe that the act and the agreement should help expedite and streamline the sale of salvage timber, it is too early to determine to what extent these changes will affect sales because few have begun since the emergency program took effect.

We have observed, however, that the Forest Service's efforts to directly rehire staff who have experience in preparing timber sales have had little success. Although efforts to rehire up to 200 former timber sales personnel who accepted "buy-outs" are under way, Forest Service officials doubt that many of these employees would return because they have either secured other jobs, wish to remain retired, or the incremental difference between their salaries and retirement annuities is not

sufficient to entice them to return to work. In the Pacific Northwest Region, for example, officials estimated that fewer than 10 percent of former employees with the needed qualifications would consider returning. As of November 6, the Forest Service had rehired only three employees nationwide.

Although rehiring staff has been slow, the Forest Service has increased the volume of salvage timber offered for sale. Preliminary data provided by the Forest Service in response to an October 24, 1995, hearing before the Timber Salvage Task Force, House Committee on Resources, showed that the volume of salvage timber offered for sale in fiscal year 1995 was about 1.8 billion board feet—100 million board feet more than the estimate made on September 1 and 200 million above the level that was programmed before the passage of the Rescissions Act.

TERMS OF SALES AFFECT WHETHER BIDS ARE RECEIVED

Salvage sales are oftentimes delayed, withdrawn, or altered because purchasers do not bid due to the terms and conditions of the sales, such as the minimum advertised rate by species that the Forest Service will accept, logging requirements (i.e., removing the timber by helicopter), and the timber volumes being offered. Offering salvage timber for sale is one thing; selling it is another. The Forest Service's 1995 data showed that of the 1.85 billion board feet offered and about 1.3 billion board feet were sold. About 550 million board feet had been offered but not awarded at the end of the fiscal year—200 million received no bids and 350 million was in process. When bids are not received, the Forest Service may reoffer the sale and, to improve the salability of the timber, may modify the sale terms—such as reducing the volume of timber being offered or the amount of the deposit for brush removal required of the purchaser. However, reoffering salvage sales can be costly in two ways. First, the Forest Service must incur additional costs to plan and prepare no-bid sales for reoffering. Second, no-bid delays may make salvage timber unmarketable, and if not unmarketable, it will at least have lost part of its economic value because of deterioration.

The Pacific Northwest Region—covering the states of Oregon and Washington—offers a good illustration of sale delays that resulted in timber becoming unmarketable. In fiscal year 1995, the region offered 387 salvage timber sales; 33 offers received no bids. The region plans to reoffer 30 of the sales after making modifications to improve their salability, but the remaining 13 will not be reoffered because the timber has deteriorated to a point that it is no longer marketable. This action removes 33 million board feet, or 6 percent, of the 540 million board feet of salvage timber offered for sale. Furthermore, there is no assurance that the 57 million board feet in need of being reoffered sales will be purchased.

The Wenatchee National Forest in Washington State and the Boise National Forest in Idaho have had extensive salvage sale activity in fiscal year 1995. These forests have had 10 sales involving about 285 million board feet in fiscal year 1995. Ten of these sales, involving a total of about 105 million board feet received no bids. Forest Service officials and purchasers cited bidders' resistance to the minimum bid because of market changes and increased decay and amount and objections to the contract terms, such as requirements for helicopter logging, as reasons that no bids were received.

The two forests reoffered 6 of the 10 unsold sales after reducing the advertised minimum for different species or changing various contract terms, such as reducing the volume of salvage timber to be harvested, modifying the terms for brush disposal, and permitting weekend hauling of harvested material. These changes have been successful in four of the reofferings. While this effort shows persistence on the Forest Service's part, the types of changes we saw may indicate a need for the Forest Service to more carefully evaluate the initial terms of the sales. The following are examples of sales that received no bids until reductions in the minimum bid or changes in the contract provisions resulted in the timber being sold.

After an offering at the Boise National Forest received no bids, the Forest Service made significant adjustments to the advertised rate for the species offered and the volume of timber offered in order to reoffer the sale. The Forest Service reduced the total minimum bid by about 80 percent—from almost \$1.5 million to almost \$333,000—and reduced the volume of timber offered by about 68 percent—from 12.4 to 4 million board feet. The reoffered timber sold for about \$481,000.

After an offering at the Wenatchee National Forest involving 22.4 million board feet received no bids, the Forest Service made a number of revisions to the terms of the contract, such as increasing the minimum size of trees that had to be harvested and reducing the purchaser's deposit for brush removal from \$8.44 to 16 cents per hundred cubic feet of brush. The forest also reduced

the total minimum bid for this sale from \$417,322 to \$401,014. The reoffered timber sold for \$730,191, which suggest that the revision of the contract terms, rather than the minimum bid, was the primary reason that no bids were made at the initial offering.

KEEPING THE CONGRESS INFORMED

Mr. Chairman, because of the short duration of the emergency salvage program and the importance of timeliness in selling salvage timber, it is important that the Congress have adequate information on the extent to which the act has helped the Forest Service expedite and streamline its salvage sale process. We believe the Forest Service's semiannual report on the implementation of the program serves as a vehicle for it to provide the Congress with such information.

The Forest Service is now implementing a system for generating the data for the semiannual report that will provide the Congress with information about the program, as required by the act. Although the system is not yet complete, we did have an opportunity to discuss, with appropriate Forest Service officials, the proposed information that they plan to generate. As we understand it, although the Forest Service is planning to report information on the volume of timber that it believes it can offer for sale within existing staffing levels, it is not planning to report on the total marketable salvage timber that could be offered.

While it is important for the Congress to know how much salvage timber can be offered, we believe it is also important to know the total universe of marketable salvage timber that could be offered for sale so that decisions can be made about whether to redirect greater resources to the program or ultimately decide whether to reauthorize the program.

Mr. Chairman, this concludes my statement. I would be happy to respond to any questions that you or members of the Committee may have.

Senator CRAIG. Gentlemen, thank you very much.

Since the beginning of the year, the agencies that will testify shortly have signed a Memorandum of Understanding on Endangered Species Act consultation and a Memorandum of Agreement to implement Section 2001 of the Rescission bill. Both memoranda dealt with ESA consultation and I am not sure what difference between a Memorandum of Understanding and Memorandum of Agreement details.

I suspect it boils down to understanding one another without necessarily agreeing that they will work for the same boss in this instance. At any rate, have these memoranda helped to expedite the salvage sales or not? Is there any indication of that?

Mr. MEISSNER. In terms of the time period that has passed from the Memorandum of Agreement that was signed on August 9, that is a limited time period, but we do have some observations on the whole process which includes the Memorandum of Understanding, which was issued in March, which would demonstrate that everything is not working exactly as planned.

Bob has done some particular work on that so I am going to turn that over to Bob so he can discuss specifically a specific case with you.

Senator CRAIG. Bob, would you pull that mike as close as possible.

Mr. ARTHUR. According to the Forest Service, they are using the MOUs and MOAs on all of their salvage projects, but as indicated in some of the projects we looked at, especially Thunderbolt, there have been problems with the coordination between the regulatory agencies, Fish and Wildlife Service, National Marine Fisheries Service and the Forest Service.

Apparently, the way it was explained to us at the field level, the regulatory staff members and the Forest Service staff members

have a hard time reaching a meeting of the minds on what the impacts will be and how the impact should be resolved.

In the case of Thunderbolt, it went to a level 4 review and the project was delayed for period of months. I can't say that the entire delay has resulted from the implementation of the MOA or MOU. As you mentioned earlier, there was lost volume of timber because of the delays. However, the MOA-MOU process, if it works well, it could possibly speed up the salvage process but we do not have any indications at this time based on our limited work to what extent the sales could be increased.

Senator CRAIG. In the timber sales procedure that the Forest Service uses for salvage sales, have you seen a real difference between salvage and the green sales? I mean, we have set forth legislation that offered them some flexibility to do things differently.

Has there been any evaluation of that as it relates to expediting these sales?

Mr. MEISSNER. I think the Forest Service will probably respond to that question with maybe some specific examples, but based on what we have seen to date, and I want to set that up a little bit, in terms of salvage sales, time is critical.

Senator CRAIG. Very much so.

Mr. MEISSNER. That is one thing that is very, very obvious.

Senator CRAIG. That is what we are sensitive to and that is why we have the legislation.

Mr. MEISSNER. It is critical in several senses in addition to the deterioration of the timber. The longer it takes you to get the salvage sale out, the more it costs to prepare the sale and if you do not get the sale done right the first time and you have to redo it, it costs more money to do it.

So, time is really of the essence in this particular case on both sides. You have a depleting resource that is different than a green sale. With that as background information, it appears to us that the way that the Forest Service handles green sales and salvage sales is basically the same.

They go through the same gate process. They have made an effort to expedite the process but they are going through the same gate process. And you have to remember that in the case of a green sale technically you may even have an appreciating asset but in the case of a salvage sale, time is critical.

Senator CRAIG. Thank you. We are going to use the 5-minute rule for questioning and we will rotate back and forth, so, Wes, let me turn it to you.

Representative COOLEY. Mr. Meissner, I read your draft of your remarks submitted to the Timber Task Force and I found some things that are very, very interesting. One thing I would like to ask you, as the U.S. General Accounting Officer in Seattle, do you evaluate or give evaluation to the Forest Service as to how they manage their staff?

Because, you know, it is easy for the Forest Service to say we cannot put out the sales because we do not have the personnel any longer. Well, what was the object of the Forest Service originally, especially when it comes to timber? Are they not supposed to maintain a certain level of ability in the Department so therefore they can get out the sales, and from what I read in your draft here, it

appears that the Forest Service has let go by early retirement the necessary personnel to be able to put a sales out.

On page 5, at paragraph 3, timber sales are of little success although efforts to rehire 200 former timber sales personnel who accepted buyouts, so now we cannot put the timber out because the Forest Service has let the people go that are available to put out the sales? Is that what I am reading here?

Mr. MEISSNER. A couple of things. The Forest Service has been almost totally unsuccessful in rehiring people.

Representative COOLEY. No, no, no, you missed the question.

Mr. MEISSNER. We asked each of the Forest Service locations that we went to, did they have sufficient people to get the sales done. They told us that they did have sufficient people to get the sales out. Now, there is absolutely no question that a lot of people left during the early-out process in the Forest Service and that many of those people were in timber-related professions that may have helped in the process.

Some of those people have been brought back under personal services contracts so it would not be fair to say that none of them are back serving the Forest Service. Some of them are under contract but only three came back as being rehired.

Representative COOLEY. Well, the way we wrote the law, the Public Law 109-14, we did not say they had to rehire them. We just said we made that available, so you could bring them back on a temporary basis in order to help us through this 2-year period which the law covers.

You see, I find it kind of ironic here when I got out and talk to the personnel. Besides that, when I look at the amount of people still employed by the U.S. Forest Service and I see that we are not shrinking the Forest Service, the personnel is pretty stagnant but yet we have let all of the quote unquote appears to be anyway, and even by your statement here, the working people, the people who are available to put out these kind of sales, they are gone.

So, who do we have now replacing? Since the numbers are being stagnant, who do we have replacing the people who did the work? I can see the reason that maybe we are not getting out the salvage because we have a good excuse here. We don't have the personnel, but yet, you have the personnel, the employment is staying stagnant.

What happened to—are we hiring people who are not qualified to be in the Forest Service? What was the main object of the Forest Service? To manage the forests, and part of the management process is getting rid of dead and dying and cleaning the forest up and yet that part of the Forest Service seems to be shrinking or disappearing or not even existent.

Mr. MEISSNER. Again, the Forest Service does have some people remaining in the timber program. They did not totally eliminate the number of people who are there.

Representative COOLEY. It did not totally eliminate them? In other words, they eliminated them but they were not able to?

Mr. MEISSNER. There were a large number of people that took early-outs in the timber program and I am sure that the Forest Service will say there were a large number of disgruntled people

at that particular point in time with regard to the success of the timber program.

Representative COOLEY. At that level who did the work to get the timber sales out, they were disgruntled?

Mr. MEISSNER. That is correct.

Representative COOLEY. Could you tell us why they were disgruntled?

Mr. MEISSNER. I think that it has to do with the lack of getting the timber sales out and the four reasons the Forest Service suggested as the reasons for delaying the salvage sale program.

Representative COOLEY. I think we are starting to find some of the roots of some of the problems in complying with the Public Law 109-14 is that the Forest Service, as far as I can tell from our hearings, has certainly changed its focus, and I think maybe that is a part of the problem.

My time is up, Mr. Chairman.

Senator CRAIG. Thank you very much.

Senator Thomas.

Senator THOMAS. How effective has the bidding process been or the willingness to do this job? Have the offerings been taken up generally?

Mr. MEISSNER. I think one of the things that surprised us was the number of no-bid offers based upon the existing terms and conditions in the contract. There was nobody who stepped up and bid on it. That is 200 million board feet in the figures that we have.

When we went to Wenatchee, and we did some work in Boise, those two particular forests have large amounts of no-bid sales and so my response to your question would be that there are large number of sales that there are not any bidders out there. Even in some cases when they are re-bid after the change in terms and conditions, they still do not find purchases.

Senator THOMAS. Assuming that we want to do this for a number of reasons, what would need to be changed to make those offerings more attractive?

Mr. MEISSNER. We put together a long list of terms and conditions that both purchasers and the Forest Service have said may have inhibited individual contracts from being bid upon.

Those items include the following, and this in no way is exhaustive because the list is a full page of them, whether you choose helicopter logging or less expensive means of getting the timber out; whether you allow any roads to be built or whether you allow no roads.

The size of timber is a critical element. If you require, as part of the timber operation, to cut very small dimensional timber which does not have much of an economic value, you then cause the purchaser not to want to have those kinds of contracts.

If you eliminate hauling on the weekends, a nonenvironmental sort of an issue; if you have a tremendous number of leave trees for wildlife purposes, therefore decreasing the number of trees that can be taken off of the land; if you require grass seeding; if you require tremendous amounts of brush removal in addition to the trees.

All of that costs money, all of those decrease the value to the purchaser.

Senator THOMAS. Would it not make sense to try and alleviate some of those obstacles if your purpose was to increase the takings?

Mr. MEISSNER. If the purpose was to increase the timber-taking, then the terms and conditions are a significant factor in that decision.

Senator THOMAS. I guess if you are not intimately familiar with this and you listened to your testimony, I guess you might ask what is the bottom line? You have gone through a lot of numbers. If indeed the law says let's increase the removal of this timber for various reasons, have we succeeded? Have we accomplished that? What is your analysis of whether or not that has been successful?

Mr. MEISSNER. I will go back to a statement that I made to the chairman earlier, time is critical. Time is really critical. In one of the forests we visited, Wenatchee Forest, big fires in 1994, large available amount of salvageable material yet no salvage sale contract was awarded until August 1995. In fact, if I remember the date correctly, it was August 26 or August 29.

Now, that is fully 11 months after the fire was contained. The fire broke out in July 1994. When you have a depleting resource, a full year to get a salvage sale awarded does not demonstrate that the process is expedited.

Senator THOMAS. I think, if I noticed here in comparison in some adjacent areas in the private sector, and so on, 3 or 4 months is more likely.

Mr. MEISSNER. This particular sale, excuse me, this particular fire has a mixture of both the State of Washington and even city of Seattle lands mixed in there. The State, as an example, issued five contracts in the spring. Excuse me, they issued six contracts. Five of the six contracts that were issued were all completed as of the end of August.

Now again, you have to remember five of the six are completed at the end of August which is approximately the time period that the Forest Service got its first more than a million board foot sale out. In addition, the city of Seattle, not exactly in the timber business as a normal way of doing business, had its contract for 9 million board feet of timber completed by the end of August.

Senator Thomas. That is interesting. One of the frustrations, as you know is, we hear all the problems and all the obstacles and all the reasons, but if you go right to it, results are what we ought to be looking for, and so, I appreciate your input. Thank you.

Senator CRAIG. Thank you.

Congresswoman Chenoweth.

Representative CHENOWETH. Thank you, Mr. Chairman.

Mr. Meissner, in your testimony, you seemed to frame your testimony around four points as the reasons that we are not able to achieve the goals Congress intended.

Number one was the appeals; number two was the consultation process; and number three was staff; number four was, again, the time.

I was wondering, I am going to ask you some questions but in the essence of time, I wonder if you could provide for the record, your views as to whether these four impediments are still impediments? Why have we not been able to expedite the process?

[The information follows:]

FACTORS THAT CAUSE SALVAGE SALES TO BE ALTERED, DELAYED OR WITHDRAWN

It is clear that the Rescissions Act directly responded to the four factors that were historically described as the causes of salvage timber sales being altered, delayed or withdrawn. Although the officials we interviewed and the studies we reviewed identified many other factors as contributing to the timber sales problems, the four factors were identified as the most significant impediments. Nevertheless, despite the Rescissions Act's attempt to speed the process, it is now apparent that there are other factors which are at least as important as the four historic factors. In fact, in some cases the legislative solution to the problem may well have resulted in some unintended changes in the Forest Service process.

Following are examples of factors we noted that need to be resolved in order to speed the process.

—Planning for salvage sales should be well on the way to completion before major fires are contained. It was evident that one of the reasons that the City of Seattle and the State of Washington had their contracts out early was that they started early. An expedited process must begin expeditiously.

—Contract terms and conditions need to be consistent with economic realities. The fact that there were so many no bid contracts is evidence that contract terms and conditions may have priced some bidders out of the market. If the Forest Service offers salvage timber for sale, but it receives no bids, higher administrative costs and delays are inevitable.

—Conflicting objectives need to be prioritized. If Forest Service objectives for a salvage area included such items as forest health or reducing the fire load and viewed to be as important or perhaps even more important than the sale of the timber, expect delays in the Forest Service process to resolve conflicting objectives. In fact, trying to meet the other objectives may result in an uneconomic offering. And, even if the offering is still economically viable, the lengthened process needed to reconcile the conflicting objectives will require more time.

—Timing of sales process needs to be designed to offer major timber sales contracts before the beginning of the logging season, not as its conclusion. The delay of a few months can easily result in the offering losing substantial value, because the deteriorating timber must wait a second logging season for completion of the timber removal.

—The elimination of administrative appeals and the reduction of time allowed to file lawsuits may have resulted in changing where in the timber sales process that time was spent. Wenatchee Forest Service officials told us that they obtained useful information during the appeal and legal negotiation processes and since there is no longer an appeal process and judicial reviews have been curtailed they have expanded the public involvement period early in the sale process and increased the time and effort in the analysis process to try to eliminate the possibility of lawsuits. It is possible that these lengthened processes may negate some time saving envisioned in the Rescissions Act.

Representative CHENOWETH. With regards to the consultation process, sections 2001(i) and sections 2001(c)(1) dealt specifically with that.

And with regards to staff, the salvage law gave contracting authority but I want to ask you something very specifically. In the very careful reading of the law, is the Forest Service able to rehire people that have taken an early-out? Do you know?

Mr. MEISSNER. Our understanding of the law is that they do have the authority. They have rehired three people, so if they don't have the authority they have exercised it.

Representative CHENOWETH. Were they people who took an early-out with the Forest Service or were they other individuals? Do you know that?

Mr. MEISSNER. No, I am sorry, I do not know that.

Mr. ARTHUR. They were former Forest Service employees who took the buyout.

Representative CHENOWETH. They were former Forest Service employees but were they employees who took an early-out, took that program?

Mr. ARTHUR. Yes, they were.

Representative CHENOWETH. They were?

Mr. ARTHUR. Yes.

Representative CHENOWETH. And then the fourth, of course, was the time and both of you indicated the MOA may have some impact there. Mr. Arthur, I was interested in your commenting about the Thunderbolt sale. That is in my district and although it was just let, it is tragic because it is a huge sale, a lot of volume, but in talking to my loggers, they are not able to get in because the roads are so muddy, so, the Thunderbolt sale will have to go for another winter and that is really, really very sad.

I did want to ask you, Mr. Meissner, why did you choose the Wenatchee Forest and the Boise Forest? What prompted you to make that choice?

Mr. MEISSNER. We looked at the Forest Service data in terms of those particular forests that had the largest amount of salvageable timber which the Forest Service had identified as available for sale, and we looked at the top five. It happens that the Boise Forest was number 1 and it happens that the Wenatchee Forest is number 5.

In addition, Kootenai, Payette and the Deschutes, if I remember correctly, are the other ones that are on that list. Both the Boise and the Wenatchee had catastrophic fires. Both of those fires had caused the circumstances to increase the amount of salvageable timber. So, we picked those because they seemed to match everything that the Task Force has been looking at, the catastrophic event, an increase in salvageable timber, a tremendous amount of salvage timber that could be cut.

Representative CHENOWETH. Well, Mr. Meissner and Mr. Chairman, I want to let you know that if all of the forests in my district could be managed like the Boise National Forest, I would be a happy camper. I am not a happy camper because most forests are not managed like Boise. That is one of the best managed forests that I have come across and this Task Force has held hearings across the West and we have often heard volumes of figures offered to us of timber that is offered.

But the Forest Service apparently combines the volume of timber that is offered and the volume of timber that is sold, and so it is hard for us to make the distinction between offered and sold, or just offered.

Mr. MEISSNER. It would seem to us the important amount is the amount sold.

Representative CHENOWETH. And that is something that we have to—that the Congress needs to know, that distinction. Mr. Meissner, would you be willing to help us with that particular distinction in finding out the difference between the volume that is offered and the volume that is offered and sold?

Senator CRAIG. Congresswoman, let us put up a chart that shows some figures that may assist us in your line of questioning. If you would do that. That gets to the point of offered versus sale.

Representative CHENOWETH. Thank you, Mr. Chairman.

Mr. MEISSNER. Mr. Chairman, there is one item that was brought up that is really interesting and it is a further elaboration on what you said. Boise National Forest issued, or put open for bid, 65 million board feet of timber on May 12, 1995.

May 12 is before the logging season. August, the end of August, is not before the logging season and as you described, the longer in the season that you wait, if you wait till September, yes, you meet an offering goal that you have, but you are getting close to the end of the logging season and you have to wait until the next spring. Again, another reason to respond to Mr. Thomas in terms of why bidders may not be willing to bid on the contracts.

Senator CRAIG. Thank you very much. The chart itself is relatively self-explanatory and we will hand out a print of that for you, but that will give you an idea of program budget under Emergency Salvage Program offered '95, sold '95, and harvested.

Now, let me turn to Senator Burns.

Conrad.

Senator BURNS. I just thank you for coming today. I just have one question, I think.

In dealing with those two forests and the personnel that they had involved in trying to get these sales out, have you noticed any shift of emphasis, as far as personnel is concerned, from timber to other parts or activities of the Forest Service?

Mr. MEISSNER. During the salvage sale effort? You mean during this last time? No. In fact, there were a lot of people who were added to the salvage sale program who received a lot of assistance from other people within the Forest Service. I will let Bob, if he has some specific examples, respond.

Mr. ARTHUR. On Wenatchee, for example, on the Entiat district, they brought in people from other areas of the forest that did not have a fire to assist that area which had fires, to help plan the salvage effort.

So the Forest Service was willing to bring in other Forest employees to help beef up or staff those areas that needed help.

Senator BURNS. Those costs that were incurred in doing those kind of activities, were they applied against that sale?

Mr. ARTHUR. I do not know that answer.

Mr. MEISSNER. What happened there is that the fires in the Wenatchee Forest were mainly in the northern part. What they did is they took the people from the southern part and moved them up there to help out in the salvage sales.

In addition, they took some people from other parts of the country but they really did move toward getting the salvage sales done.

Senator BURNS. Well, I congratulate them on that. I am saying, though, that whenever we start looking, we keep hearing this below cost timber sales and then if we do not maintain the right personnel in the right places to do the jobs that should be done, that all those costs, or extra costs are incurred are placed against those particular sales; is that correct?

Mr. MEISSNER. If they are charged against the sales, that is correct.

Senator BURNS. That is all the questions I have.

Mr. MEISSNER. An additional comment that is not in the testimony. We asked the Boise National Forest to estimate the additional cost associated with delays and they told us that the delays that even in the Boise National Forest had resulted in the lost timber sales, they figured, of \$10 to \$15 million.

So, again, I will go back to hone in on time—it is critical here. If we do not do something about time, the money just will not flow either.

Senator BURNS. Well, that is true, but what I am getting at, that the establishment of the right personnel in the right place, if you have an emergency or you do not have an emergency, if you are managing your forest for a benefactor, it would seem to me that those people should pretty much be on hand and can start making arrangements for salvage sales immediately after the emergency or the catastrophe has cleared itself up. That is the point I am making.

Mr. MEISSNER. You have to start early if you are going to complete early. There is absolutely no question about that.

Representative COOLEY. Mr. Metcalf.

Representative METCALF. Thank you, Mr. Chairman. I just have one question, maybe it gets down to the bottom line. Suppose you have a knowledgeable observer, understood forestry, understood the whole system. Would it appear to this unbiased observer that the terms and conditions were purposely written to prevent or discourage sales in order to frustrate the purpose of the legislation; that is, to frustrate the will of the Congress and the President who signed the bill?

Mr. MEISSNER. We found no evidence of that. While the terms and conditions may not be the best for the purchaser and they may result in no bids, we found no evidence whatsoever that the Forest Service purposefully put those conditions on there for the purpose of impeding the sale, not in the locations that we went to.

Now, you have to understand as part of that, that the Forest Service may have other goals in mind besides selling timber which have an impact on those terms and conditions. It was very clear in the Wenatchee National Forest, for example, that the Forest intended to use the timber salvage sale program, they are very open about it, as a matter of reducing the fuel load.

Now, reducing the fuel load means getting rid of the brush and getting rid of the small dimensional timber that has an impact on what a purchaser is willing to pay for the timber, but again, they did that to try and improve forest health. Our judgment is not to impede the will of the Congress.

Representative METCALF. I guess I am not an unbiased observer. Thank you.

Representative COOLEY. Mr. Cremeans.

Representative CREMEANS. Thank you, Mr. Chairman. You know, in today's world, and actually in our urban society, over 90 percent of our population live in cities so when this Task Force held a series of hearings in the Northwest, it was considerably enlightening to some of us because we are so far removed from the land anymore that it is no wonder we have questions about our North American forests.

You know, we passed a new salvage law, and it was actually designed to remove impediments in the way of quickly preparing the salvage sales. You know, our forests have been continually the subject of setbacks of nature, fire disease, insects and so forth. As recently as 10,000 years ago, we had glaciers. So the people, I feel, that are in the forest products industry play an important role in

managing and caring for this renewable resource; that is, the forests.

Those people number over 2 million in both the United States and Canada. I am told their families have actually witnessed cycles twice, maybe three times, in their lifetime. They know first-hand that the forests really are a renewable resource for generations to come.

Mr. Meissner, could the fact that the impediments that I have alluded to still exist be due to the fact that the flexibility provided by Congress is not being exercised?

Mr. MEISSNER. As an auditor, it is difficult to assess what might be and what might be done. Again, I can only go back to what we found and if those flexibilities were exercised, they were not apparent to us.

Representative CREMEANS. Thank you, Mr. Chairman.

Senator CRAIG. Thank you very much. We will do a second round for those who have additional questions.

Mr. Meissner, several of us have asked around the issue of available staff and on many occasions, off the record, we have heard from Forest Service personnel, on a forest-by-forest basis, they simply did not have the staff to be able to move in a timely basis.

Now, I know there was an effort to rehire or to hire additional staff but I also understand that there was an attempt to rehire retired, or those that had taken early-outs and they attempted to hire them on what is known as a retired annuitant; in other words, the difference between their retirement salary and the level of pay that that position would command in the Forest Service, which meant they would work for darned few dollars an hour.

And it was only when they found out that would not work that they began to deal with contracts or contracted people or take these same early-out folks who have the expertise and develop a contract relationship which would bring them back on at a salary commensurate with the position. Now, I understand that is one avenue.

I would like to have you speak to that. If you examine the difference between a retired annuitant and the relationship which did not work, or did not work very well, and contracting. Also, did you discover in any way an effort to contract with State agencies, State departments who have Forestry agencies and trained Forest Service personnel capable of getting out sales based on a rather large parameter of environmental concerns, and all of that, in other words, in the total of an effort to rehire and bring staff back on board. Did you look at all of the options that the Forest Service was or was not using?

Mr. MEISSNER. Your analysis of the situation with regard to retired and potential retired annuitants and whether they would be willing to come back is correct. It is obvious that if you are going to have an offset in pay that you do not want to work for nothing and so they did hire people under contracts.

I am not sure I would agree, though, with the cause and effect relationship. Our understanding from the Forest Service is that personal services contracts were not new and that the Forest Service had used personal services contracts to hire, excuse me, to contract for people that had formerly worked for the Forest Service before, and so I do not think one caused the other to happen but the

analysis of why the rescission legislation and why the Forest Service's attempt to rehire did not work is correct.

Senator CRAIG. One additional question. Impediments were discussed as it relates to the salvage sales and what appears to be the inability of the Forest Service to get them out in a timely fashion.

Did you see any other area that the Rescissions bill might have failed to address that would have expedited or allowed the Forest Service to expedite if they had been so inclined that we might address?

Mr. MEISSNER. Again, you need to expeditiously start the process to get it completed on time for the spring sales. You may have dealt directly with the time frame as opposed to indirectly with the kinds of things that the Forest Service did in the process.

Senator CRAIG. Thank you.

Additional questions? Wes?

Representative COOLEY. Thank you, Mr. Chairman. I want to go back and address something that I think at least triggered my interest in this and I think a part of the problem we have is that the city of Seattle was able to get out these sales so quickly.

Now, do they not fall under the same rules and regulations and environmental laws, do they not, that the U.S. Forest Service has?

Mr. MEISSNER. The city only had one contract. The State had six contracts.

Representative COOLEY. Well then the State and the city.

Mr. MEISSNER. They follow the Forest Practices Act and the Forest Practices Act has significant environmental concerns. Although they are not the same as the Forest Service requirements, State officials have continuously assured us that the conditions under the Forest Practices Act that they follow are environmentally sound, positive contracting procedures.

Representative COOLEY. So, we have a forest that is adjoining right?

Mr. MEISSNER. Intermixed might even be closer in this particular case.

Representative COOLEY. Okay. We have a forest that is intermixed and we have other agencies, be it either city or State agencies, that are able to expedite the process and yet, we have a Federal agency that is intermixed with these other agencies that is unable to do this. Is that correct?

Mr. MEISSNER. That statement is correct. I will add one other thing, that the city of Seattle, again, not an expert in the sales of timber, actually hired a consultant who used to work for the Forest Service.

The city actually went to a former Forest Service employee to get help in selling the timber, but your statement is correct, they are intermixed and there is no question but that the State and the city got to the land, got it cut quicker than the Federal Government. There is no question about that.

Representative COOLEY. Because they realized there was value there and if they let it sit it would not be as valuable, right, possibly?

Mr. MEISSNER. Interestingly, the city council for the city of Seattle in July 1994 passed their own internal procedures as to how they were going to deal with the fire even before the fire was out.

The city council actually initiated the process to deal with the salvage sale while the fire was in its infancy.

Representative COOLEY. But the Forest Service is not capable of doing that?

Mr. MEISSNER. I would not say that. I do not know that they are not capable of doing it.

Representative COOLEY. But they did not, obviously.

Mr. MEISSNER. They did not.

Representative COOLEY. And the law we added to expedite the contracting, so therefore, the Forest Service, if they had so wished, could have contracted before the fire was out to start salvaging just like the city did or the State agencies. In other words, what we are trying to do, what we are trying to really say is that somewhere along the line here, the people working for the Federal Government, the U.S. Forest Service, has to realize this is an asset.

If we do not utilize the asset, we lose the value of the asset. That is not good for the environment nor is it good for the public. It is a public asset. If we allow it to rot, we do not get anything out of it. It is wrong.

So, what we have tried to do is pass legislation that would help them expedite this process since they were sitting around telling us they could not do anything because of certain legislation that was in place. So, what is happening, is we are seeing that even though we passed the legislation that we felt was good legislation, protect the environment, raise revenue for the general treasury, produce jobs and clean up the forests, we are not doing it, and yet, other agencies, not Federal agencies but other agencies, either State and/or city, are doing it. So, why are we not?

What are we doing wrong as a Federal agency that we cannot even compete with other agencies? We have the manpower, we certainly have a lot of employees and our costs are horrendous, but we cannot do it. Are we too big? Are we not qualified? Should we replace the Forest Service with contractors? What do we do to solve this problem?

Remember, this is a public asset that we are allowing to rot, get no revenue return on it. It is a renewable resource. Once it is gone it has no value and yet, we cannot, for some reason, stimulate the Federal Government in such a way as to benefit from this resource. I do not understand it.

If we were in business today, these people would all be fired. I spent 27 years in the corporate world. They would have been gone and you are the General Accounting Office. You are really the people we turn to, sort of the overseer, to help us try to solve these problems, and we read your statement and it pretty much confirms what we feel.

This agency is just not properly functioning in this particular area and we do not know why. And they come up with, We do not have the personnel, and then we ask, Well, we do have the personnel but they have left, we can't contract anybody. but yet we made in the law that they could contract somebody, and then they put erroneous, unbelievable requirements on timber that has no value because they wait too long and then they want you to log it by helicopter.

And yet, intermixed within the same forest, we have a State agency come along and the city and they get it done right way, reap the total benefit of that with the idea of replanting and going back and cleaning up and yet, we cannot do that. And I think that is the frustration by this committee all the way along the line, and by people in Congress, as well.

It appears, it appears that we have an agency that absolutely is doing basically nothing. They are sitting out there doing nothing except looking at the birds and the trees and talking about things that may or may not have value. We do not want to destroy the environment. We want to make sure that everything is there but yet, other agencies were able to do the same thing even intermixed, like you said, within the same forest and they cannot do it.

There is something wrong and a part of the hearing is to find out what is wrong and as the chairman just asked you, can we do anything? Can you suggest anything to members of the U.S. Senate and the House of Representatives? Can we do anything to help this agency fulfill the task that they should be doing legislatively?

Is there anything that we can do, any suggestions from you that will help this thing happen because it is not happening, and I guarantee you when we come back here a year from now we are going to look at the same kind of figures because we know you are double-counting. We do not know why you do that.

You consider things that are sold because you put them out for bid and they are not taken so those are part of the sold. We look at Option 9. It is way below what even the President talked about 2 years ago and we try to do something to help that and it is not helping either.

What is happening in this agency that we need to look at to help them fulfill their mission? Can you help me, sir?

Mr. MEISSNER. I think the question you just asked needs to be asked of the Forest Service, and you need to ask them, Is there anything that you could do legislatively to begin the process more quickly. Can the process begin more quickly, because you will get it done quicker if you start the process more quickly, and to me, whether that is legislative, that that can be legislatively determined, or there is something else involved, I think that is a question for the Forest Service.

Representative COOLEY. Even though other agencies were able to do it, you think we ought to ask them that question?

Mr. MEISSNER. I think you need to ask them the question.

Representative COOLEY. We will ask them that question, but as an auditor or accountant or overseer, is there anything that you can see?

Mr. MEISSNER. The State of Washington and the city of Seattle moved very, very quickly to salvage timber because they knew it was a depleting resource. They moved quickly. Why the Forest Service did not move as quickly is something that I think you need to ask the Forest Service.

Representative COOLEY. Thank you very much.

Mr. MEISSNER. It is a question, I just do not know the answer to the question.

Representative COOLEY. Thank you.

Senator CRAIG. Senator Burns.

Senator BURNS. I am going to ask the Forest Service but I do not know, I am questioning why we have you working now, but that is for another day.

Representative COOLEY. Thank you, Mr. Chairman.

Mrs. Chenoweth.

Representative CHENOWETH. Mr. Meissner, in one of your answers to the question about the city of Seattle and the State sale, I assume you are talking about the State sales occurring on different sections of land and that is why they were interspersed. And I also assume that when you answered that the harvest was retrieved under the Forest Management Act, I assume you meant Washington State Forest Management Act?

Mr. MEISSNER. Washington State Forest Practices Act. That is correct.

Representative CHENOWETH. Let me ask you in regards to these sales, have any representatives, do you know, from the environmental community charged that the city of Seattle or the Washington State sales have done more environmental damage than the Forest Service sales that were similar? Do you know anything about that?

Mr. MEISSNER. Absolutely not.

Bob.

Mr. ARTHUR. No, I am not aware of any challenges or litigation regarding those sales at all.

Representative CHENOWETH. Or lawsuits?

Mr. ARTHUR. None that I am aware of.

Representative CHENOWETH. Do you believe you would have been aware of any if there were some?

Mr. ARTHUR. We did not ask that specific question, if there were any lawsuits. I just do not know.

Representative CHENOWETH. But it is probably reasonable to believe there were not any because, as Mr. Meissner testified, they were brought out in a timely manner and quickly sold.

Mr. ARTHUR. Yes.

Representative CHENOWETH. Let me ask you also, Mr. Meissner, do you know how much volume has been lost to the sales that have become unmarketable because they were offered once and not bid on again, and then they lose their value, the timber loses its value. Was that taken into your calculations and your analysis.

Mr. MEISSNER. We could add up the total amount of volume that had been rebid and we could calculate the amount. Usually when they are rebid they are for less amounts than the original bid. We did not make a tabulation of that but we would be happy to prepare that for you if you would like that.

Representative CHENOWETH. Thank you. I would appreciate that.
[The information referred to follows:]

**VOLUME AND VALUE OF NO-BID SALES THAT WERE REOFFERED AND
SOLD ON THE WENATCHEE AND BOISE NATIONAL FORESTS**

[Fiscal Year 1995]¹

National forest/salvage sale	No-bid sale		Reoffered sale		
	Volume (mbf)	Advertised price	Volume (mbf)	Advertised price	Sale price
Wenatchee:					
Boundary Butte	22.4	\$417,322	22.4	\$401,014	\$730,191
Boise:					
Middle Fork	7.0	892,360	7.0	503,335	528,400
Big Owl	7.8	1,507,123	4.0	1,104,185	1,280,000
Grand Lee	12.4	1,758,194	4.0	332,874	481,468
Total Volume Offered and Reoffered	49.6		37.4		

¹ Does not include no-bid sales that were not reoffered or no-bid sales that were reoffered and did not sell.

Representative CHENOWETH. Also, in your estimation, is the Forest Service potentially limiting unmarketable volume that actually could be used for pulp or wood chips or other low and yet beneficial uses, and the value of timber retrieval, even of these low marketable logs actually have an environmental value in watershed management and reforestation, and that is hard to calculate in a dollar number, I know, but did any of those concepts—did you involve any of those concepts in terms of the entire resource, in evaluating the value of the entire resource?

Mr. MEISSNER. The major thrust on the Wenatchee National Forest was to reduce fuel loading. That was the major thrust. And so they tried to use the contracts to do, I think, some of the things you are talking about, to remove some of the half-burned brush, to remove some of the small dimensional trees. That was their intent, to improve forest health and to use the contracts to do that.

Representative CHENOWETH. Finally, Mr. Meissner, does the need for helicopter logging and its significant expense prevent the Forest Service from offering certain sales, and, in your opinion, are they looking at all of the opportunities that they can use the timber for, such as what we had discussed earlier, plus the environmental impact?

Mr. MEISSNER. Helicopter logging is significantly more expensive than the alternatives. So, when you helicopter log you are going to have to be dealing with high-volume, high-value timber to be even able to do that and get anybody to buy the timber.

I do not know the answer to the question of whether the Forest Service looks at all the alternatives the timber might be used for. In the Wenatchee Forest, there are commonly three bidders and there is a pulp mill there, so there was an alternative for pulp. There is a pulp mill there.

Representative CHENOWETH. My last question, Mr. Meissner, is, I would like to know your analysis of the leaved trees, the leaved logs, with regards to the requirement for helicopter retrieval, and I see my time is almost up, but if you could also provide it for the record, I would appreciate it. Thank you.

[The information follows:]

OBSERVATIONS ON LEAVE TREES

The number of large trees that remain in the sale area after logging and that, therefore, are not cut for lumber may be critical in determining the value of the timber offering. If a significant number of large (and therefore valuable) trees are left in the sale area for wildlife purposes, some of the most valuable timber might be left behind. The higher the number of valuable trees that the logging company cannot cut, the lower the value of the timber sale and the lower the bid for the timber. If the Forest Service requires expensive logging techniques, such as helicopter logging, and requires that most large (and valuable) trees are left behind, sales lose their value to potential bidders.

Although we performed no analysis to determine at what point the number of required leave trees made a sale uneconomic, it was obvious from our trip to the Wenatchee Forest that the Forest Service's decision on the proportion of large trees that cannot be logged may be a significant determination of sale offering viability. We drove through areas in which it appeared that most of the larger trees were marked for wildlife purposes and the less valuable trees were left behind to be cut. Wenatchee Forest Service employees said that they left a much higher percentage of large trees than did the State of Washington. They said that this difference resulted in higher bids for state timber.

Representative COOLEY. Mr. Metcalf.

Representative METCALF. No further questions.

Representative COOLEY. Mr. Cremeans.

Representative CREMEANS. Thank you, Mr. Chairman.

The committee is often asked questions like, Are we actually running out of trees, are we running out of hardwoods, and during our hearings in the northwest, we were asked a number of questions, especially as the wood industry versus the environmental choices.

I guess my question to you gentlemen is, is there any less environmental protection under the city, State timber sales?

Mr. MEISSNER. That is hard to really respond to. There are choices that the Forest Service makes on individual timber sales that the State may have made a different kind of choice and I would just throw out an example. In terms of leave trees, the State Forest Practices Act requires that you proportionally leave trees. If 10 percent of your trees are a certain size then you leave 10 percent for wildlife purposes.

The Forest Service, instead of leaving proportional trees as the State might have done, may leave a majority of the big trees as wildlife trees. There are options that are made throughout the process of deciding what you are going to do but the Forest Service may make a different decision than a State or local government might make.

But whether the acts themselves are inherently more beneficial to one or the other, I am not the person to ask that kind of a question. That is for people that have looked more specifically at the law, but I think the important thing, to respond to your question, is that the Forest Service still has a large number of choices that they make within the guidelines that they have and those choices they make may have an impact on the terms and conditions in that contract, and therefore, the bid.

Representative CREMEANS. Thank you, Mr. Chairman.

Senator CRAIG. Well, gentlemen, thank you very much for being here today and your candid and open responses to our questions and your report. We will look forward to additional information coming in from you. Gentlemen, thank you.

Now, I would like to call Jack Ward Thomas, the Chief of the Forest Service. Jack will be accompanied by Dave Hessel, who is

the Director of Timber Management for the U.S. Forest Service; along with Rollie Schmitt, who is the Assistant Administrator for Fisheries from the National Oceanic and Atmospheric Administration; Don Barry, Counselor to the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, Peter Coppelman, Deputy Assistant Attorney General, Department of Justice; Robert Sanderson, Director, Office of Federal Activities, U.S. Environmental Protection Agency; and Nancy Hayes, Chief of Staff, Bureau of Land Management.

I guess we can fit you all at the table. I think the whole Joint Committee effort today truly appreciates all of you being here. We understand that Chief Thomas will give the primary testimony. I will let the Chief run his panel and then we understand you will all stand for questions.

Jack, once again, we are extremely pleased to have you before the committee and we look forward to your testimony. Obviously, we have grave concern about what is or isn't being done in this area and to give the panel, both the Task Force from the House and the Senate committee, an opportunity after the approximately first 100 days from the enactment of the legislation, and we look forward to your testimony. Please proceed.

STATEMENT OF JACK WARD THOMAS, CHIEF, U.S. FOREST SERVICE, DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY DAVE HESSEL, DIRECTOR OF TIMBER MANAGEMENT, U.S. FOREST SERVICE; ROLLAND SCHMITTEN, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION; DON BARRY, COUNSELOR TO THE ASSISTANT SECRETARY FOR FISH, WILDLIFE AND PARKS, DEPARTMENT OF THE INTERIOR; PETER COPPELMAN, DEPUTY ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE; RICHARD SANDERSON, DIRECTOR, OFFICE OF FEDERAL ACTIVITIES, U.S. ENVIRONMENTAL PROTECTION AGENCY; AND NANCY HAYES, CHIEF OF STAFF, BUREAU OF LAND MANAGEMENT

Mr. THOMAS. Mr. Chairman, thank you.

As you know, we were already moving aggressively on salvage timber before Public Law 104-19. In response to circumstances emanating from the 1994 fires, we were directed by the President, directed the Forest Service and BLM, to proceed with timber salvage as a part of restoration.

We came forward with the Western Forest Health Initiative that was developed in response to the concern for increased fire risk and laid the foundation for much of what was accomplished in this fiscal year.

Following enactment of Public Law 104-19, President Clinton directed the Departments of Agriculture, Commerce, Interior and the EPA to carry out this law in a way, to the maximum extent allowed, following other environmental laws and programs. That directive has been submitted to you for the record in previous hearings.

As a result to our commitment of achieving the goals of the enhanced salvage program, the Forest Service has exceeded its pre-recession 1995 program level of timber salvage offer, including sale

preparation, by approximately 300 million board feet, according to our latest figures. This places the Forest Service on track to meet the commitments to Congress reflected in the Secretary's June 29 letter to the Speaker of the House of 4.5 billion board feet, plus or minus 25 percent, by December 31, 1996. A copy of that is attached to my testimony.*

BLM has met its target for fiscal year 1995 of 77 million of salvage timber. The Bureau's goal is to offer another 115 million in fiscal year 1996 and 37 million or more, depending on availability, in the first 3 months of fiscal year 1997.

Not only are programmed timber salvage sales levels being exceeded, this is being achieved while meeting environmental standards for water quality, protecting the viability of species and providing sustainable resources for the future.

With expedited process, we are involving the public early in the process so they have an opportunity to provide input and to become involved in monitoring. Through public involvement and inter-agency coordination, we strive to maintain and promote good working relationships with public, tribal, Federal, State and local government entities. This is not easy or simple since salvage logging is far more controversial than has emerged in this hearing so far. However, those activities should aid coordination for other management activities not under the authority of P.L. 104-19 as well as future project activities.

For example, Secretary Glickman, after meeting with the Quincy Library Group in Quincy, California, was impressed with their cooperative feeling of the group in support of the activities of the Forest Service is trying to undertake. In support of these efforts, the Secretary decided to dedicate additional resources to activities such as watershed restoration, fire hazard reduction, including salvage on the Plumas, Lassen and Tahoe National Forests. After experiencing this polarization on resource issues, the Secretary is very heartened to see people coming together to reach consensus.

In Region 6, the Wallowa-Whitman National Forest is a good example of the implementation of salvage provisions. The Memorandum of Agreement served as a catalyst providing a process for quick interagency coordination. Almost immediately after the MOA was signed, five sales were released and subsequently sold.

An interagency tracking system is in place to monitor performance. Interagency coordination has produce benefits beyond rapid preparation of salvage. It has streamlined consultation under the ESA and has expedited our environmental analysis process for all project activity. Both formal and informal consultations have consistently been completed within agreed upon time frames. As a result, at the present time there is no backlog, repeat, no backlog, of projects awaiting consultation decisions. In short, the agencies are working together better and they are demonstrating commitment to commodity production and environmental protection.

The salvage timber program remains a top priority in fiscal year 1996. For the month of October, the beginning of fiscal year 1996, 1.5 billion board feet of salvage volume has been analyzed, was being prepared to be advertised for sale. Of that October volume,

*Retained in subcommittee files.

approximately 644 million were covered by completed environmental assessments or biological evaluations, EAs and BEs, with announced decisions. Therefore, 43 percent of the EA/BEs were completed in one month's time. Of this 664 million board feet of salvage volume, 352 million were advertised for sale. An additional 290 million were sold. In October, BLM offered and sold 3 million board feet. They have completed additional sales in November and will be able to report on the volume offered and sold at the end of the month.

The Forest Service and BLM are committed to fulfilling the objectives of the timber sale, the timber program, set forth in P.L. 104-19 in an environmentally sound manner. We have been successful in addressing some forest health and salvage timber sales objectives of the administration and Congress. We can continue this management priority. We will continue to critique and improve performance in 1996 and keep you advised of our ongoing implementation. Our next report to you is due at the end of next January. We will submit that report on time.

Your November 21, 1995 letter of invitation to the hearing included a number of questions. Detailed answers are being prepared to those questions and will be provided to you in writing, I think, within the next several days.

That completes my testimony. We are happy to answer any questions.

Senator CRAIG. Chief, thank you very much. Let me ask the panel, or the committees, to follow this format, if we would. The first round of questions I would suggest we do on the issue of salvage. The second round we might direct it towards the section 2001 cases; and the third round, Option 9, if there are any questions in those categories. I have some prepared and I think the Chief and his accompanying panel is prepared to respond to those.

Chief, your fiscal year 1995 programmed green sales offering was 2.501 billion board feet. The data from the Agency yesterday indicated that you offered, not sold, only 2.167 billion board feet. Two questions: What happened in that slippage; and No. 2, did you bleed the green program to try to boost the salvage effort?

Mr. THOMAS. I am going to defer to Mr. Hessel on the first question. I can tell you on the second, though I do not think we bled anything. I think we are going full bore to try to meet the objectives in both of those programs simultaneously, and that ain't easy, but I do not think we are bleeding one to satisfy another. We are trying to do them both at once.

Senator CRAIG. You see, if you look at or analyze what you said you could do, what was programmed to do versus what you got done, and you look at both green and salvage, there is an increasingly margin of shortfall there, of substantial portion.

So, Mr. Hessel, and let me also apologize. I introduced Mr. Sanderson as Robert. I understand it is Richard; is that correct, but you have a son named Robert.

Mr. SANDERSON. That is fine. He will be delighted to be here.

Senator CRAIG. Mr. Hessel.

Mr. HESSEL. I agree. There is a slippage in the green program. You can say, Well, what happened, and let me cite some examples, especially in the south where we did, we did move our own work

force into salvage, especially in southern pine beetle, away from the green program because we either did one or the other. We did not have the work force to do the green program at that time because of the nature of the southern pine beetle and the quick movement. So, there is an example of probably a falldown in the green program in the south.

We attempted in the south to make up that difference on other forests but problems we face in the green program, and it is somewhat similar to the salvage, is that we do not have, we do not have a lot of volume prepared and ready to go or in preparation in the green program, either. So, we have to start a preparation phase if we are going to move to increase our green program, as you see, by shifting from another forest to pick it up.

So, we are handicapped because of pipeline and our ability to increase green in other areas when we have a big salvage program on the forest. That was a falldown in the south.

It is very similar in the west where we still do not have a pipeline available in green. If we have any holdup, whether it be appeals litigation or what have you, that green programs slips and that is part of the percentagewise, I would say, why we are short in the green program. As another example, the green program in Region 3, the Southwest, is shut down. We could not even sell the green program because of litigation.

So, those are examples of why we experience falldown in the green program.

Senator CRAIG. Mr. Hessel, we have heard a great to-do about these wonderful Memorandums of Agreement between all of the agencies, this marrying of interest and this harmonious relationship that is going to result in phenomenal productivity. Is it going to help in the green sale area? You have said slippage occurred as a result of litigation, differences, problems, and also, I think you indicated that there was a possibility that one might be bleeding one to get to another based on priorities.

Mr. HESSEL. My assessment of that would be this: I think there is no doubt if it is going to work in the salvage like we think it is working, it is going to help us in the green side as well. I think that front-end involvement of all agencies up front is a key to moving, whether it is green or salvage, more quickly. I think, still, and I will come back to it, is that a forest that has no, or virtually no green program prepared ahead for the year that it is coming into is going to be in trouble and we have cited that to you folks over and over again.

And, of course, the Congress has responded in the past by funding some of that pipeline but that has been a problem in our green program and probably will continue. The process of interagency working together and streamlining that, is going to help both programs, salvage and green.

Senator CRAIG. Chief, we gained from your figures early on about 18 billion board feet of salvageable timber entering into this fiscal year. I also recognized that the Thunderbolt finally sold for \$82 a thousand board feet. Now, that is on a minimal basis. Values were tremendously depleted by the time that sale finally sold, so I am being very conservative in my figures. That is \$1,476,000,000

worth of value out there that is now probably at this time versus what it might have been at the first of the year.

The reason I am doing this is that I want to relate something that is a little off the record of this issue and you have had nothing to do with, but we saw a great urgency on the part of our President here, talking about the \$800 million that was lost as a result of a Government shutdown a couple of weeks ago. My guess is that the inability of the Forest Service to act over the last 12 months has resulted in more dollars lost in the timber program than was lost in the entire Government shutdown.

My guess is that if we look at those figures, that might be a reasonably accurate statement because of deteriorating values. Now we have to wait in many areas of the country through the winter cycle because we are not going to let those loggers in there to muck up the countryside in the wintertime, as they would do, because of environmental reasons. So, many of these sales will not go on until spring or late spring or early summer, and that deterioration, while it lessens during cold weather, still continues.

So, even the figure that I have given is probably going to be another couple hundred million dollars less, or dropping, by the time we get back to the business of logging, at least in the Pacific Northwest, in many areas. That is part of my frustration. That is part of this whole panel's frustration, in the inability, and I think we understand, to some extent, why all of this is happening, but, you know, I am willing to say to this President, I am sorry, Mr. President, you make a big to-do about something that was disappointing to all of us, but on the back side of your administration, you could have picked up those values if you had had an aggressive timber program inside environmental law that had the urgency that we had attempted to express to you through the rescissions' language. It just did not occur.

Now, that is probably more of a comment than a question. I am certainly willing to allow you to respond and then I will move to the further panel.

Mr. THOMAS. I will agree, that is a comment, not a question.

Senator CRAIG. Wes?

Representative COOLEY. Chief, I have a real problem with, and have had a problem with your statement in the past, and I will bring it up again, and I guess we will be at this forever. You make a comment that the Forest Service is meeting its commitment to achieve 4.5 billion board feet of salvage.

I will point out to you that Congress' expectations under the legislation that we passed is clear, that we expect 6 billion board feet of salvage. You get 6 billion board feet of salvage if you will take a look at your program volume and the volume that you are going to achieve under the new Public Law 104-19.

In reality, I hate to take exception to your statement and I do not want to cause a little anxiety on your part, but you are not close to meeting your quotas, you are behind, and yet, you continue to say, We are going to meet our quota of 4.5. It is not 4.5, it is 6.

Mr. THOMAS. My quota, Mr. Congressman, is 4.5, given to me by the Secretary of Agriculture, and I will meet that, plus or minus 25 percent, as I am instructed to do.

Representative COOLEY. Well, there has to be some real discrepancy involved here because you take your program, now remember, your program of 1995 of 1.5 billion, 1996 of 1.5 billion, first quarter 1997 of .375 million board feet, and then you put on the additional. Now, really, these were programs you had already said you were going to do under Option 9, and then we take on the additional work you agreed to, and you add those together and we get 6 billion board feet.

Now, I do not know how you do your math, but I can tell you that this is in the law. What you are doing, is you are only talking about the program. We do not want to just do the program. We want to do more than the program, and so as far as I am concerned, your 4.5 is not real. It is 6 billion, and I think that if you go back and look at the law and you look at your program, you will find it is 6 billion and not 4.5.

Now, the Secretary might have a problem with his math as well, but you go back and look at the law and it is 6. So, I would say that your statement that you are on target is not, because you are not on target.

Mr. THOMAS. Congressman, I think the law says we will exceed our program level and as I recall the program level was 3 billion board feet.

Representative COOLEY. No. Your program level was 3 plus, 3.375 is your program level.

Mr. THOMAS. It says we will exceed that, we will exceed that.

Representative COOLEY. And your additional was 2.625.

Mr. THOMAS. I think—I read the law right before I came. I think it says we will exceed our program level as much as we can, and that is what we are doing. I do not see 6.5 in the legislation. I see 4.5.

Representative COOLEY. 6 billion, not 6.5.

Mr. THOMAS. In the law?

Representative COOLEY. If you look at the law and with my legislative counsel here, you look at the law and you look at House Report 104-124, and that was the intent, and those figures are in that intent of meeting that, and so we have a discrepancy, as far as I am concerned, of 2.625 billion board feet and your total of what you acquire is 4.5, and it is really 6. That was our intent. Go back and read House Report 104-24.

Mr. THOMAS. I will do that, Congressman. I read it before I came. I think Mr. Hessel has something to say on this.

Mr. HESSEL. Congressman, when we built this bunch of data for this rescission early on, and we went through quite an analysis, providing information to the Congress, and at the time we were looking at it and I was quite involved with pulling that information together, we were looking at a period for this new law that would extend 1995, 1996 and 1997.

The basis of all of our analysis was on that 3-year period, which is very important to us because where we ended up drops off a period of a whole full summer of opportunity for preparation. So, what we had to back off was to December 31, 1996, which in a sense, really made us have to go back and re-look at all of the numbers and our capability in a much, much shorter time frame.

In addition, the time the law was passed, the effect of the law on our 1995 program was very minimal compared to where we had made an analysis early on that we would have had this come April or May, which in a sense, it did not provide us a full summer to operate under the rescissions.

My opinion is that the Secretary, making his analysis and looking at those different time frames, established that 4.5 capability because of uncertainty, even added 25 percent, which means you could go negative or positive, so that it gave flexibilities to even exceed 4.5.

But I think part of the analysis was really, you know, looking at the data, is that we originally were looking at 3 years and it got pushed down to a year and a half.

Representative COOLEY. Well, Mr. Hessel, I respect your testimony, but I want to tell you that in the additional part the first year is very slight, second year was 1.5, then the third year, which should have been much more than it was, you came in at 0.375. Now, why was such a shortfall in the third year, when you were saying now you were going to be geared up? So maybe we ought to rearrange these numbers to get back to the 6 million, and say if you have got ongoing, if you can do in 1996 1.5, why can you not do 1.5 in 1997?

Mr. HESSEL. In 1997, you provide us 3 months, and that is the reason—

Representative COOLEY. But if you have them in the pipeline, the 3 months does not really make any difference.

Mr. HESSEL. Most of the volume we are working on right now, that is in the NEPA process and ongoing, is going to be volume offered in 1996. We have very little opportunity to really escalate a preparation program that is going to have a large volume coming out in the first 3 months of next year. If you look at our history, most of our volume is coming out either in the latter part of the summer—so that is the reason.

Representative COOLEY. If you planned ahead of time you could. I just want to say one thing, I am out of time. Remember we are working with, your figure came out at 18 billion board feet. The timber is certainly out there, it is how we proceed, as we talked about earlier. If you are not planning ahead of time, naturally you are not going to do this. We understand that.

Mr. THOMAS. Mr. Chairman, Mr. Coppelman would like to respond.

Mr. COPPELMAN. I would just like to clarify for the record that there were earlier versions that had goals in the law, in the statute, but the way the law finally was passed it said during the emergency period the Secretary concerned is to achieve to the maximum extent feasible a salvage timber sale volume level above the program level to reduce the backlog volume of salvage timber.

Senator CRAIG. I think, Mr. Coppelman, our concern is even if we accept your bar, the level you put up, you have not met it. That is our observation based on those figures there. Chief, do you refute those figures?

Mr. THOMAS. Those are ours.

Senator CRAIG. Those are your figures?

Mr. THOMAS. Yes, Sir. My point is I read the figures differently. I think we are right square on track to go to 4.5 billion, plus or minus 25 percent, by the end of the next calendar year. I guess we will not know until we get to the end of that calendar year whether we make it or not, but we are battling as fast as we can go. I think we can hit it, and I think we will be right at 4.5.

Senator CRAIG. I am eating into Senator Burns' time, so let me read a brief for you, a colloquy that you and I had at our last hearing. The record shows that I said, this is to Assistant Secretary Lyons, Jim, "clarify for me and the Chief as it relates to offer, I am looking at section 2001(b)(1) of the Rescissions bill, salvage timber sales. Using the expedited procedures provided in this section, the Secretary concerned shall prepare, advertise, offer, and award. Jack, you just said prepare and offer." Mr. Thomas, "I am sorry, that would include award. Yes, sir, I am sorry, that is what I meant." And then I said "okay." You then responded by saying "we can sell them, but they cut them when, so on," and then I say "I just want to make sure the record is clear because we were very clear in our intent." Mr. Thomas then speaks up and says, you do, Jack, excuse me, and says "we concur."

I think that is the point we are trying to make here. I know what you are trying to do. I think what I said still holds, you did not hit your targets. You are well below them. Your targets, not the Congress's.

Mr. HESSEL. I will respond maybe, and the Chief can. I think I tried to answer the green target. I believe the target that we had for salvage offering, and I have to agree, the word award, we are not putting up sales just to offer them, we are putting up sales to sell them, that the 1845 is the number that we advertised for sale and we intend to meet that as well as we can, even though that shows up there about 1.35. That is not in the sold column yet, but it is in the process. In the process I mean that sales that were advertised toward the end of September may or may not be awarded in full as of today. They may be in the process.

No bid sales, the very same thing. No bid sales that GAO said we had 200 million, that number is about right. However, that is about 10 percent of the 1.8 that we advertised, which is about our normal no bid offering in past years. So we are not off track there.

What we have done is we have looked at every sale and discussed that with the industry of why they did not bid on that sale, and we went back and have relooked at why and what are the reasons, and GAO gave you some of those reasons. We are advertising those sales back up on the market after making further adjustments. Our intent, Senator, is to sell that volume.

Now, we also know that since last year the lumber market has dropped 25 percent, 25 percent, a significant drop, which stumpage wise of what we sell has a larger impact on our offerings as far as value is concerned. So we got mixed up into a real market problem as well. I do not want to use that as an excuse, but that is a fact.

Senator CRAIG. We understand that. Timber was at an all-time high when it peaked the last time and it has come down some, and we also recognize its impact on sales. We also look at a substantial volume of Canadian timber on the market. Senator Burns.

Senator BURNS. Well, with the 25 percent drop in the market, welcome to the cattle business. Mr. Hessel, could you tell me in your preparation process if you do not have anything on the shelf for next year that will be ready to go next year, why you are not getting that done?

Mr. HESSEL. I think we are trying to get it done.

Senator BURNS. Well, you said a while ago that your preparation time and having prepared sales ready to go next year, knowing that those sales will be coming up.

Mr. HESSEL. Senator, we are preparing and trying to prepare volume ahead. Not only are we trying to prepare 1996 volume right now to sell in 1996, but we are making efforts to try to prepare and start work on 1997 volume. That is a big task, but the key point here is that in the past, and it is years ago when we were able to enter a fiscal year like now we would have about half that volume or thereabouts ready to go. We could move more quickly to offer it in the early part of the year. Now we enter a fiscal year with less than 10 or 15 percent completely prepared, and so we are working on sales during the year that we are going to offer. Most of our offerings are coming out in August and September.

If any challenge to those sales, through appeal, litigation, or whatever delay causes us to disrupt that process, then we have a hell of a time getting that volume out that year, and with nothing to replace it.

Senator BURNS. How many preparations have you completed for 1997?

Mr. HESSEL. For 1997? None, or very little.

Senator BURNS. Why?

Mr. HESSEL. Mainly our efforts are all on 1996. Our efforts are trying to make that target or that output level for 1996.

Senator BURNS. Maybe we ought to skip a year and get caught up.

Mr. HESSEL. I really do not think the industry would like that too much.

Senator BURNS. Give me an example. You say in the South that you have an increase in litigation down there. What is the basis to that litigation, for the majority of the litigations?

Mr. HESSEL. A majority of the litigation in the South, which is not a great increase, our litigation has to do with, mainly in Kentucky and Alabama, having to do with the salvage effort, challenges to the language of the salvage on environmental, mainly from endangered species. The judge in Kentucky supported the Government's position and said we even went beyond what was necessary, and so we won that case. The challenge we expect from Alabama has not really surfaced totally. I read what it is, we understand it is coming.

Senator BURNS. Mr. Thomas, sales in roadless areas in Montana, especially for salvage, have stalled. Can you tell us why?

Mr. THOMAS. Yes, Sir. We were preparing entries into two roadless areas for salvage operations. Some members of the Montana delegation wrote the Secretary with concerns about entry into roadless areas that were proposed for wilderness classification in some previous bill, and we have provided the required information to the Secretary. Right now we are holding and awaiting a decision.

Senator BURNS. In other words the Secretary has not made a decision on that yet? There is no pending wilderness bill right now, is there?

Mr. THOMAS. No, Sir.

Senator BURNS. That still concerns me quite a lot, as we have visited about this before. A study conducted by the Political Economic Research Center in Bozeman, Montana reported on an independent environmental audit of the Montana Department of State Land timber sales versus the U.S. Forest Service sales on adjacent lands. This audit found that although the Montana DSL volumes, the cost was less, they did a better job in watersheds, and also marketed more timber, and have just done everything a little bit better. Does the Department ever take a look at those kinds of operations and try to find out why they are getting it done? I realize you are going to say they do not have all the laws to comply with that you do.

Mr. THOMAS. What I was going to say is that yes, we look at the best examples of things we can find, we study—and vice versa. People are looking at what we do, we look at what other people do. This is a recurring operation. Of course we do.

Senator BURNS. I just do not know why we cannot crank it out. I guess I am mystified at why we jump through all these hoops trying to help you facilitate things, and I know the problems that you have and face all the time, but I do not see anybody trying to help themselves, if you know what I mean. I just do not see that. Maybe I cannot see the forest for the trees, that is a bad tongue in cheek I guess right now in this discussion, but I just do not see us helping ourselves, the way we place our personnel and manage our personnel. Are we a park service or are we timber managers?

Mr. THOMAS. We manage timber, we manage wildlife, we manage wilderness areas, we manage wild and scenic rivers, we manage recreation opportunity. I do not know, maybe we are a mixture. This is a multiple use agency, and we have a multiple use mission in terms of the personnel operations. In spite of previous comments, we have significantly reduced our personnel and are continuing to do so, on a declining operation of 36,000 level of personnel.

Senator BURNS. But what personnel?

Mr. THOMAS. Pretty well across the board. It has not been targeted. We still, the biggest component of the Forest Service professional personnel is still far and away, the hugest block is in people in forestry operations. Our program did go, not this year and not last year, but 4 or 5 years ago, from about 11 billion to about 4.5 billion. We did reduce personnel in timber sale operations and in roading capability. We did that. The number one policy instrument in the U.S. Government is the budget, and the budget dropped for those programs commensurate with the drop in programs. If you are going to reduce personnel, then you reduce the program, 4 years ago from 11 billion to 4.5, I think that any manager would reduce the number of personnel that were associated with that particular segment of the program. And that is what happened, but we still have a formidable work force.

Senator BURNS. I would like to see a break down sometime, if you have got it down, how many people you have got doing what, in what areas of responsibility, just the number of people, Jack.

Mr. THOMAS. We have provided that before, but we will provide it again.

Senator BURNS. I would even come down to your office and sit and have a cup of coffee and visit you about this.

Mr. THOMAS. If you will not tell me any bad jokes, I will not tell you any. All right?

Senator BURNS. The only ones I have are bad.

[Laughter.]

Senator BURNS. Thank you very much, Mr. Chairman.

Senator CRAIG. Those are not for the record. Mr. Coppelman, a question for you. The scenario I am about to relate to you is a real frustration to a lot of observers, I being one of them. Once a lawsuit is filed against the Federal Government to protect or to protest a timber sale, the Forest Service employees are advised not to discuss the particulars of the sale or issues raised in the lawsuit. I understand this is done to protect the interests of the Federal Government and avoid complications in defense of the Government's position, and I understand all of that logic. Why is it then that other Federal agencies are free to speak out publicly and in the press in support of the complainants?

Mr. COPPELMAN. Are you talking about the situation in Thunderbolt?

Senator CRAIG. It is interesting you could quickly bring that to mind. That is exactly what I am talking about. Please continue.

Mr. COPPELMAN. Basically what happened there is that the agencies, as they are supposed to, expressed their opinion about the sale. It is a very controversial sale.

Senator CRAIG. Wait a second. This is a sale in lawsuit. The Forest Service has been muzzled. They cannot talk about it publicly, but the other agencies involved go on talking about it openly in the press. Does not that action in itself prejudice the case?

Mr. COPPELMAN. Not at all, in the sense that anything that is—

Senator CRAIG. Then why not unmuzzle the Forest Service? Why not let them defend themselves in the press?

Mr. COPPELMAN. Let me explain. In the lawsuit, before the sale was offered a number of agencies expressed their opinions, the National Marine Fisheries Association, Fish and Wildlife Service, Environmental Protection Agency, all of which for the most part opposed offering the sale, then the lawsuit was filed and then statements were made in the press. Now, my job, for better or for worse, is to represent the Federal family and sometimes I think that—

Senator CRAIG. You have a very dysfunctional family sometimes.

Mr. COPPELMAN. Sometimes I think it includes both the Hatfields and the McCoys, but people have expressed their opinion. The basis of the lawsuit, I want to emphasize, Senator, is the opinions that were expressed by those agencies before the lawsuit was filed, before the decision was made to go forward with the sales. The statements that are made in the press are no part of the lawsuit, not at all.

Senator CRAIG. I disagree with that. Now, you are an attorney and I am not, and I understand they may not be a part of the lawsuit, but can you not imagine the complainant coming in with the press and saying look what the EPA says, it validates my position, look what National Marine Fisheries says, it validates my position. These are Federal agencies speaking out. Am I not going to use their opinions in defense of my position if I am the complainant?

Mr. COPPELMAN. You cannot use what they said in the press, and they are making every use that they can of what was said in the process of developing the sales, as is their right.

I would like to clarify one point. Mrs. Chenoweth said that the reason the Thunderbolt sale has not been operated is because the mud season has set in, and that is not the reason that the sale is not being operated. The reason that the sale is not being operated is because of this very statute. There is a provision in this statute that says once a lawsuit has been challenged, that the Secretary is not authorized to release that sale for 45 days, and we are still in the 45-day period. There is a hearing this Friday on the merits. The 45 days runs out in about a week. The statute also requires the court to decide the case within 45 days, and we expect that that will happen. That is the reason the sale has not been operated, because it has not been released.

Senator CRAIG. Here are the headlines I face, here are the headlines the public faces, your family is a warring family, one against the other. Who is the loser? In this instance the environment and the working people of my State.

Mr. COPPELMAN. But I would like to point out, Senator, that despite the barrage of criticism from all the other agencies, the Forest Service decided to go forward with this sale. This sale is going forward and we are defending it.

Senator CRAIG. And we lost probably hundreds of thousands of dollars in value while your dysfunctional family was fighting. I agree, the sale went forward and the Forest Service ultimately won because they did a good job, and I applaud them for that. But the reality is that sale will not be logged now until next spring, when it could have been completed, rehabbed, seeded, and planted again, and have been out of there before the snow fell this fall. That is not going to happen and the value has dramatically deteriorated. That is the frustration of the citizens out there, the taxpayers in this instance, who expect this agency or these agencies to work cooperatively together.

Now, what frustrates me, you say they did not act illegally. I will accept that. Did they act unethically then, these other agencies, to go ahead protesting and building the public record when all of a sudden we are into a lawsuit, and should not everybody be quiet until the suit is tried?

Mr. COPPELMAN. Senator, I cannot answer that one off the top of my head.

Senator CRAIG. Can Federal agencies in this instance who would be in opposition to the timber sale, can those individuals who speak out be witnesses for the plaintiffs or the complainants on their own time?

Mr. COPPELMAN. No. No witnesses will be allowed, because under the statute review is limited to the record and so there will not be any witnesses.

Senator CRAIG. Well, I think you and I both understand my point here, and I can understand the legality of it. The public does not understand it very well in the end, and in the end the Thunderbolt sale, which has become amazingly controversial, the bottom line was the Forest Service did their homework, everybody tried to stop them, they did not get them stopped and we lost the values. Finally, that sale was bought for minimum, \$82 or \$85 a thousand, I think. My guess is this spring, under different circumstances, it would have, it could have sold for a substantially higher value. But that is the rest of the story.

The House members are coming back, Jack, and there are several of them who have questions of you. I would like to switch to a slightly different line of questioning. Mr. Coppelman, I will tiptoe lightly across this line of questioning because I want you involved in it because of the legal, of the cases involved at the time that we are currently involved in. So if I violate those parameters, you see I am going to adhere to the muzzle rule to some extent, while other agencies do not seem to want to do that.

Chief, I want to talk about the section 2001(k) issue. I am not going to, as I mentioned, get into the pending legislation because I think Mr. Coppelman would quickly reach over and whisper in your ear, but what I would like to do is question you for the record on a couple of points. What I would like to do is contrast the result that would occur between the Government's view of the provision and the plaintiff's view.

Let us look at the chart from Timber Data Company, showing the different outcomes. Sales released under the administration's interpretation of section 2001(k) BLM Forest Service total, sales not released under the administration's interpretation of section 2001(k), and in this instance the differences are quite clear of values, totals, 37 million versus 227 million. We are going to hand that out to you.

Question. If the Government cancels these sales, the Government will lose the timber receipts and be liable for damages to the purchaser. Is that not true?

Mr. COPPELMAN. Which sales are we talking about, Senator?

Senator CRAIG. The 2001(k), those that are underneath that provision. In the Rescissions bill we released or directed to be released a certain set of sales that had been pulled off, that had already been awarded and sold, or awarded or sold, and the Forest Service is right in the middle of those now. We are looking at figures that we think are accurate as it relates to values. My question then is if the Government cancels these sales, the Government loses receipts and would be liable for damages to the purchaser, is that not right?

Mr. COPPELMAN. If the Government cancels, and I am not sure exactly what these figures represent, but generally speaking if the Government cancels sales which have been sold, there would be liability, yes.

Senator CRAIG. I have misrepresented the chart. The chart, the top portion is what the Forest Service says it will release, the ad-

ministration, BLM, and Forest Service have said they will release under section 2001(k). The balance, the lower portion, is what the plaintiffs are arguing ought to be released in addition. I misrepresented that. So that is what you have got in front of you, that which the administration says it will release, the lower portion is that which is being argued should be released.

So we are looking at values. What I am attempting to do here is understand the relationship of values, and you have just said that failure to release in this instance, and these are awarded contracts, has some liability to it. Is that not true?

Mr. COPPELMAN. A lot of these are not awarded contracts. I mean, there is only liability—

Senator CRAIG. Some are awarded, some are sold.

Mr. COPPELMAN. This chart does not match up with charts that I have seen. In the litigation there are two huge chunks of sales that are at issue. The one, what we call the geographic scope sales, those are the sales beyond the section 318 sales that Judge Hogan has ordered released. That is about 230 million board feet. And then there are sales that the administration has withheld on the basis that there are birds that are known to be nesting, and that is about another 230 or 240 million board feet. We are waiting for the courts to decide whether we have properly interpreted those provisions of the act. Now, the act provides that if sales are withheld for some reasons, then there are other remedies. So how that all fits into what I have in front of me, I cannot tell.

Senator CRAIG. Well, based on the figures we have, it is an estimation of what has been said could be released, those that are still under concern, and the values involved.

Now, if you would turn to this next chart, Mr. Coppelman, this is a compilation of what we anticipate could be a scope, not all of or not the total of liabilities the Forest Service finds itself in if judgment goes against it as it relates to sales awarded, sales bought, because we are talking values here. Would you disagree with any of that?

Mr. COPPELMAN. Senator, I have never seen this chart before, and I cannot respond.

Senator CRAIG. Well, they are categories of liability that the court claims for values.

Mr. COPPELMAN. I think, Senator, if you have specific questions that you want us to look into, I am not an expert on contract law, if you want to send us the questions we would be glad to provide you written answers.

Senator CRAIG. We will be happy to detail them more. I guess my point is I am very frustrated by what this administration is doing, and what I think is a wrong-headed policy as it relates to section 2001(k). The bottom line is you are losing some cases. There is liability, there are values out there. Where is the money going to come from to pay off the damage claims that could result, and in some instances already appear to be resulting? Do we know that yet?

Mr. COPPELMAN. There are no damage claims. We have released all the sales that courts have ordered us to release. If we have not properly released some sales, if we are withholding some sales that should not be released, the courts will order us to release those

sales and we will release them. There will not be, as a result of this, any monetary damages.

Senator CRAIG. Where the court does not order and you refuse to release a sale that has been sold or awarded, there is no liability?

Mr. COPPELMAN. I do not know of any sales that fit in that category. We are withholding sales that we think are properly withheld, and if we are right then there is no liability.

Senator CRAIG. If you are wrong is there a liability?

Mr. COPPELMAN. Well, we are going around in a circle here. If we are wrong then the court will order us to release, and believe me, the timber industry's attorney has gone after every stick of timber that is potentially out there under this bill. The courts now have in front of them the question of whether we have properly withheld every single stick of timber that we have withheld. The courts will decide that, and if they decide that we have to release those sales, then we will release them and there will not be any liability.

Senator CRAIG. So under the current scenario you are talking about there is no liability to the Government?

Mr. COPPELMAN. That is right.

Senator CRAIG. None at all? In a sale that was awarded but not released?

Mr. COPPELMAN. I am not aware of any situations at this point where we have monetary liability.

Senator CRAIG. Well, we will follow this up with a series of questions. I am very frustrated because I think I see some looming liability out there and I think we ought to be prepared for it.

Mr. COPPELMAN. I agree with you.

Senator CRAIG. The policy of this administration, if it is potentially driving us in that direction then you are going to have to come to the Congress and talk about some monies, and then we will get into what is right and wrong, I guess, in this instance. But okay, let us get to you in detail.

Yes, Jack.

Mr. THOMAS. I do not think it has anything to do with the argument, but these numbers change by the day. The sales that we have released are not 11, they 32, and the volume is 125 and not 54.3.

Senator CRAIG. Okay. Our figures are old. All right. Let me turn to Congressman Cooley. I will give you a chance to catch your breath, Wes.

Representative COOLEY. First I want to say to the Chief we are going to send you a letter showing our disagreement with the numbers, and also a copy to the Secretary, so maybe we can come to some resolution on that.

I want to ask you one thing. My colleague has more details on this, but I would like to ask you one thing, Chief. When we were in Medford we talked to the chief forester there, which under oath testified that he could not provide us with figures concerning the letters we wrote to him asking about salvage cuts et cetera, et cetera, because it had to be cleared by the Justice Department. We wrote a letter to the Justice Department and we got a letter back which did not say anything. In fact actually it implied that they did

not have anything to do, any communications whatsoever to do with figures. Then we got another letter back from the Justice Department that said that they were withholding the figures from us because of pending litigation or potential litigation.

Can you tell us what is going on, why Congress is not able to get figures from the Forest Service as to salvage or potential salvage, what they are doing, what they are not doing? Why does this have to go through the Justice Department? We have two letters from the Justice Department, both of them implied they are not doing this, and yet under oath we have, it is in their testimony that they cannot give us these figures without approval from the Justice Department.

Mr. COPPELMAN. Congressman, I am only aware of the letter we sent you yesterday. I am not aware of a second letter.

Representative COOLEY. You are not aware of the letter dated November 28?

Mr. COPPELMAN. That is yesterday's letter.

Representative COOLEY. Right.

Mr. COPPELMAN. I am aware of that one. It is the other one I am not aware of.

Representative COOLEY. Okay. We did not get a response yet from the letter, on the other one we sent. Anyway, can you tell us what is going on so we know?

Mr. COPPELMAN. I can, Congressman. This reminds me of the cartoon of two deer in the woods, and one of them has a big bullseye on his side, and the other one says bummer of a birthmark, Hal. We are like Hal. I mean, ever since this statute has passed almost every step we have taken we have been fired at by every hunter in the woods, either environmentalists or the timber industry. So we have to be very careful. There has been an explosion of litigation since this bill passed. There are at least 15 lawsuits, and every controversial salvage sale has a lawsuit.

The role of the Justice Department, and I want to make it clear we are not withholding information from Congress, that is not our job. Our job, when the agencies file technical information with the court, we have reporting requirements to Judge Hogan, every 2 weeks we have to file reports with him. Those reports are reviewed by us. If information is given to the Congress, some of those reports are reviewed by us. Apparently in the situation that you specifically asked about, the answers were not reviewed by us. But we are the lawyers for the Government. Everything that we say, that the agency says publicly in response to requests regarding this legislation is going to end up probably in court one way or the other.

We would be completely derelict in our duty if we did not advise the agencies, engage with them in an ongoing dialogue about what kind of information is released, what format it is released in. Our role is to make sure that the information is as accurate and as clear and as consistent as possible, and that is all we are trying to do here.

Representative COOLEY. You tell me how the Justice Department can tell us about total volume and acreage of dead or dying timber. Can you answer that question? Are you on the ground there?

Mr. COPPELMAN. Well, it looks like that kind of thing we probably—

Representative COOLEY. Well, they could not answer there because they need your permission.

Mr. COPPELMAN. My understanding—

Representative COOLEY. No, under testimony they could not answer that question. We have it, it is under oath, it is in the documentation. We asked volume and acreage that is mechanically sawed timber. They cannot answer that. Volume and acreage of annual mortality, they could not answer that. And the status of salvage sales in progress, they could not answer that. They said that that all had to be approved by you.

Now, I do not know how the Justice Department could answer those questions because you are not on the ground there. We think that was withholding information. It is just that simple.

Now, let me finish. Let me ask you one other thing. How many lawsuits do you have in Region 5 right now pending?

Mr. COPPELMAN. On the salvage cases we have none pending, but there are lawsuits threatened.

Representative COOLEY. There is what?

Mr. COPPELMAN. There are lawsuits threatened.

Representative COOLEY. So there are no lawsuits?

Mr. COPPELMAN. There are no lawsuits.

Representative COOLEY. And how many in Region 6?

Mr. COPPELMAN. In Oregon, Washington—well, if you include the 2001(k) litigation—

Representative COOLEY. No, I did not say that, I just said on salvage because that is all we are discussing is salvage. I want to see your testimony, if it is different from what they gave us.

Mr. COPPELMAN. We have a lawsuit, the Kettlerange Conservation Group against the U.S. Forest Service, Eastern District of Washington—

Representative COOLEY. Is that on salvage?

Mr. COPPELMAN. Yes.

Representative COOLEY. When was that filed?

Mr. COPPELMAN. I do not have the date it was filed. I could get that for you. That is on the Colville National Forest.

Representative COOLEY. That has got to be recent, because in the testimony there were no lawsuits pending on salvage in either Region 6 or 7, according to their testimony. But anyway, let us go to another thing too.

When we, on October 13 we asked information about these basic things that we felt that it was very easy to answer and felt that it was not going to jeopardize the legal department of any pending lawsuits, and yet it took us 6 weeks for anybody to answer some very, very basic questions. They said they cannot answer those questions because it takes you that long, or the Justice Department, to review in order to give them permission in order to answer the letter.

Mr. COPPELMAN. Congressman, the letter that you sent us asked us about one particular situation, and our information is we did not have anything to do with it. If there are other situations you would like to ask us about, we would be glad to get back to you about those as well.

Representative COOLEY. So the first question we asked, you did not have anything to do with at all, the first letter we wrote you,

because that is what the letter says, you did not have anything to do with it.

Mr. COPPELMAN. We reviewed it after the hearing.

Representative COOLEY. And yet when we asked for information prior to the hearing so we would have some knowledge when we got to the hearing, we asked them and they could not provide us that information because they had to get it cleared by you, or your department, excuse me. So what I can conclude from this basically, and my time is up, basically you really do not have to review this information, that was just something that the forester felt in his mind he had to get permission from you to give us that information?

Mr. COPPELMAN. That is not exactly right. The Forest Service has their own lawyers, the Office of General Counsel, that probably reviews anything that goes out, and they reserve the right to have use review it if they think there is potential litigation. All I am saying is that as lawyers for the Government we have a responsibility to make sure that whatever is submitted to Congress is accurate and complete, and we are not in the business of withholding information. I cannot imagine that any information has been withheld.

Representative COOLEY. The forester's testimony was just mistaken? He probably went to his local attorneys and they told him they had to get permission from you, is that what you are sort of implying here?

Mr. COPPELMAN. I have not talked to him. I do not know.

Representative COOLEY. I am just wondering if this is not just another straw of delay to get information out. It appears that way. I would like you to read, your young attorney behind you can read the exact testimony by the Forest Service. They were under oath, and you can see why we have some question concerning what is going on.

Mr. THOMAS. The questions you asked in California have been answered and they have been sent to you. The Oregon questions are forthcoming quick, within a day or so.

Representative COOLEY. My counsel tells me that it took 6 weeks to get a response to those simple questions from California.

Mr. THOMAS. That may be. I am merely telling you we released them and they are on their way to you. I have not discussed this particular item, it has not been brought to my attention, but I will assure you that whoever was answering your questions under oath was operating on the advice of counsel. I very seriously doubt that that suddenly popped into their head. We do not have any constraint, we provide information to you as rapidly as we can turn it around.

Representative COOLEY. That is all we ask for, and yet we were not able to get it. We just think that is strange, that is all, and we think it is a question that should be asked.

Senator CRAIG. Mrs. Chenoweth.

Representative CHENOWETH. Thank you, Mr. Chairman. Mr. Coppelman, you just testified before this committee there was a litigation explosion. How can there be a litigation explosion when there are no lawsuits in Region 5 and Region 6? I would like to give you a chance to justify your statement or clarify it.

Mr. COPPELMAN. This is a statute that was passed July 27.

Representative CHENOWETH. I am talking about litigation explosion with regard to that statute.

Mr. COPPELMAN. Right. Well, there have been a whole slew of cases filed on the interpretation of section 2001(k). I can list you the cases that have been filed.

Representative CHENOWETH. Have there been any cases filed on the salvage part of the statute?

Mr. COPPELMAN. Yes, there have. The statement about an explosion of litigation covers the whole statute, not just the salvage part, but there have been a number of cases.

Representative CHENOWETH. Would you provide that to the committee, a list in writing for me?

Mr. COPPELMAN. I would be glad to.

Representative CHENOWETH. Thank you. You know it was very disturbing to Chairman Cooley and the rest of the committee when we could not get information, Mr. Thomas, from your supervisors on the ground, and that was basic technical data. Now, to make this clear I would like to read to you exactly the chronology of what happened.

As you know, Mr. Cooley wrote a letter to Region 5 forester Lin Sprague on October 13 requesting technical data, not data involving litigation, technical data on timber salvage in preparation for the task force's October 21 hearing in Redding, California. He requested a response no later than October 21, and received that response only last week. I know you have heard that from Mr. Cooley, you are hearing it from me. That is not being prompt in providing the Congress with the necessary information that we need to function.

At the Redding hearing Mr. Sprague was very apologetic about this situation, and although Region 5 had provided the technical data he requested, Mr. Cooley had requested, it had to be reviewed by the Washington, D.C. office. Since this was technical data regarding volumes of dead and dying timber, acreages, and man-power devoted to salvage sales, and not questions of Administration policy, Mr. Cooley was intrigued why this data was being reviewed by the Washington office, which is 3,000 miles away from the foresters, the professionals who are in the field who collected this data.

During the task force's October 24 hearing, I questioned Agriculture Undersecretary Mark Gaede under oath about the status of my letter requesting this data, and he responded that one of the reasons for the delay was that, "we are still required to have written material reviewed by our Office of General Counsel and the Justice Department." Because Chairman Cooley and I were astounded by Mr. Gaede's statement under oath that the Department of Justice was required to review technical data requested by the Congress, we together wrote to Attorney General Reno on this matter on November 2 of this year.

One question I asked the Attorney General was if there was any information requested in my letter to Mr. Sprague that involved proprietary information that relates to specific litigation. Yesterday's reply by Assistant Attorney General Andrew Fois concluded that there was no pending litigation in Region 5 involving Public

Law 104-19. We also asked the Attorney General if there were any communications between the Justice Department and the Forest Service and/or USDA regarding the letter to Mr. Sprague. Assistant Attorney General Fois responded that, "we are aware of no specific communications between this Department and the U.S. Forest Service and/or USDA," regarding the letter to Mr. Sprague.

My question, Chief, is this. There is an inconsistency here between Mr. Gaede's testimony under oath, which clearly implied that the Justice Department was reviewing this technical data, and the letter from the Justice Department which said that there was no communication between the Justice Department and the Forest Service regarding this matter. Can you elaborate? Did Mr. Gaede under oath commit perjury, or is there a withholding of information to the Congress?

Mr. COPPELMAN. Congresswoman, I believe that Mr. Gaede was speaking generally that the Justice Department, he says—I have the transcript. Mr. Chairman, actually the Department of Justice reviews that as well and in fact it is almost exclusively data and technical information they screen for because that is the type of information that is often used against us. My understanding of my reading of Mr. Gaede's testimony is that he was not referring to the specific data that you requested in your letter, that he was making a general statement.

Representative CHENOWETH. Mr. Coppelman, with all due respect, you are an attorney, are you not?

Mr. COPPELMAN. I had better be.

Representative CHENOWETH. You would have to then take into consideration the context of the discussion regarding the question, and judges rule over and over again on case law that it is the simple reading of the response, or the letter of the law, that one should interpret on. Now, how can we factor in your conclusions? The Congress can only go on what is in front of us, and I am extremely disappointed. I would hope, Mr. Thomas and Mr. Coppelman, that when this committee goes before your forest supervisors in the future that we can expect to receive answers on the spot about technical data.

Whose requirement is it that they cannot answer the questions about their own forests? Mr. Thomas, was it your requirement?

Mr. THOMAS. No. I do not have the slightest idea what you are talking about, which is maybe indicative of something, but I assume those are grown ups and that they were sitting there and they were advised by counsel not to answer the question. They probably did not answer the question, but that was not something—I mean, I can get involved in this, but I am sitting here kind of watching a ping pong match. I have no idea what it is. We ordinarily provide technical information as fast as we can turn it around to a request of Congress. I think you would accede to that.

Representative CHENOWETH. Mr. Thomas, do you not find this extraordinary, that your own foresters, your own supervisors are not able to answer questions about their own forests and in their own region, that they have to clear it with Washington?

Mr. THOMAS. Mrs. Chenoweth, I do not find anything in this situation extraordinary. It is just very difficult. I spend as much time talking to lawyers as I do talking to technical people. We are

spending a lot of time in court. Fortunately we are beginning to win more than we used to. I think that may come to paying very close attention to our attorneys. I will promise you that if I am sitting here and you ask me a question and my attorney leans over and says I would not answer that, I probably would not answer it until I knew what the heck he was talking about. I just simply do not know anything about this.

Representative CHENOWETH. Mr. Thomas, there is not a litigation explosion, and we were prevented from getting simple technical data about board feet, volumes, stumpage, that kind of thing, and now you are hearing from us, you do know about the problem. I hope that in our next hearings we will see a different response.

Mr. THOMAS. Congresswoman, I will tell you what. For dead sure if I am not advised by counsel for some reason or another not to respond, the U.S. Forest Service will respond promptly, quickly, and thoroughly, as best we can. We do that routinely. We have a reputation for doing that. We have every intention of continuing doing that.

Representative CHENOWETH. I see that my time is up, but I just want to make one other statement. That is that I think you can sense our utter frustration. I mean, we are at the point of asking is the Forest Service too broken to fix, and the salvage bill was almost a litmus test, and yet the MOU seems to be the guiding law instead of the intent and the simple reading of the salvage bill. We are very serious about doing something that will preserve our resource, instead of destroying it. You are one of the Nation's best environmentalists, and yet what is happening on the field, and I have been on the ground a lot in Oregon and Idaho, we are destroying our resource. I do not know whether we can salvage our forest, and I do not know whether we can salvage the Forest Service. That is why we are holding these hearings.

I have one other question that counsel asked me to ask, Mr. Chairman, if I might ask your indulgence.

Senator CRAIG. Sure, go ahead. We will do a second round also.

Representative CHENOWETH. Thank you. Mr. Thomas, what is the basis for counsel's advice not to answer a question about technical data?

Mr. THOMAS. Can I respond to your first statement? I did not get a chance to.

Representative CHENOWETH. Yes.

Mr. THOMAS. You gave me your opinion, I am going to give you mine. The Forest Service is the best conservation organization in the world, and we get frustrated too, but part of that responsibility is in a myriad of law and regulation and case law that we deal with. You set these things up and say the city of Seattle can sell a timber sale faster than we can. Ma'am, if I could operate under the Forest Practices Act in the State of Washington, which I think is inadequate for complete resource protection, I could put those sales on just as fast.

Now, to respond, it is just when I sit there and hear this, I have got 36,000 people out there that are busting their gut to try to do this and try to do it right, and we get a lot of hell, some of it good and some of it frustrates me, but we are doing the very best we can. I just hate this when this comes out, and those people out

there are busting their gut to do it and do everything they can to try to do it right as professionals and say is it too broke to fix. Those are the best people in the world, and this is the best conservation agency in the world. I am sorry, but I have been working for this organization for 40 years. It is my life. Those are the best there are.

Representative CHENOWETH. I can tell you, Sir, with all due respect, that for 40 years I have lived with loggers and I have lived with foresters, and they are busting their guts too trying to find a job. What I am seeing in your testimony and testimony of your regional foresters is they bust their guts having lots of meetings and consulting, and the Endangered Species Act under a section called Coordination with other Laws, section N, states that nothing in this act shall prevent the Secretary of Agriculture from carrying out his duties in fact or in law, and you have ignored that, Sir.

I have asked you from other hearings to provide me your interpretation of that, and I think that if we could get together on some of these things maybe we could have better communications. I do not see the reason why there is, and I live and work out there too when I am not back here—

Mr. THOMAS. So do I.

Representative CHENOWETH. Thank you, Mr. Chairman.

Senator CRAIG. Let me ask at least one more question, and we will move to a second round and try to get out of here in the next 15 minutes or so. I think, Chief, from the level of frustration you hear spoken by the two Congressmen here and the very extensive series of hearings that we have had on the nature of the Forest Service, while you and I concur that you are the end result of a failure to coordinate a whole variety of Federal laws, I have not asked Rollie a question and I do not plan to at this time, but he is viewed as the chief forester in the Pacific Northwest right now. He basically, by his agency under the Endangered Species Act, is telling the Forest Service what to do. And they do it.

That is why we get these levels of frustration when the Forest Service appears to be not allowed, maybe that is a better way of saying it, to manage its own turf because of the Endangered Species Act, and what the National Marine Fisheries is allowed to do under that act. That is not a criticism of Rollie, it is simply an observation.

Let me ask another question. I will put it this way. I will put this on the record, and you may want to comment to it. I do not think it is a question, but it levels at the kind of frustration we are having. In the series of questions asked by Senator Burns when Mr. Lyons was here immediately following the passage of the Rescissions bill and the development of the memorandum of agreement, Senator Burns asked were any environmental groups involved in the building of the MOA. Mr. Lyons, no Sir, nor was the timber industry.

Following that we had the opportunity of having Ms. McGinty with us and she was asked a similar question. She said that—the question was that during the development of the MOA did you or other members of the administration meet with environmental groups or other interests to discuss the implementation of section 2001, which is of course the rescission language. Then in a letter

following that from her in detail to the chairman of the full committee, Senator Murkowski, she said yes, we did. And she lists the Audubon Society, the Wilderness Society, the Sierra Club, the Sierra Club Legal Defense Fund, the Wilderness Society, Natural Resource Defense Counsel, Western Ancient Forest Campaign, Pacific Rivers Counsel, and the Natural Resource Defense Counsel, and she went on to speak about meetings that were held on August 1, and they were cut short and resumed on August 3 in relation to the implementation of section 2001.

That is on the record now, and that is a real frustration that I do not understand why we get an Assistant Secretary saying no, we did this on our own, we did not visit with anybody, including the industry, and so we got the opinion that this was an unbiased development of a memorandum of agreement based on the professionalism of the Forest Service, the administration, the administration's people, and now we find out that that was not the case. The letter goes on to speak about the purpose of the meeting was to allow interested parties an opportunity to express their concerns about the timber related provisions of the Rescissions Act.

You can respond if you wish. I wanted it on the record because I think this is extremely frustrating. Mr. Lyons, I had hoped he would be here today, but he is not. I will give him ample opportunity to respond to this also for the record. But that is a kind of apparent contradiction that is very frustrating to us.

Mr. THOMAS. Well, my only response is that I participated in some of those meetings. There was never anybody at any of the meetings that I attended.

Senator CRAIG. And I believed you. In fact I asked you at that time, and I think the record shows and you admitted that the development of the memorandum of agreement you had participated in, but in a reasonably short burst of time. This is not a question in any way to incriminate you.

Further questions?

Representative COOLEY. Chief, when we finally received the letter concerning Region 5 information, in the letter they talked about 2.6 billion board feet of salvage in Region 5. It also said that you had about offered 300 million board feet. Now, if we have 2.6 by your own figures, your agency, and you have offered about 300 million board feet, what is going to happen to the other 2.3 billion board feet out there? Is your agency going to pursue salvage of any of that, or is the about 300 million board feet going to be all we are going to get out of Region 5? Because this is the only letter we have had answered. There will be answers in the other regions that we have asked, too, where we are going to find huge discrepancies.

Mr. THOMAS. The discrepancies first, Congressman, are not as huge as they appear. Whatever the big number is, it is the potential. That is always hugely greater than anybody could ever hope to approach.

Representative COOLEY. Wait a minute. That is the what now?

Mr. THOMAS. If the big number is what is out there in potentially salvageable, you could not ever approach that.

Representative COOLEY. We are not talking about that. You are saying this is potential. In other words this is not salvageable timber?

Mr. THOMAS. I think that is what I said, potentially salvageable timber. That is a number that nobody would ever approach, never in history has, and never will. A lot of it is very tough to get to, a lot of it takes too much roading, we do not have enough time, if you had enough people. 2.6 traditionally is about the best you could ever hope to get out of a salvage operation. It is somewhere well less than 50 percent by historical records. And all of that is not merchantable, some of it is too old. But that is what the big number is.

But if you are looking at that as something that could be achieved, nobody has ever gotten close.

Representative COOLEY. Well, is 50 percent achievable? Is 30 percent? Or is 10 percent?

Mr. THOMAS. It depends on the circumstances and how much you want to thrust onto it.

Representative COOLEY. Well, we are both of us very familiar with Region 5.

Mr. THOMAS. Now where am I on the question?

Representative COOLEY. Well, I am just asking you, since we just received a letter after 6 weeks, we have got about offered 300 million board feet. Is Region 5 going to do any more than about 300 million board feet out of 2.6?

Mr. THOMAS. Yes, I assume so.

Mr. HESSEL. I just looked back at what we provided last April, or I guess even prior to that, as to the first assessment as to what was in the Taylor Amendment. Looking at total merchantability in Region 5 they estimated 3.4 billion. How much was economically operable volume was about 3 billion. How much could be operated under the Taylor Amendment was 1.5 billion. And how much would be economically operable under our current direction, that was around 900. That was estimated over a 3-year period, and that is the way Region 5 presented their data which we sent to you folks as well. Region 5 estimated, 1995 they produced about 300, 350 million, and that is pretty close to what they did. Now, those numbers are again spread over a 3-year period, and they estimated that they would achieve that close to the 1 billion, a little over 1 billion, by offering at least 3.5 or 350 million on an annual basis. That was their plan, at least operationally. I do not know what they put in their letter.

Representative COOLEY. I am sorry, I thought if we got a letter you would get a copy of it too.

Mr. THOMAS. We were setting up last night, reading all this, getting ready. I do not know when you got the letter.

Representative COOLEY. In a last closing remark I want to say something in defense, or maybe in consistency with you. Jack, you spent 40 years in this business, I know that. In fact, actually I am your Congressman, you know that too.

Mr. THOMAS. I know that.

Representative COOLEY. I have known you for years when I was a State Senator, but in your frustration, if that is the tone of your last comment to Congresswoman Chenoweth, is that, if you are frustrated with the procedures and the process and you are not able to manage the forest as you think it should be managed, why do you not come to Congress and tell us what we can do to change

the law that would allow you to be a good manager? That is not happening, at least I have not seen it happening. And the one time you came to us and told us about a problem, with your cooperation we fixed that problem, and it was of benefit not only to the Forest Service but also to the public.

I would think that if you would, with your great amount of knowledge and apparently at least your frustration, your expression of frustration with the system that you are running into that makes it impossible for you to do a good job as a forester on public lands, that you would come to Congress and say to Congress these are the things I would like to see changed that would give us the flexibility and the tools to manage our forests properly, instead of going through this grueling process where we are trying to on this side have something happen, and you are on the other side and maybe trying to make it happen as well but are unable to because of certain laws, procedures, administrative rules, et cetera, and maybe in your defense but also in our frustration I think to make this a cooperative thing you should come to us and see if we cannot form some legislation that would be acceptable to you and the Administration and the Senate to help you be a better manager.

Mr. THOMAS. Congressman, we have to understand, and you know as well as I do how the game is played. I am not a free agent to walk in and tell you, Jack Thomas, Chief of the Forest Service, would revamp the world in this particular fashion. That comes from the administration. I think there are things, and I have put forward some of those things. I think there are a number of things, it is time to reexamine some of these things. I think in principal I agree with all of the laws, but trying to make them all work at one time and trying to figure out exactly what the focus and thrust of the management of the public lands should be is a little difficult to discern sometimes.

One of things, back to some of those other people like the city of Seattle or the State of Montana, they have a much less confused mission, maximize economic return to the State of Montana. We have a much, much broader vision.

I do think it is time to review and look at all of these things, but that kind of a decision, I suspect, is a little bit above my pay grade. But I bubble with personal ideas on how we might do some of these things in a better fashion, and I think maybe a way out of this ultimately is to move past the frustration and the acrimony which I think, and I do not know that I understand politics that well, but sooner or later everybody is going to wear out with all this and somebody will decide that we have got to do something better than we are doing, and it is not going to be over there or over there, it is going to be somewhere down the slot where we maintain those systems in a functional way to support ourselves, our grandchildren, our progeny, and that we produce the goods and services required by the American people commensurate with that responsibility.

I will tell you that I am not personally satisfied that we are doing the best possible job of that, but it is time to move to some solution. I mean, I understand your frustration and I understand these hearings, but I do not think they are getting us any place. I think the next move is to begin to examine these things in their

totality, how they fit together, and how we begin to thread our way out of this. But there is so much flak coming in from every direction that it is very difficult to discern what the appropriate path is. I hear you, and I hope you are hearing me, but basically that invitation has got to go to somebody above my pay grade that says yes, we want you people to do this. Otherwise, I clearly work for the Secretary of Agriculture, and whoever sits here after me will do the same, whoever that Secretary of Agriculture is. But I hear you, and we have got some ideas.

Representative COOLEY. One last thing, Jack. Have you ever relayed this information to the Secretary, your ideas?

Mr. THOMAS. Some of them. And he did, he of course instructed us to take a look at some of the most operative laws under which we deal with and how they fit together, and we have provided that information.

Representative COOLEY. Thank you very much. I appreciate your time, and I hope you really understand where we are coming from. As you know, I represent a tremendous amount of timber and natural resource people that are very dependent on the ability to work with the U.S. Forest Service in order to have an economic base, as does my colleague here to my left, and it is very frustrating for our people, as you know. You have lived with them, so you understand this.

Mr. THOMAS. And I intend to be back. Let me make one more comment to Congresswoman Chenoweth. I get a little tense sometimes. I believe in what I am doing, and I have lived there and I believe in that. But you know, if you want to direct this frustration, direct it at me, direct it maybe at the regional foresters, I do not know, but the people that are out there, the grunts on the ground, are good people and they are busting their fannies to try to get it done right. That is across the agencies, it is not just the Forest Service. They are working hard under very difficult circumstances. I would encourage you to vent your frustration toward the people that get paid to handle that frustration, and speak kindly of the people that are out there trying to get the job done, because they are doing the best they can, I assure you.

Senator CRAIG. Congresswoman Chenoweth, another question? I would like to close this down, if I could, in the next 10 minutes.

Representative CHENOWETH. Thank you, Mr. Chairman. Mr. Thomas, I believe you, and when I said that you are regarded as one of the best environmentalists in the Nation, that was the basis of my frustration, because when I stand in the middle of the Nez Perce Forest or fly over the Thunderbolt fire it hurts my heart to see the forests I love dying. But my question is you said that these hearings have not been productive, but we believe the hearings would not have been necessary if your agency had done a better job in implementing the law and in providing us the necessary material that we asked for. So I think that we have been very open about where our frustrations are, and I think you are the man that can help fix it.

Mr. THOMAS. I accept full responsibility. That is my job, that is what I get paid for. I hear you. To the extent that I can do it, I will respond as quickly as I possibly can.

One other point that I want to make is just to talk about where we have made some progress and expedition, expediency of process. We are looking at situations now, here is a tally list, BLM, 23 timber sales in 46 days in the whole process. Here is another 13, 51 days. Another 16, 32 days. And so. So we have made some real progress and are going faster.

Representative CHENOWETH. And when we talk about 32 days or 45 days, that is commencing at what point and ending at what point? Does that take into account the consultation process?

Mr. THOMAS. That is the consultation.

Representative CHENOWETH. That is evaluating the stumpage, getting out there in the field, going through the consultation process, letting the bid, and awarding the contract?

Mr. BARRY. If I could explain. The numbers that Jack was providing you is a summary that the Fish and Wildlife Service in the Oregon Field Office provided me in preparation for this hearing. To summarize, the length of time it has taken them to process section 7 consultation requirements, responsibilities, during the fourth quarter of fiscal year 1995. You have to remember that it was back in March, the first time that the agencies signed an MOU to try to begin to compress the consultation process into the agency planning process, to eliminate it as a separate stage. And then in May, on May 31, the agencies again further directed the establishment of field teams so they could help further expedite the process.

The Fish and Wildlife Service now has at least one person assigned to each national forest or BLM district unit to work directly up front in early planning with the forest planners. What we are beginning to see now for the first time is that as a ramping up, getting people in place to work more effectively up front, that the length of time it takes to go through the consultation process from start to finish is dropping dramatically.

Jack in his testimony mentioned that there are no backlog consultations at this particular point, and what this was just summarizing was that at least in the last quarter of fiscal year 1995 you have turn arounds as fast as 32 days for 16 timber sales, 270 silvacultural projects, 11 timber sales, 19 recreation, 15 mining, 50 burning. The estimated time that they figured it would take to finish that off would be 25 days, it is the value of working up front as a team at the early stages of planning.

Representative CHENOWETH. Mr. Barry, I appreciate that very much. Mr. Thomas and Mr. Barry, we do not have that information. Would you be willing to provide those numbers for the committee, both the House and the Senate?

Mr. BARRY. Sure.

Representative CHENOWETH. I just have one final question. Mr. Schmitt, last time you were in front of our resources committee I asked you about the delay and the frustration that we get back from the Forest Service about the inability of the National Marine Fisheries Service to process permit applications for hauling logs. I do not have the correspondence right in front of me, but as I remember I received a letter yesterday from a Mr. Frederick Ebell who claims to be a friend of Mr. Thomas' who was trying to get out a timber sale in the Wallowa-Whitman National Forest. The timber sale was in the volume of about 100,000 board feet.

Now, he had applied over 2 years ago to the National Marine Fisheries Service, or the Forest Service had been consulting with National Marine Fisheries Service for 2 years to get this 100,000 board foot timber sale out. This is over road number 7785 in the Wallowa-Whitman National Forest. Hauling over that road, 7785, was the Forest Service pulling out 4 million board feet of timber. Now why, when the Forest Service is able to haul timber out on that particular road, and I am giving you the specific numbers and geographic identifications, why does the Forest Service not kick up any more dust than somebody who is only going to be hauling 100,000 board feet?

This is the kind of frustration again that we are experiencing. We want the Forest Service to be cut loose to do their job, Mr. Schmitt, and this is an example that is being replayed over and over again in the Pacific Northwest. I do not know whether the problem is you or Mr. Stell, but there is a real problem in the Northwest.

Mr. SCHMITTEN. Congresswoman Chenoweth, I certainly sense your frustration. Let me share first of all that I have started sending a report to this committee, I started it before the last hearing. I have sent a report to all, the subcommittee, the task group, and all Northwest Congress members, of the report card of our consultations to date, and you should have received that again yesterday. We are now up to 1,352 consultations. We have completed 100 percent of the salvage sale consultations as of yesterday's date. Those included 11 salvage sales in excess of several hundred million feet, and as of yesterday the 18 access permits that had been sent to us from the Forest Service are completed. I will follow up immediately, and I think you have learned that my word is very good, on Mr. Ebell's case and what is the situation there. But we have taken every single road application that we have, we have processed that for you. I am absolutely committed to doing this in a timely fashion.

Representative CHENOWETH. Thank you. Mr. Ebell lives in Colbert, Washington. I would like you to review this.

Mr. SCHMITTEN. I will call your office for his name and number. Representative CHENOWETH. Thank you.

Thank you, Mr. Chairman.

Senator CRAIG. Let me thank the committee members and the two congressmen who remain with me for being here today and working with us and conducting a joint hearing. Chief, and to all of you, we want to thank you very much. I do believe that the Congress now, after the series of hearings we have held, Chief, has a better understanding of why your job is as difficult as it appears to be, and we are not without blame, let me assure you, in the piling upon piling of environmental law over the last 15 years without any understanding or care to understand the consequence of it.

It met the political savvy of the day, but few recognized what would happen when National Marine Fisheries and EPA and U.S. Forest Service collided on the same acre of ground in the middle of the Nez Perce Forest. Well, we know what has happened, absolute inactivity for a long period of time until you finally struggle out of it and are beginning to perform at some level. I say some level, we have used all of your targets, none of the projected ones

but your targets, and I will tell you that while you say you are meeting them, I do not think you are. I think your performance is substandard to your targets.

Now, I also understand that the Congress tried to move very early on with salvage and they were extremely hampered by this administration and by interest groups in doing so, even though all along the line we suggested that you play by the rules, the environmental rules. We did not get a salvage bill, a Rescissions bill until July 27. Now you have moved forward since that time. The season, if you will, in the high country was almost over, and it is now over. I and others are going to watch very closely next year.

If you remember that first graph I put up, by the time the next season is over if your performance is not better, and it should be much better, that is what we have heard today, systems are in place, relationships have improved, we are moving very rapidly, Rollie has just told us that they are moving things out very quickly now, there are little to no backlogs, next year ought to be a stellar year of performance in which all targets are met, even though we have moved from 11 billion to 4 billion, and now down to less than that substantially, in harvested timber on an annualized basis over the last decade of time. So surely we ought to be able to perform at those levels.

Interestingly enough, when we confirmed the Secretary in February and he and I had dialogues about the Forest Service, and recognizing that he is a flat lander from the Midwest and did not know about trees too much, he was willing to learn and we were willing to teach and you were willing to consult, he promised us that we would examine the rules, the laws that caused you the kind of frustration that you have expressed today. You examined those and you presented them to the Secretary in June, and the black hole ate them and we have not heard a word. That again adds to our frustration.

You have heard the frustration of these two Congressmen today, 3, 4 months later finally the information comes in. I am not questioning its accuracy, I am questioning some of its timing. I understand the work load, but I also understand the very energetic effort to downsize that has gone on in your agency. We have heard from reports today of inability to perform based on lack of talent available at the time. I do not dispute the fact that people work hard and they are out on the ground working hard. I do become extremely frustrated when I see, at least in my area of the world, high levels of retirement out of certain sections of the Forest Service that now express their inability to perform, at a time when we dearly need that performance level.

So that is why these hearings. I do believe they are valuable. I think the record they build is extremely important. And we will be back because next year remains to me a critical year of performance. There really will be no excuses at that point, none that we can provide, very few obstacles we can recreate. You have now got a green light and your systems are up and running, and you have a seasonal environment in which to fine tune them, I would hope, so that next year we can at least get out of there what really remains of anything that is of value. Because after next season it is

not even pulp wood in most instances, and firewood at best, and the commercial value will be gone.

Let us remember, as I know you know, that while there are competing interests out there as to what ought to be done on the ground, it was the Congress of the United States, which happens to be the board of directors of this company, that suggested there still be a timber program, that it is still a value to this country, and that it is of extreme value to the communities and, as importantly, to the Treasury. We just simply cannot sit idly by, nor will we, and allow hundreds of millions of dollars to go down the drain because of the dueling interests that rest out there or the inability of the agencies to perform once charged with that performance.

I, on behalf of all of you today, thank you very much for being here. We are frustrated, clearly as frustrated as you are, because when we go out on the ground and we find timber standing and people out of work and mills idled, when there is a timber program and when it ought to be and should be developed to be compatible with the rest of the resources and your multiple use task, we too have pressures, and they are very important ones to create that balance.

Let me again thank you all for your time in being here today. We will look forward to your continued work with us in resolving these issues. Thank you.

[Whereupon, at 12:35 p.m., the joint hearing was adjourned.]

APPENDIX
RESPONSES TO ADDITIONAL QUESTIONS

[Responses to the following questions submitted to the U.S. Forest Service, were not received at the time the hearing went to press.]

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS MANAGEMENT,
Washington, DC, December 4, 1995.

Dr. JACK WARD THOMAS,
Chief, U.S. Forest Service, Department of Agriculture, Washington, DC.

DEAR CHIEF THOMAS: Please find enclosed a series of questions for the record from the Subcommittee on Forests and Public Land Management oversight hearing on November 29, 1995. Your prompt response to these questions, as well as those provided in our letter of invitation is appreciated.

Sincerely,

LARRY E. CRAIG,
Chairman.

SALVAGE ACTIVITIES

1. In May of this year, the Forest Service estimated approximately 12 billion board feet of salvage material existed which is economically operable.

a. How have your estimates changed since May?

b. How much of that dead and dying timber will be offered by December 31, 1996?

2. What messages and policy has the Chief of the Forest Service and the Directors of the five agency sent to their field people, concerning salvage?

Please send my staff a detailed list and copy of any policy or message sent to field personnel concerning salvage.

3. On the eastside of R-6, prior to the passage of Rescission Bill, the Administration put into place a policy which prohibits the selling of trees larger than 21 inches in diameter.

a. Under the salvage act you are not constrained by that policy, yet we have been lead to believe that the 21 inch rule remains in effect.

b. If White fir deteriorates within a year or two after they die, why maintain the 21 inch rule? How much potential revenue is being foregone as a result of leaving the larger dead trees to rot?

4. You've made statements that the emergency salvage program is a high priority for the Forest Service and that emergency salvage teams have been put in place to implement the program.

a. Why is it that on several forests in Oregon that the forest level emergency teams were not announced until late October?

b. Why is it that in R-1, during a Governor's meeting in early Fall with the Regional Forester and Forest Supervisors, that individual Supervisors could name team leaders, but many were unable to say who the other Emergency Salvage team members are?

5. During the House Salvage Task Force hearing we heard that the salvage sales which are being offered are over-loaded with excessive contract requirements GAO mentioned the same problem today.

a. What has the Forest Service done to analyze the no-bid sales?

b. If these sales are designed in a manner which makes them un-marketable, what land rehabilitation is accomplished as a result of no-bid sales?

c. What would it take for the Forest Service to put into place an appraisal policy which allowed a prospective bidder to bid up or down from the advertised rate?

d. If you allowed bidders to bid below the advertised rate, limited at the low end by the legal minimum bid rate, would that expedite that sale of the salvage volume which has gone no bid?

e. What is the Agency doing to try to modify the timber sales process (e.g. appraisals, scaling, etc.) to accommodate the rapidly deteriorating material and the smaller diameter material from thinning work and still make the material marketable?

f. If a no-bid sale is re-offered and successfully sold, is it counted twice in the offer statistics?

6. Forest Service efforts to offer timely salvage sales appear questionable. If anything, it seems to be taking longer for the Forest Service to offer salvage sales than it did a few years ago, especially when compared to the amount of time needed by private timber companies and state agencies to offer salvage timber for sale.

a. Why does it take the Forest Service almost a year to offer salvage timber for sale when salvage timber from adjacent states, such as Washington, and private lands can be sold in 3 or 4 months?

b. Have Forest Service efforts to comply with environmental laws and forest management policies known land able as required by the Administration, delayed offering salvage timber for sale?

IMPACTS OF SALVAGE DELAYS

7. The primary purpose for harvesting salvage timber is to remove excess fuel from the National Forests. If salvage offerings are not sold, excessive fuels may remain in the forests for future wildfires, and potential revenues may not be realized.

a. What impact has the Forest Service's ability to offer timely salvage sales had or will have on the health of the national forests?

b. What are the volumes of salvage timber that have deteriorated to the extent that they will remain in the forests?

c. Other than removal, what options are available to the Forest Service for controlling deteriorated timber volumes?

8. Sales of salvage timber is time critical. Salvage timber deteriorates quickly, resulting in reduced sales and lost revenues.

a. What actions have the Forest Service taken, are taking, and are planning to take to expedite the sale of salvage timber?

b. What are the values of the salvage timber lost through deterioration?

c. How effective have Forest Service actions been to rehire bought-out staff in order to more effectively plan, prepare and sell salvage timber?

9. The Forest Service is in the process of implementing a monitoring system that will be used to provide bi-weekly information on, among other things, the volume of salvage timber offered and sold. This data will be used as a basis to prepare its semi-annual report to the cognizant Committees as required by the act. What information will the salvage monitoring system display, how will the information be developed, will the system show the total volumes of salvage timber that can potentially be offered for sale?

EFFECTIVENESS OF EMERGENCY SALVAGE PROGRAM

10. There are numerous factors that have delayed or caused the Forest Service to withdraw salvage timber offerings. The Program was designed to address the factors that have traditionally impeded the timely sale of salvageable timber.

a. How effective have the emergency salvage program provisions in the act been in expediting the sale of salvage timber? How much time, on average, have or will be saved on salvage as a result of the act?

b. Does the act provide the tools that would enable the Forest Service to expeditiously get to market the stated volumes yet still meet the substantive environmental laws or not, what additional tools are needed?

THUNDER BOLT TIMBER SALE

1. After the MOA was released, Regional Forester Bosworth submitted the Thunderbolt Sale to the fourth level MOA disputes process. The MOA stipulates that the five agency heads would make a binding decisions within 14 days.

a. Was such a decision ever made?

b. Will you provide a copy of that documentation to these Committees?

2. Eventually the sale was released, after Chief unilaterally announced that the sale would move forward. Then regional personnel from the U.S. Fish and Wildlife Service and the National Marine Fisheries Service began making negative public pronouncements concerning the timber sale.

a. If the Director of the U.S. Fish and Wildlife Service and NMFS were involved in the decision and signed the decision called for in the MOA, why did the regional personnel from NMFS and USF&WS publicly undercut the Forest Service's announcement? If five Agency heads were not involved in the decision, why wasn't the MOA process not followed?

b. What are the two agencies doing to ensure their field personnel conform and support Washington, D.C. direction?

c. Now that litigation has been filed, how can we be sure that the agencies field personnel won't undercut the government's case in court?

3. The total volume to be offered in the Thunderbolt sale was significantly reduced from the time it left the Regional Foresters Office through the time the Chief announced the sale would move forward?

4. How can you assure us that the MOA process will be followed and adhered to? What are you going to do to get your field personnel to support the decisions of this Administration?

5. Please provide an update on the status of all timber sales which have been considered for sale in the South-fork drainage of the Salmon River in Idaho.

IMPLEMENTATION OF SECTION 2001(K)

1. When the Committee of Four Scientists first reported to Congress on its proposed policy to protect Northern Spotted Owls, and other old-growth dependent species, they proposed a policy which assumed all timber sales which were under contract would be logged, isn't that correct?

2. How much of the known world-wide habitat for Marbled Murrelets is involved in these sales?

3. What part does the ocean conditions (El Nino) play in the survival of Marbled Murrelets?

4. Chief Thomas are you aware that during negotiations on the Rescissions bill the Administration asked Congress to expand the "known to be nesting" exemption in section 2001(k)(2) to include all timber sale units that had been determined to be occupied by a marbled murrelet under the Pacific Seabird Group protocol, and that Congress rejected that request?

5. How do you square Congress' rejection of that request with the Secretary's directive dated August 23, 1995 which asserts that Congress intended all occupied sale units to be withheld under the (k)(2) exemption?

6. Chief Thomas, did you ever read section (k) before the President signed it into law?

7. Did you not understand that section (k) applies to green sales as well as salvage sales?

8. Did you ever tell the President, or anyone in the White House, what section (k) says?

9. Did you talk about section (k) with the President, or Mr. Panetta, or Ms. McGinty, or anyone else in the White House, before the White House issued its press statement on October 26 denouncing the courts for enforcing section (k) according to its plain meaning? Did you agree with the White House position?

10. Chief Thomas we understand that the Administration has withheld about 250 million board feet of sales under the (k)(2) exemption, and that the Administration has withheld another 80-100 million board feet of sales for various reasons other than (k)(2). We also understand that the Administration has not offered or proposed any replacement volume for any of that timber, although we required replacement volume for all that timber in section (k)(3). When will the replacement volume be offered?

11. Mr. Coppelman, we have heard that the Department of Agriculture recommended against appealing Judge Hogan's decision ordering you to award 1991 through 1995 sales. Is that true, and if so, why was an appeal taken?

12. Mr. Coppelman, we also are aware that a three-judge panel of the Ninth Circuit Court of Appeals ruled that your chances of success on that appeal were, and I quote, "negligible." Why are you pursuing the appeal under those circumstances?

13. Mr. Coppelman, can you provide us with a calculation of the cost to the government, including personnel and travel costs for the Departments of Agriculture, Interior and Justice, both in dollars and in man-hours, of defending the timber industry's lawsuits over section (k)? Can you tell us how many government employees have so far worked on the government's case opposing the timber industry's lawsuits was considered essential during the recent government furlough? Can you give us this information within 10 days?

14. Chief Thomas, your department is going to have to pay the attorney fees for the timber industry groups that had to sue you to force you to follow this statute. Where do you plan to get the funds to pay those attorney fees, and can you assure us those funds will not come from timber sale preparation accounts?

15. If the government cancels these sales the government will lose the timber receipts and be liable for damages to the purchaser.

16. What is the value of the sales? Let me show you a chart with the receipt figures.

17. The government would also be liable for other damages, beyond the stumpage value, if these sales are canceled? Let us go through the different aspects of liability and see if you can tell me the government's post potential costs.

18. If the Administration persists in its wrongheaded policy, related to Section 2001(k), where will the money come from to pay the damage claims which will result?

19. Congress has not authorized the Agency to expend funds meant to design, prepare, and offer timber sales on claims resulting from the cancellation of timber sales. How will the Administration pay the claims if these sales claims not released?

20. Since the cancellation of these sales is being precipitated by the Departments of Interior and Commerce, what portion of the government's liability for cancellation will the National Marine Fisheries Service and U.S. Fish & Wildlife Service cover?

IMPLEMENTATION OF OPTION NINE

1. From the time it was first implemented, until October 1, 1995, how much timber has been offered under Option 9? Let me show you the results that we have sent so far.

a. How much sawtimber?

b. How much was material other than sawtimber?

2. What is the status of Volume Under Contract on the Option 9 forests?

3. Option 9 included several unmodeled watershed protection requirements. What have you found out about the reductions in timber to be offered, as a result of those unmodeled restrictions?

4. The State of Oregon modeled Option 9 Watershed protections on the Elliot State Forest and found that Option 9 eliminated 85% of the forest from timber harvesting. Are your field personnel having difficulty finding areas available to harvest? Isn't that the reason your performance lags so far behind the Administration's promises?

5. How many average westside sawmills could run for one year off the sawtimber sold under Option 9 In FY 1995? Assume an average saw mill uses 100 million board feet per year.

6. What plans do you have for analysis of, and mid-corrections to, these problems? Will Judge Dwyer permit this? Should we expand Section 2001(d) to give you this authority?

7. In retrospect, is part of the problem the haste with which Option 9 was developed and the lack of involvement of line officers with operational responsibility and expertise?

8. How does the situation lack for out-years sales? Aren't you lagging far behind in pipeline preparation?

9. What has the implementation of Option 9 done to your unit costs for timber sale preparation? Are these cost increases sustainable?

FY 1995 TIMBER ACCOMPLISHMENTS

1. Chief Thomas, the fiscal year ended nearly two months ago yet you have not yet reported how much volume was offered, sold, or harvested. Over the last five years the amount of sawtimber sold has dramatically dropped off (8+ billion board feet—down to 1.6 billion board feet) and the amount of non-sawtimber sold has remained steady. In 1994 the Forest Service sold more non-sawtimber than sawtimber.

a. What are the revenue implications to this trend?

b. Do the current, in place, forest plans call for this shift? If not, what is causing it?

2. We find a two month delay in reporting 1995 timber sale accomplishments unacceptable. Could you deliver the following information to these Committees by the end of next week:

Total volume offered, sold harvested.

Sawtimber offered, sold, harvested.

Non-Sawtimber offered, sold, harvested.

Salvage timber offered, sold, harvested.

3. Please also report what percent of the salvage is sawtimber and what percent is non-sawtimber. Additionally we would like to know the values of the different categories of material offered, sold, and harvested.