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FEDERAL LANDS FOREST HEALTH PROTECTION AND RESTORATION ACT

JULY 16, 1996.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 391]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 391) to authorize and direct the Secretaries of the Interior and Agriculture to undertake activities to halt and reverse the decline in forest health on Federal lands, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Federal Lands Forest Health Protection and Restoration Act."

SEC. 2. PURPOSES AND DEFINITIONS.

(a) PURPOSES.—(1) The purposes of this Act are to arrest the dramatic decline in forest health on Federal lands and restore forest health to a condition capable of supporting and sustaining the uses of those lands within the lands' historic ranges of variability; safeguard human life, property, and communities on and near the Federal lands, particularly in wildland/urban interface areas; protect air and water quality, wildlife, recreation and visual values, and other forest resources of the Federal lands placed at risk by declining forest health; restore, maintain or enhance the integrity of ecosystems, watersheds, and habitats on the Federal lands damaged or placed at risk by declining forest health; protect existing Federal investments in the forest resources of the Federal lands, and future Federal, State, and local revenues from those lands that otherwise will be foregone if forest health trends continue; and provide opportunities to accomplish similar purposes on adjacent non-Federal lands with similar forest health conditions.

(2) Congress recognizes that the management of the Federal lands has been characterized by large cyclical variations in fire suppression policies, timber harvesting levels, and the attention paid to commodity and non-commodity values. The inconsistent management of the Federal lands is not in the long-term interest of the nation. Management of the Federal lands should be conducted through the enactment of authorizing legislation, and through the faithful implementation of that legislation by the Executive Branch.

(3) It is the purpose of this authorizing legislation to manage the Federal lands in a more consistent manner by establishing a rational system for selecting and implementing forest health activities to provide a long-term approach to addressing forest health concerns.

(b) DEFINITONS.—As used in this Act, the term—

(1) "Federal lands" means—

(A) public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e));

(B) lands within the National Forest System as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)); and

(C) lands within the Kenai National Wildlife Refuge, as redesignated by section 303(4) of the Alaska National Interest Lands Conservation Act (94 Stat. 2391, 16 U.S.C. 668dd note);

(2) "forest health management activity" means any thinning, salvage, timber stand improvement, reforestation, prescribed burning (including natural ignition) or other fuels management, insect or disease control, riparian or other habitat improvement, soil stabilization or other water quality improvement, or other activity, the purpose of which is to meet one or more of the objectives set forth in section 3(a)(1)(C);

(3) "land management plan" means—

(A) with respect to federal lands administered by the Secretary of the Interior, a land use plan prepared by the Bureau of Land Management pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), or other multiple-use plan currently in effect;

(B) with respect to federal lands administered by the Secretary of Agriculture, a land and resource management plan (or, if no final plan is currently in effect, a draft land and resource management plan) prepared by the Forest Service pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(C) a comprehensive conservation plan for the Kenai National Wildlife Refuge pursuant to section 304(g) of the Alaska National Interest Lands Conservation Act (94 Stat. 2394), and a determination of compatibility with the purpose for which the Refuge was established pursuant to the National Wildlife Refuge System Administration Act and

(4) "Secretary" means—

(A) with respect to Federal lands described in subparagraphs (A) and (C) of paragraph (1), the Secretary of the Interior, or, except for section 6, the Secretary's designee; and

(B) with respect to Federal lands described in paragraph (1)(B), the Secretary of Agriculture, or, except for section 6, the Secretary's designee.

SEC. 3. DESIGNATION OF AREAS AND SELECTION AND AUTHORIZATION OF ACTIVITIES.

(a) GENERAL DIRECTION.—(1) The Secretary of the Interior and the Secretary of Agriculture are each directed to review the forest health conditions on the Federal lands and—

(A) identify on or before March 1 of each year, those areas on the Federal lands on which the forest health conditions described in subsection (b) exist; and

(B) subsequent to the identification of areas under paragraph (A), and in accordance with the priorities prescribed in subsection (b)(3), designate in a timely fashion as forest health emergency areas or forest health high risk areas those areas on the Federal lands on which the forest health conditions described in subsection (b) exist; and

(C) select and authorize the proposed forest health management activities to be undertaken in such areas in order to—

(i) arrest the decline of forest health and restore forest health to a condition capable of supporting and sustaining the uses of such areas within the historic ranges of variability of such areas or as determined in the applicable land management plan or plans;

(ii) safeguard human life, property, and communities on and near the Federal lands, particularly in wildland/urban interface areas;

(iii) protect the various forest resources of the Federal lands placed at risk by the forest health conditions, including air and water quality, wildlife, and recreation and visual values;

(iv) restore, maintain or enhance the integrity of ecosystems, watersheds, and habitats damaged or placed at risk by the forest health conditions; or

(v) protect existing Federal investments in the forest resources of the Federal lands, and future Federal, State, and local revenues that otherwise will be foregone.

(2) In addition to the requirements of paragraph (1), each Secretary shall designate a forest health emergency area or a forest health high risk area and select and authorize a forest health management activity or activities where the forest health conditions described in subsection (b) of this section exist for any area of Federal lands of more than 500 acres on which a wildfire or catastrophic event occurs, within 120 days of the termination of the wildfire or catastrophic event.

(3) Prior to designating a forest health emergency area or a forest health high risk area pursuant to this subsection, the Secretary concerned shall consult with the head of the forestry agency in the State in which such area is located.

(b) FOREST HEALTH EMERGENCY AND HIGH RISK AREAS.—(1) An area of the Federal lands shall be designated as a forest health emergency area pursuant to subsection (a) if the Secretary concerned finds that—

(i) forests on such lands have experienced disturbances from wildfires, insect infestations, disease, or other natural causes that have caused more than 50 percent of the trees to be dead or to exhibit physical evidence of imminent mortality, and will suffer further environmental degradation, such as soil erosion, stream damage, or habitat loss; and

(ii) implementation of one or more forest health management activities on such lands is likely to reduce or eliminate such degradation.

(2) An area of the Federal lands shall be designated as a forest health high risk area pursuant to subsection (a) if the Secretary concerned finds that—

(A) the forest structure, function, or composition on such lands has been so altered by human or natural causes as to increase substantially the risk of insect infestation, disease, or wildlife and the consequent risks of significant ecosystem, watershed, or habitat damage or loss of life or property; and

(B) implementation of one or more forest health management activities on such lands is likely to reduce or eliminate such risks.

(3) Each Secretary shall accord priority in the designation of forest health emergency areas and forest health high risk areas to—

(A) wildland/urban interface areas where the Secretary determines human life and property are threatened by wildfire from the affected Federal lands; or

(B) areas where the Secretary determines the need to reduce or eliminate the degradation or risk specified in paragraph (1) or paragraph (2) is the greatest.

(c) FOREST HEALTH MANAGEMENT ACTIVITIES.—(1) The forest health management activity or activities selected and authorized for each forest health emergency area or forest health high risk area pursuant to subsection (a) shall be those activities which the Secretary determines are designed to address the specific site conditions of the areas with the combination of management practices, treatment, and protection needed to meet the objectives set forth in subsection (a)(l)(C).

(2) The generation of revenues should not be the primary consideration of any forest health management activity selected and authorized pursuant to subsection (a).

(3) The Secretary concerned shall publish a schedule for initiating, completing, and monitoring the forest health management activity or activities in each forest health emergency area or forest health high risk area in the document containing the Secretary's final decision designating the area and selecting and authorizing the activity or activities pursuant to subsection (a).

(4) The Whenever the harvest of live trees is expected to occur in a forest health management activity, the Secretary concerned shall provide in the document containing the Secretary's final decision selection and authorizing such activity pursuant to subsection (a) a statement of whether justification as to why the removal of live trees is necessary to meet one or more of the objectives set forth in subsection (a)(1)(C).

(d) EFFECT ON EXISTING SALVAGE AUTHORITIES.—Except as provided in section 11 of this Act, nothing in this Act shall affect or limit any existing authority of the Secretary to undertake forest health management or timber salvage activities on federal lands.

(e) PETITION PROCESS.—In addition to the requirements of subsection (a)A(1), after March 1 of the first full year following the date of enactment of this Act, any

interested person may petition either Secretary to designate a specific area of lands comprising not less than 500 acres in size within the Secretary's jurisdiction as a forest health emergency area or high risk area pursuant to this subsection. The petition shall contain detailed description of the boundaries of the area and the reasons why the petitioner believes the conditions set forth in subsection (b)(1)(A)(i) or subsection (b)(2)(A) exist in such area. The Secretary to which the petition is submitted shall, within 45 days of the date of submission of the petition, make a decision whether the designation sought by the petitioner is warranted and provide to the petitioner a written statement of the decision and the reasons therefore. If the Secretary determines that the designation is warranted, the Secretary shall publish a notice in the Federal Register pursuant to section 4(a). A decision that a designation is not warranted shall not be subject to administrative appeals or judicial review.

SEC. 4. EXPEDITED PROCEDURES FOR THE DECISION TO DESIGNATE AN AREA AND SELECT AND AUTHORIZE ACTIVITIES.

(a) NOTICE.—(1) Each Secretary shall publish in the Federal Register notice of the prospective decision to designate a forest health emergency area or forest health high risk area and select and authorize a forest health management activity or activities therefore pursuant to section 3.

(2) The notice shall—

(A) set forth the location of the affected area;

(B) describe the forest health conditions in such area;

(C) provide the reasons for proposing to designate such area; and

(D) contain a brief description of the forest health management activity or activities which the Secretary proposes to select for such area.

(b) PUBLIC COMMENT.—The Secretary concerned shall provide a period of 30 days from the date of publication of draft environmental documents required by subsection (d)(1) of this section for submission of public comment on the prospective decision pursuant to section 3. The Secretary may hold a hearing on such decision during the comment period.

(c) AGENCY RESPONSE.—(1) The Secretary concerned shall respond in writing to any public comment received pursuant to subsection (b) in the document containing the Secretary's final decision.

(d) COMPLIANCE WITH CERTAIN LAWS.—(1) Prior to the identification of the first list of areas pursuant to section 3(a)(1)(A) of this Act, the Secretary concerned shall, with the assistance of the Council on Environmental Quality, provide expedited procedures to prepare the documentation pursuant to section 102(2) required for a decision designating a forest health emergency or high risk area and selecting and authorizing a forest health management activity or activities therefor pursuant to section 3(a): *Provided,* That in no instance involving the designation of a forest health emergency area shall the time necessary for the preparation of such final documents exceed 120 days from the date of notice of proposed designation or initiation of such preparation, whichever is earlier. Existing regulations and Council on Environmental Quality guidelines shall be modified as necessary to conform to this time period.

(2) No documentation pursuant to section 102(2) of the National Environmental Policy Act of 1969 shall be required for the identification of areas pursuant to section 3(a)(1)(A) or for decisions pursuant to section 3 for forest health management activities which:

(A) remove 250,000 board feet or less of merchantable wood products or salvage 1,000,000 board feet or less of merchantable wood products; and

(B) require one mile or less of standard road construction; and

(C) assure regeneration of harvested or salvaged areas, where required.

(3) The Secretary, as defined in section 2(b)(4) of this Act, shall consult or confer with the appropriate agency pursuant to section 7(a)(2) or section 7(a)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a) (2) or (4)) on a decision designating a forest health emergency area or forest health high risk area and selecting and authorizing a forest health management activity or activities therefor pursuant to section 3(a) only if such Secretary determines that such decision is likely to significantly and adversely affect a species determined or proposed to be an endangered species or a threatened species pursuant to section 4(a) of such Act (16 U.S.C. 1533(a)). Such consultation or conferencing shall be concluded within 90 days of the publication of the Federal Register notice of the prospective decision pursuant to subsection (a). The Secretary, as defined in section 3(15) of such Act (16 U.S.C. 1523(15)), shall accord priority to consultation or conferencing on a decision pursuant to section 3(a) over any other agency actions submitted to such Secretary for consultation or conferencing. The Secretary as defined in section 2(b)(4) of this act shall not consult in fulfilling the requirements of section 3(a)(1)(A) of this act.

(4) The documents prepared pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and under the provisions of this subsection must be reviewed by the Secretary concerned at least every three years. If the Secretary concerned determines that conditions in the area designated have significantly changed and are not reflected in the existing documents, appropriate supplements or new documents shall be prepared pursuant to the requirements of this subsection: *Provided*, That any forest health management activities already underway pursuant to a decision of the Secretary under Section 3(a) of this Act shall not be suspended, halted, or otherwise enjoined, except at the sole discretion of the Secretary concerned, during the development of supplements or new documents pursuant to the subsection.

(e) ADMINISTRATIVE REVIEW.—(1) Any decision of a Secretary pursuant to section 3 which includes designation of a forest health emergency area, or the selection of forest health management activities pursuant to paragraph (d)(2) of this section, shall be a final agency action and shall not be subject to administrative review.

(2) Administrative review of any decision by a Secretary pursuant to section 3 which includes designation of a forest health high risk area shall be governed by applicable existing statutory or regulatory administrative appeal requirements, including, for Federal lands described in section 2(b)(1)(B), the administrative appeal provisions of section 322 of the Fiscal year 1993 Interior and Related Agencies Appropriation Act (106 Stat. 1419): *Provided,* That no extension of the 30-day period for disposition of the appeal authorized by subsection (d)(3) of such section 322 may be granted, and subsection (d)(4) of such section 322 shall apply at the conclusion of the 3-day period.

(f) JUDICIAL REVIEW.—(1) Any decision by a Secretary pursuant to section 3 to designate a forest health emergency area or forest health high risk area and to select and authorize a forest health management activity or activities therefor shall be subject to judicial review only by the United States District Court for the District in which the affected Federal lands are located.

(2)(A) Any action brought pursuant to this subsection shall be filed not later than 45 days after the date of publication of the final decision of the Secretary or, for those decisions for which administrative review is available and undertaken, 30 days after the publication of the decision on review.

(B) Any appeal from the final decision of a District Court in an action brought pursuant to this subsection shall be filed not later than 30 days after the date of the decision.

(3) Administrative stays may be imposed during, and shall not be extended beyond, the periods provided in paragraph (2) for filing and appealing actions brought pursuant to this subsection.

(4)(A) In an action brought pursuant to this subsection, the District Court is encouraged to render a final decision not later than 90 days after the date of the filing of the action when the action concerns a forest health emergency area, or 120 days after the date of filing of the action when the action concerns a forest health high risk area.

(B) In any appeal of an action brought pursuant to this subsection, the Court of Appeals is encouraged to render a final decision on the appeal not later than 90 days after the date of the filing of the appeal when the action concerns a forest health emergency area, or 120 days after the date of filing of the appeal when the action concerns a forest health high risk area.

SEC. 5. EXCLUDED LANDS AND ACTIVITIES.

(a) Neither Secretary may select, authorize, or undertake pursuant to this Act any forest health management activity on any Federal lands located within—

(1) any unit of the National Wilderness Preservation System;

(2) any roadless area designated by the Congress for wilderness study;

(3) any roadless area recommended by the Bureau of Land Management, Fish and Wildlife Service, or Forest Service for wilderness designation; or

(4) any other area in which implementation of the specific forest health management activity for any purpose is prohibited by law or a court order, or by an applicable land management plan, unless the plan is amended to permit the activity to occur in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or section 6 of the Forest and Rangeland Renewable Resources Planning act of 1974 (16 U.S.C. 1604).

(b) Any forest health management activity which (i) is a salvage timber sale as defined under subsection (a)(4), or a timber sale described in subsection (d) and has a decision notice or record of decision completed prior to the date set forth in subsection (j), of section 2001 of P.L. 104–19 (109 Stat. 194), or (ii) is a timber sale contract identified in subsection (k) of such section, shall be conducted under the au-

thority, and in accordance with the applicable provisions, of such section and not be subject to this Act.

SEC. 6. FOREST HEALTH REPORTS.

(a) ANNUAL REPORT.—(1) The Secretary of the Interior and the Secretary of Agriculture shall each prepare an Annual Forest Health Report which shall provide, for the Federal lands within the Secretary's jurisdiction,—

(A) identification of the total area of forest health emergency areas and forest health high risk areas designated pursuant to section 3 in each unit of the Federal lands during the previous fiscal year and the forest health conditions thereof;

(B) identification of areas which are not designated as forest health emergency areas or forest health high risk areas and which have adverse forest health conditions equal to or more severe than the designated areas, and a discussion of the reasons of the Secretary for not designating such areas as forest health emergency areas or forest health high risk areas pursuant to section 3;

(C) a summary of all forest health management activities undertaken in designated forest health emergency areas or forest health high risk areas in the previous fiscal year;

(D) a discussion of any significant delays encountered in the previous fiscal year and likely to occur in the present fiscal year in meeting the schedules established pursuant to section 3(c)(3) for initiating, accomplishing, and monitoring forest health management activities in designated forest health emergency areas or forest health high risk areas, the reasons for such delays, and any specific steps which the Secretary has directed to be taken to ensure timely adherence to the established schedules or any changes in such schedules which the Secretary has made;

(E) identification of any forest health emergency areas and forest health high risk areas which no longer require forest health management activities pursuant to this Act and from which the Secretary shall remove the emergency area of high risk area designations by publication of notice in the Federal Register no later than 60 days after submission of the report pursuant to paragraph (2).

(2) For the Forest Service the report required by paragraph (1) shall be completed and accompany the Annual Report of the Forest Service in the first fiscal year after the full fiscal year following the date of enactment of this Act and shall cover conditions and activities during the previous fiscal year. For the Bureau of Land Management, the report required by paragraph (1) shall be completed not later than April 1 of each year beginning in the first fiscal year after the full fiscal year following the date of enactment of this Act and shall cover conditions and activities during the previous fiscal year.

(b) FOUR YEAR REPORT.—(1) The Secretary of the Interior and the Secretary of Agriculture shall each prepare at the end of each period of four full fiscal years after the date of enactment of this Act a Comprehensive Forest Health Report to evaluate forest health conditions on the Federal lands within the Secretary's jurisdiction.

(2) Each report required by paragraph (1) shall provide, for the Federal lands within the Secretary's jurisdiction,—

(A) qualitative and quantitative data on forest health;

(B) an assessment of the factors generally responsible for forest health problems;

(C) the judgment of the Secretary on the status of and trend in forest health;

(D) maps generally disclosing the status of forest health;

(E) a summary of the estimated impacts, in terms of changed conditions or risks, resulting from forest health management activities undertaken pursuant to this Act;

(F) a report on the timeliness, effectiveness and cost of such forest health management activities; and

(G) a description of additional authorities, if any, needed to carry out the purposes of this Act.

(c) SUBMISSION OF REPORTS TO CONGRESS.—The Secretary of the Interior and the Secretary of Agriculture shall submit the reports required by this section to the Chairs and ranking members of the Energy and Natural Resources Committee and Agriculture, Nutrition, and Forestry Committee of the Senate and the Resources Committee and Agriculture Committee of the House of Representatives.

SEC. 7. BUDGET DISCLOSURES.

Begining with the fiscal budget for the first full fiscal year following the date of enactment of this Act, requests presented by the President to the Congress governing activities of the Bureau of Land Management, Fish and Wildlife Service, or Forest Service shall summarize the information and the current forest health situation

on Federal lands and report on costs incurred and revenues generated through forest health management activities conducted pursuant to this Act, and express in qualitative and quantitative terms the extent to which the projected activities under the budget fully achieve the purposes, and implement the provisions, of this Act. The revenues generated by forest health management activities conducted pursuant to this Act and not distributed to State or local governments pursuant to other law shall be displayed as offsetting Federal costs in current and future fiscal years.

SEC. 8. SPECIAL FUNDS.

(a) BUREAU OF LAND MANAGEMENT.—The Secretary of the Interior shall maintain a special fund established pursuant to Public Law 102–381, which shall be derived from the Federal share of moneys received from the disposal of salvage timber from all lands administered by the Bureau of Land Management, Department of the Interior, and which shall be available, without further appropriation, for the purpose of planning and preparing of salvage timber for disposal, the administration of salvage timber sales, and subsequent site preparation and reforestation, and forest health enhancement activities, including, but not limited to, prescribed burning (including natural ignition) or other fuel, site preparation, tree planting, protection of seedlings from animals and other environmental elements, release from competing vegetation, and stand thinning.

(b) FOREST SERVICE—All funds received from the disposal of salvage timber from lands within the National Forest System may be credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest, and for timber sales preparation to replace sales lost to fire or other causes, and sales preparation to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above, for watershed assessment activities, and for forest health enhancement activities, including, but not limited to, prescribed burning (including natural ignition) or other fuel management, site preparation, tree planting, protection of seedlings from animals and other environmental elements, release from competing vegetation, and stand thinning.

(c) PAYMENTS TO LOCAL GOVERNMENTS.—Moneys received from the disposal of salvage timber pursuant this section shall be considered as money received for purposes of computing and distributing payments to State or local governments under other law concerning the distribution of revenues derived from timber resources from the affected lands.

SEC. 9. ASSISTANCE TO OWNERS OF ADJACENT NONINDUSTRIAL PRIVATE FOREST LANDS.

[Language to be provided by counsel of the Committee on Agriculture, Nutrition, and Forestry.]

SEC. 10 FOREST HEALTH CREDITS IN TIMBER SALE.

(a) AUTHORITY TO ISSUE FOREST HEALTH CREDITS.—(1) The Secretary of agriculture and the Secretary of the Interior are each authorized to require, as a condition of the sale of timber or other forest products from the Federal lands under the Secretary's jurisdiction, that the purchaser undertake a forest health management activity or activities which—

(A) are selected and authorized pursuant to section 3; and

(B) address effects of the operation of the sale or past sales of timer or other forest products or involve vegetation management within the area of the sale or the area in which such efforts are located.

(2) A condition described in paragraph (1) may be included in a contract for the sale of timber or other forest products only when the Secretary determines that—

(A) the land management objectives of the forest health management activity or activities can be accomplished most efficiently when performed as part of the sale contract; and

(B) it is unlikely that the forest health management activity or activities would be performed except under the authority of this section.

(3) The term of any sale contract with a condition described in paragraph (4) shall not exceed 3 years.

(b) FINANCING AND SUPPLEMENTAL FUNDING.—(1) Financing of the forest health management activity or activities in a sale contract authorized by subsection (a) shall be accomplished by including provisions in the contract for amortization of the cost of such activity or activities through issuance of forest health credits to the purchaser which offset such cost against the purchaser's payment for the timber or other forest products.

(2) Appropriated funds may be used to assist the forest health management activity or activities in a sale contract authorized by subsection (a) if such funds are provided by the resource function or functions that directly benefit from the performance of the activity or activities. Such funds must be available from the annual appropriation of the benefited function or functions during the fiscal year in which the sale is offered. The amount to be paid for each health management activity shall be included in the prospectus and published in the advertisement, for the sale contract.

(c) DETERMINING FOREST HEALTH CREDITS.—Prior to the advertisement of a sale authorized by subsection (a), the Secretary concerned shall determine the amount of forest health credits to be allocated to each forest health management activity to be performed by the purchaser under the contract. A description of the forest health management activity to be performed by the purchaser under the contract. A description of the forest health management activity or activities to be performed by the purchaser, and amount of the forest health credits allocated to each activity, shall be included in the prospectus, and published in the advertisement, for the sale.

(d) TRANSFER OF FOREST HEALTH CREDITS.—Each Secretary may permit the transfer of unused forest health credits from one sale authorized by subsection (a) to another such sale held by the same purchaser if such other applies to Federal lands that are under the jurisdiction of such Secretary and located in the same state as the original sale.

(e) EXISTING PROCEDURES.—To the extend feasible, in preparing, awarding, and administering sales authorized by subsection (a), each Secretary shall adhere to the procedures and requirements developed by the Forest Service for timber sales requiring road construction by timber purchasers pursuant to section 4(2) of the National Forest Roads and Trails Act (16 U.S.C. 535(2)). Nothing in this section shall be deemed to require or authorize any alteration in the procedures or requirements for timber sales under such section 4(2) including the applicable provisions of the small business set-aside program and procedure for calculating payments to counties of a portion of timber sale receipts.

(f) TERMINATION OF AUTHORITY.—The authority to offer sales of timber and other forest products pursuant to this section shall terminate five years after the date of enactment of this Act. Any sale contract issued under the authority of subsection (a) and if effect at the end of such five year period shall remain in effect under its terms thereafter.

SEC. 11. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of enactment of this Act. No decision or action required or authorized by this Act shall be delayed pending promulgation of any regulation to implement this Act. Effective, January 1, 1997, the provisions of Sec. 2001 of the Emergency Supplemental Appropriations Act are repealed and, except as provided under Section 5(b) of this Act, any subsequent timber salvage sales on federal lands shall be carried out in accordance with the provisions of this Act and other applicable laws.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal 1997 through 2007 such sums as may be necessary to carry out the provisions of this Act.

2. Amend the title so as to read:

To authorize and direct the Secretaries of the Interior and Agriculture to undertake certain activities to halt and reverse the decline in forest health on Federal lands, and for other purposes.

PURPOSE OF THE MEASURE

The purpose of S. 391 as amended by the substitute is to authorize and direct the Secretaries of the Interior and Agriculture to undertake certain activities to halt and reverse the decline in forest health on federal lands, and for other purposes.

BACKGROUND AND NEED

The "Federal Lands Forest Health Protection and Restoration Act" recognizes the decline of forest health on Federal forest lands and the large backlog of salvage from trees that were burned in the last few severe fire seasons or are dead and dying from severe in-

sect infestations and disease. The bill provides authorization for appropriations for expedited preparation and implementation of forest health protection and restoration activities of federal lands for a 10-year period.

S. 391 as amended require the Secretaries of the Interior and Agriculture to identify forest health emergency areas and high risk areas on, and select and approve forest health management activities for, Forest Service and Bureau of Land Management lands, other than lands within: wilderness areas; roadless areas designated by Congress for study; or recommended by the land management agencies, for wilderness designation; and lands on which forest health management activities are prohibited by land management plans. "Forest health emergency areas" are defined as areas where more than 50% of the trees are dead or exhibiting physical evidence of imminent mortality. "Forest health high risk areas" are areas where the risk of insect infestation, disease, or wildfire has increase substantially and can be reduced or eliminated by forest health management activities. "Forest health management activities" econmpass a wide array of projects including reforestation, prescribed burning, insect and disease control, riparian zone and habitat improvement, water quality improvement, and thinning and salvage activities. The bill establishes the purpose of forest health management activities to be the restoration of forest health in the designated areas to a condition that supports land uses within the historic range of variability as identified by the applicable land management plan.

LEGISLATIVE HISTORY

The Senate Subcommittee on Forests and Public Land Management held a hearings on S. 391 as introduced on March 1, 1995 in Washington, D.C.

At a business meeting on June 19, 1996, the Committee on Energy and Natural Resources ordered S. 391 reported as an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on June 19, 1996 by a voice vote of a quorum present recommended that the Senate pass S. 391 as amended as described herein.

SECTION BY SECTION ANALYSIS

Section 2—Purpose and definition

The basic purpose of S. 391 is to provide the Federal land management agencies with an urgent mandate, and authority to adapt flexible and expedited decisionmaking procedures, to address the forest health problem. This section also provides definitions of affected, forest health management activities, and applicable land management plans. The bill applies to three categories of Federal lands: (1) lands managed by the Secretary of the Interior through the Bureau of Land Management (BLM); (2) lands in the National Forest System managed by the Secretary of Agriculture through

the Forest Service; and (3) lands within the Kenai National Wildlife Refuge in Alaska.

Section 3—Designation of areas and selection and authorization of activities

This section mandates, and provides authorization for appropriations for, expedited preparation and implementation of certain forest health protection and restoration activities on federal land during fiscal years 1997 through 2007.

Section 3(a) requires the Secretaries of the Interior and Agriculture to review, on at least an annual basis, the forest health conditions on the Federal lands. During the reviews, and at any other time between reviews when conditions warrant, or within 120 days of any wildfire which covers more than 500 acres, the Secretaries are directed both to designate specific areas of the Federal lands as forest health emergency areas or forest health high risk areas and to select and authorize forest health management activities to be undertaken in those areas. The designation of forest health emergency or high risk areas is made in consultation with the heads of the forestry agencies in the States in which the areas are located.

Section 3(b) provides that the criteria for designating a "forest health emergency area" are that more than 50 percent of the trees in the area must be dead or exhibiting physical evidence of imminent mortality, and that further environmental degradation from declining forest health can be reduced or eliminated by implementation of forest health management activities. A "forest health high risk area" is to be designated whenever alteration of the forest structure, function, or composition has increased substantially the risk of insect infestation, disease, or wildfire, and the risk can be reduced or eliminated by implementation of forest health management activities. Priority in designating forest health emergency and high risk areas is to be given to: (1) wildland/urban interface areas where human life and property are threatened by wildfire; and (2) areas where the need to reduce or eliminate environmental degradation from, or the risk of, insect infestation, disease, or wildfire is the greatest.

Section 3(c) provides a non-exclusive list of forest health management activities that may be authorized in forest health emergency and high risk areas, including thinning, salvage, stand improvement, reforestation, prescribed burning/fuels management, insect/disease control, riparian/habitat improvement, and soil stabilization or other water quality improvement activities. The activities should be designed to restore forest health to a condition sufficient to sustain and support the uses of the forest health emergency or high risk area within its historic range of variability as identified in the applicable land management plan. No forest health management activity should have the generation of revenues as its primary consideration. Whenever the selected activity contemplates removal of live trees, the BLM, Forest Service, or Fish and Wildlife Service must provide a statement of whether such removal is necessary to meet the bill's objectives.

Under the provisions of Section 3(d), at any time after the Secretaries have made their first year's review and area designations,

interested persons may petition for the designation of forest health emergency or high risk areas of 500 acres or more. The bill requires the Secretary who receives a petition to make a decision whether the petition in warranted within 45 days of the submission. If the Secretary finds a petition is warranted, he still may give a different designation to, or draw different boundaries for, an area than is requested in the petition. To ensure that the petition process does not become unwieldy or too contentious, the bill bars administrative appeals and judicial review of any finding that a petition is unwarranted or any designation of an area different than that proposed in the petition.

Section 4—Expedited procedures for the decision to designate an area and select and authorize activities

This section embodies the recognition that forest health-related decisions must be made swiftly. This is because dead and dying trees must be salvaged quickly before they deteriorate too greatly to have commercial value, and lands suffering severe forest health problems must be stabilized and replanted quickly before they suffer from erosion and other environmental damage.

Therefore, Section 4(a)–(c) mandates expedited procedures for making, and considering challenges to, the decisions to designate forest health emergency and high risk areas and to authorize forest health management activities. The expedited decision procedures are discussed in paragraph (a). Paragraph (b) summarizes the expedited procedures for considering administrative and judicial challenges to the decision. A 30-day public comment period is to be provided by a Federal Register notice of the proposed decision. The bill also authorizes a hearing on the proposed decision. Paragraph (c) mandates that the final decision must respond to the public comments received.

Section 4(d) establishes that the documentation required by the National Environmental Policy Act ("NEPA") on a decision to designate an emergency area must be completed within 120 days. Furthermore, the bill directs the two Secretaries to establish categorical exclusions from any NEPA requirements for certain activities in both forest health emergency areas and high risk areas based on the extent of merchantable wood products removed (250,000 board feet of green timber or 1,000,000 board feet of salvage), length of road constructed (one mile or less), and assurance of regeneration.

Consultation or conferencing on any area designation and activities decision with the Fish and Wildlife Service or National Marine Fisheries Service under the Endangered Species Act ("ESA") is to be triggered only if the Secretary concerned determines that the decision is likely to significantly and adversely affect a species (rather than the "may affect" standard currently applied by regulation). The FWS and NMFS are directed to give priority to conferencing and consultation for activities conducted under this Act.

Section 4(e) specifies that the decision to designate, and authorize activities for, a forest health emergency area is a final agency action not subject to administrative review; opponents can go immediately to court to challenge the decision. On the other hand, the decision to designate a forest health high risk area is subject to ad-

ministrative review. That review is governed by existing statutes and regulations, including, in the case of National Forest System lands, the procedures and deadlines established in the FY 1993 Interior and Related Agencies Appropriation Act (except that the Act's authority to extend, and the Forest Service rule's automatic extension of, the 30-day period for a final appeal decision for another 15 days does not apply to reviews of these decisions).

Section 4(f) specifies that any lawsuit challenging an area designation and activities authorization decision may be filed only in the U.S. District Court for the District in which the affected Federal lands are located and only within 45 days of the date of the final agency decision (or, if the lands involved are designated as a high risk area and an administrative review is taken, 30 days after the appeal decision). Any appeal of a district court decision also must be filed within 30 days.

Section 5—Excluded land and activities

Excepted from application of the bill are any lands which are located within: (1) any wilderness area in the National Wilderness Preservation system; (2) any area on which the specific forest health management activity is prohibited for any purpose by law or by a BLM or Forest Service land management plan; (3) any roadless area designated for wilderness study by Congress or recommended for wilderness designation by the BLM or Forest Service; and (4) any area in which implementation of a specific forest health management activity is prohibited by law, court order, or management plan. The bill also does not apply to salvage sales and other sales covered by section 2001 of the Fiscal Year 1995 Rescission Act (P.L. 104–19).

Section 6—Forest health reports

This section requires the two Secretaries to file separately with Congress annual reports evaluating forest health on the Federal lands.

Section 6(b) also requires each Secretary to prepare a more comprehensive report on forest health conditions on Federal lands at least every four years. Among other items, this report is to include the Secretary's evaluation of forest health status and trends and the effectiveness of forest health management activities undertaken pursuant to the Act. Each Secretary's 4-year report also must include an estimate of funding needs in future years and describe any additional statutory authority that might be needed to accomplish the purposes of the Act.

Section 7—Budget disclosures

This section requires the president's annual budget submission to Congress concerning BLM, Forest Service, and Fish and Wildlife Service activities to explain the extent to which the budget will fully achieve the purposes, and implement the provisions, of the bill. The budget submission must report on the revenues generated by forest health management activities conducted under the bill and display those revenues as offsetting federal costs in current and future fiscal years.

Section 8—Special funds

This section expands the uses that can be made of revenues from salvage sales deposited in the special funds established for the Forest Service and BLM to include forest health management activities.

Section 9—Assistance to owners of adjacent nonindustrial private forest lands

This section may be added during Agriculture Committee consideration of the bill.

Section 10—Forest health credits in timber sales

This section authorizes, on five years pilot basis, the Secretaries to require, as a condition of the sale of salvage-timber, that the purchaser undertakes forest health management activities. The cost of these activities will be credited against the cost of the timber.

Section 11—Effective date

This section makes clear that the bill is to be effective immediately upon enactment and implementation is not to await any rulemaking the Secretaries choose to conduct.

Section 12—Authorization of appropriations

Section 12 authorizes appropriations for eleven years—fiscal years 1997 through 2007.

COST AND REGULATORY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in implementing S. 391. The bill is not a regulatory measure in the sense of imposing government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

There are additional paperwork requirements for the Forest Service and the Bureau of Land Management.

EXECUTIVE COMMUNICATION

On March 15, 1996, Senator Murkowski requested the views of the Department of Agriculture and the Department of the Interior on a March 11, 1996 Staff Draft of S. 391. The responses follow:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, May 13, 1996.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of Agriculture (USDA) regarding in the proposed substitute to S. 391, a bill "to authorize and direct the Secretaries of the Interior and Agriculture to undertake certain activities to halt and reverse the decline in forest health on Federal lands, and for other purposes."

USDA opposes this draft substitute. While USDA strongly supports improving forest health, we believe the procedures in this draft substitute would undermine efforts in this area by: in certain instances, taking away the public's right and opportunity to question a Government agency's decision; detracting from the effective administration of the endangered Species Act; and establishing unacceptable new and costly administrative processes which would delay implementing on-the-ground forest health work.

1. PUBLIC PARTICIPATION IN THE DECISIONMAKING PROCESS

The bill requires USDA to designate and choose activities for areas identified as forest health emergency areas and high risk areas. While these prospective decisions are not exempt from National Environmental Policy Act (NEPA) documentation and a shortened public comment period, section 4(e)(1) exempts the final decisions involving emergency areas from appeal under the Forest Service's present administrative review procedures. Moreover, the public will not be able to question or appeal final decisions designating non-excluded roadless areas as forest health emergency areas. Finally, decisions on areas and activities which would qualify for categorical exclusion under section 4(d)(2) are not only exempt from NEPA review, but also from administrative appeal by the public.

USDA does not support the elimination of the public's right to appeal a Government agency's decisions, particularly with regard to the public's land. The elimination of this right will mean the public's only recourse will be through the court system. USDA believes that the people of this country should have access to our Government without first having to sue it.

For designating forest health emergency areas and activities within those areas, the bill only allows 120 days from the time of announcement in the Federal Register to the final decision. Within the 120 days, a 30-day public comment period is to occur as well. In cases where proposed areas and activities have significant impacts, 120 days may not allow for enough analysis and public input. Moreover, because no appeals are allowed for emergency areas and activities, more activities may go to court than if the bill provided the Forest Service discretion to grant more time for analysis and comment and provided the public an appeal process.

2. ADMINISTRATION OF THE ENDANGERED SPECIES ACT

I am also concerned about the new thresholds for section 7 Endangered Species Act (ESA) consultation that would be established in section 4(d)(3) of the draft substitute. Under section 4(d)(3) of the draft substitute, USDA would consult or confer with the appropriate agency under section 7 only when it determines that a proposed action is likely to "significantly and adversely" affect a proposed or listed species. Impacts to critical habitat would not trigger section 7 consultation. This changes current regulatory consultation requirements and would mean informal consultation would no longer be required on "may affect" determinations nor formal consultation on "likely to adversely affect" determinations (unless they were also significant). In many instances, activities such as grazing, mining, and recreation will occur within designated emergency and high risk areas where forest health activities are also underway. Applying different section 7 consultation standards to activities within the same area, as this draft substitute proposes, will lead to confusion, delays in project implementation, and, most likely, litigation.

3. ADDED PROCESS AND PAPERWORK

Given the Committee's criticism of the extensive forest planning and NEPA processes, I am surprised by the draft substitute's numerous new processes that would be layered on top of existing processes. In all, the Forest Service has identified at least four new processes: the annual identification and designation processes, the new Federal Register notice requirements, and the petition process.

The annual identification process of emergency and high risk area, layered on top of the existing forest planning process, adds to the complexity and cost of administering forest health activities on National Forest System lands with no discernible benefits. As the Department presently interprets the draft substitute, the designation and selection of all activities for areas would actually require more NEPA review than is presently the case. This runs counter to the goals of the Administration to streamline and expedite the NEPA process. The Forest Service presently notifies the public of proposed activities as part of its NEPA scoping process; therefore, the draft substitute's Federal Register notification process is unnecessary. The petition process of section 3(e), which allows any interested person to petition the Department to designate a specific area of land as a forest health emergency or high risk area, would result in numerous unwarranted petitions to which the Forest Service would have to respond in writing. Nothing now precludes private citizens from requesting the Forest Service to undertake forest health activities in certain areas. Therefore, this section simply adds unnecessary process and costs, and will divert personnel from undertaking on-the-ground forest health work.

In short, any time savings acquired by eliminating the appeals process for emergency and categorically excluded areas would certainly be lost, if not exceeded, by complying with these new procedural requirements. The current process, with appeals, would be far preferable than all of these additional layers which, in fact, would result in more delays in implementing forest health activi-

ties. The unnecessary added requirements would increase the cost and delay implementation of forest health activities and take personnel away from on-the-ground activities.

4. EXTENSION OF THE 1995 RESCISSIONS TIMBER RIDER

USDA strongly opposes the changes that would be made by section 5(b) of the substitute bill, as currently written, to section 2001 of P.L. 104–19 (timber rider to the Rescissions Act).

Timber sales authorized under the Rescissions Act (subsection (b) (salvage sales) and subsection (d) (Option 9 sales)) would continue under the authority of P.L. 104–19 if a decision on a sale was made before the expiration date of section 2001—December 31, 1996. Currently P.L. 104–19 continues salvage sales and Option 9 sales under the authority of the Rescissions Act only if the sale is offered before the expiration date. The language in the draft substitute would allow more sales to continue under the Rescissions Act after December 31, 1996, than under the present Rescissions Act. This is completely unacceptable to USDA.

5. FUNDING OF FOREST HEALTH ACTIVITIES

Although sections 8 and 10 attempt to provide flexibility to use a variety of funds and mechanisms to finance forest health projects, USDA does not believe these approaches are workable. Fluctuation in the timber salvage market leads to high variability in the timber sale receipts collected for salvage. Therefore, USDA could not rely on a set level of receipts to be used for forest health projects and could not know with certainty which activities would be covered from funds available.

Increased expenditures for forest health activities and green timber sale preparation without a concurrent increase in revenues would result in a decrease of funds in the Salvage Sale Fund that could reduce USDA's capability to maintain the salvage sale program or its ability to deposit residual receipts to the National Forest Fund. These factors—unpredictable levels of receipts and increased expenditures to finance forest health projects—would lead to insufficient cash in the National Forest Fund to make payments to States and are also subject to "pay-as-you-go" scoring.

6. REPORTING REQUIREMENTS

The reporting requirements in sections 6 and 7 would also increase costs. These requirements are burdensome and, in some cases, duplicate information provided in other Forest Service reports including the explanatory notes for the President's Budget submittals. I recognize and support the importance of monitoring the condition of the National Forests and the need to keep the Congress informed on this important issue, but believe this can be done in a more cost efficient way that does not duplicate current efforts.

Notwithstanding our concerns, we welcome the opportunity to work with the committee to achieve our mutual goal of improving forest health in this country.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAN GLICKMAN, *Secretary.*

THE SECRETARY OF THE INTERIOR,
Washington, DC, April 24, 1996.

Hon. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand the Committee on Energy and Natural Resources plans to mark up S. 391, the Federal Lands Forest Health Protection and Restoration Act, at the Committee's meeting on April 24, 1996. The revised version of S. 391 would set in place a 10-year authorization for expedited salvage and certain green sale after the expiration of the Rescissions Act. Although the Bureau of Land Management testified in support of some of the provisions of S. 391 at the Committee's March 1, 1995, hearing, we believe the revised bill's emphasis on new bureaucratic processes will impede the Department's effort to improve forest health on the public lands. The Department therefore opposes passage of S. 391.

S. 391 CREATES AN ADDITIONAL, DUPLICATIVE BUREAUCRATIC PROCESS

S. 391 proposes to accomplish its goals by establishing an additional, duplicative bureaucratic process at the Secretarial level that goes directly against the Administration's ongoing efforts to simplify government and to reduce unnecessary regulations and "red tape." These new procedural layers will create a costly, burdensome proliferation of reports and paperwork. S. 391 would require the land management agencies to devote tremendous amounts of time and resources to compliance with the newly-created bureaucratic processes rather than to accomplishment of on-the-ground health activities.

S. 391 requires agencies to comply with six specified land management planning procedures, even though the procedures are similar to those already required under the Federal Land Policy and Management Act (FLPMA). For example, S. 391's requirement that the Secretary consult with the head of a State forestry department duplicates existing law under FLPMA. BLM's planning regulations already require that State officials be given the same comment periods as the public, and provide a process to follow if a Governor's review points out inconsistencies with State or local plans.

In addition, S. 391 would establish a new open petition process requiring the Secretaries to accept, consider, and render decisions within 45 days on all petitions received from the public (including industry) to designate a particular forest area as in need of forest health treatments. When such petitions are added to the designations the Secretaries are required to make in the case of wildfires over 500 acres, it is conceivable that nationally, hundreds or even thousands of such areas would be designated annually. Acting on these petitions will be extremely costly, will require a tremendous

commitment of staff and resources, and will impede agencies' efforts to focus on areas of utmost importance.

S. 391 WOULD EFFECTIVELY END THE SUCCESSFUL EARLY-STAGE INTERAGENCY CONSULTATION PROCESS

The Department had elevated forest health and salvage issues to a high priority even before enactment of Sec. 2001, the "Emergency Salvage Timber Sale" provisions of P.L. 104–19. The BLM, the U.S. Fish and Wildlife Service (FWS), the Forest Service, the National Marine Fisheries Service (NMFS), and the Environmental Protection Agency developed a streamlined process for consultation under section 7 of the Endangered Species Act that is currently working very successfully for salvage timber sales. Yet, instead of recognizing and building on the success of this early-stage consultation process, S. 391 would effectively end consultations unless the proposed action meets a new, ambiguous standard, as discussed below. Also, by moving consultations to the end of the designation process, S. 391 effectively eliminates the FWS and NMFS from their traditional role in determining whether an action is likely to adversely affect a proposed or listed species, or destroy or adversely modify critical habitat.

S. 391 DOES NOT REQUIRE COMPLIANCE WITH ENVIRONMENTAL LAWS

S. 391 requires consultation under the Endangered Species Act only if the Secretary "determines that such decision is likely to significantly and adversely affect a species determined or proposed to be an endangered species or a threatened species." This is a new standard and it is not defined in this bill or in statute. If this language is not dropped or revised, the ambiguities are likely to end up being resolved in court.

S. 391 also waives the application of the National Environmental Policy Act (NEPA) to numerous decisions and activities. Sec. 4 of the bill requires the Secretary to review NEPA documentation and to update it every three years if necessary. In a change to the current laws, the language does not require the BLM to half or alter projects that are underway during the NEPA review and updating process, and it does not allow a court to force the BLM to halt or alter a project during this process. The Department opposes S. 391's mandate to continue projects during the review process even if new evidence suggests that the projects are potentially harmful to the environment.

Finally, the Kenai National Wildlife Refuge in Alaska should not be included for forest health management activities under this bill. National Wildlife Refuge System lands are managed, first and foremost, for fish and wildlife, rather than to support or sustain commercial uses, such as timber harvesting. Such activities are allowable only when they are compatible with the refuge purpose.

The Department remains strongly committed to the goal of enhancing forest health on the public lands. Congress provided the BLM with the Forest Ecosystem Health and Recovery Fund as part of P.L. 102–381, the Department of the Interior and Related Agencies Appropriation Act of 1993. The Federal share of receipts from salvage timber is deposited into the Fund for planning and offering other salvage sales and for reforestation of salvaged areas. This

Fund enables the BLM to aggressively attack timber salvage and to accomplish associated reforestation activities. However, the Fund is very specific about how we can spend the money, and does not allow preventative measures such as thinnings, underburning or other treatments that can help maintain or improve the vigor of the forest. The BLM is examining the issue and looking at options for the possible expansion of the Fund's authority. We are ready to work with you to develop legislation that will both permit agencies to move ahead and on-the-ground forest health activities and avoid creation of a costly, burdensome, new bureaucratic process.

Sincerely,

BRUCE BABBITT.

ADDITIONAL VIEWS OF SENATOR BRADLEY

As the Ranking Democratic Member on the Subcommittee on Forests and Public Land Management, I have been interested in the forest health issue for some time. Several months ago, Senator Craig and I agreed to begin negotiations to see if some common ground could be found on this very contentious issue. We have undertaken those negotiations in good faith and have made considerable progress. We have been joined in our efforts by a number of our colleagues on both sides of the aisle, both on and off the Committee. If we are able to reach a consensus among such a diverse and bi-partisan group, I am optimistic that a bill can be enacted this year.

However, we have not yet reached a consensus, and I cannot support the bill as reported from the Committee. In my view, the version of the forest health legislation reported from the Committee is too expansive and would allow salvage timber sales in roadless and other sensitive areas; it weakens or overrides important environmental safeguards and procedures; and would limit the ability of the public to appeal important decisions of the Forest Service. Additionally, and most importantly in my opinion, the bill reported from the Committee does nothing to curb the harvesting of our nation's old growth forest reserves brought about as a result of the so-called "salvage rider" enacted as part of last year's rescissions bill. I have consistently stated that before we enact permanent forest health legislation, we need to ensure that the effects of this ill conceived appropriation's rider are minimized. I am hopeful that our negotiations will be successful. If they are not, however, I will strongly oppose S. 391 should it come before the Senate.

BILL BRADLEY.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act, S. 391 as reported.

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