



Report to the Chairman, Committee on  
Energy and Natural Resources, U.S.  
Senate

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February 1997

# EMERGENCY SALVAGE SALE PROGRAM

Forest Service Met Its  
Target, but More Timber  
Could Have Been Offered  
for Sale



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United States  
General Accounting Office  
Washington, D.C. 20548

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**Resources, Community, and  
Economic Development Division**

B-275987

February 24, 1997

Frank H. Murkowski  
Chairman, Committee on Energy and  
Natural Resources  
United States Senate

Dear Mr. Chairman:

In July 1995, the Congress established the emergency salvage timber sale program.<sup>1</sup> The program, commonly referred to as the salvage rider, was intended to increase the amount of salvage timber offered for sale and sold by instituting an expedited sale process that, among other things, eased environmental procedures, eliminated the administrative appeals process, and expedited judicial reviews. You expressed concern about how well the rider has worked because the Committee may consider either renewing the salvage rider, which expired on December 31, 1996, or including the provisions of the rider in a proposed forest health bill.

As agreed with your office, we (1) compared the volume of salvage timber offered by the Forest Service under the salvage rider from fiscal year 1995 through December 1996 with the volume that it had planned to offer for the same period prior to passage of the rider, and determined the effect of the Secretary of Agriculture's July 2, 1996, memorandum, which placed more restrictions on salvage sales; (2) determined whether four specific provisions of the salvage rider helped the Forest Service to offer salvage timber for sale more timely; and (3) determined if certain salvage sales that were of concern to environmental organizations met the definition of salvage timber as specified in the salvage rider and Forest Service's guidelines.

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## Results in Brief

Under the emergency salvage program, the Forest Service offered for sale a total of 4.6 billion board feet of salvage timber, which was 1.2 billion board feet more than the Forest Service had planned to offer before the rider. The total volume offered under the rider was about 2 percent more than the target of 4.5 billion board feet specified in the Secretary of Agriculture's June 29, 1995, letter to the Speaker of the House of

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<sup>1</sup>This program was part of the Title II, Emergency 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 of 1995 (P.L. 104-19, July 27, 1995). The act also relates to the Bureau of Land Management's salvage sales; however, our work was limited to those sales by the Forest Service.

Representatives. However, the volume of salvage timber offered for sale under the salvage rider could have been significantly greater. For example, on July 2, 1996, the Secretary of Agriculture placed more restrictions on the criteria to classify sales as salvage sales under the rider, which resulted in the delay of 224 sales containing 722 million board feet that the Forest Service had planned to offer for sale. In addition, on December 13, 1996, the Department of Agriculture's Under Secretary for Natural Resources and Environment directed the Forest Service not to advertise any salvage sales under the rider after that date. This resulted in delaying 27 additional sales involving 29.7 million board feet.

Four selected provisions of the rider—eliminating the administrative appeals process, expediting judicial reviews, combining environmental documents, and hiring retired employees and contractors—had little effect on either expediting the preparation and award of salvage sales or increasing the volume of the salvage timber offered for sale for the four forests we visited. Two of the provisions—eliminating the appeals process and expediting judicial review—were of little help because, traditionally, the Forest Service experiences few appeals or legal challenges when selling salvage timber. The rider required that for each salvage sale, the national forest shall prepare a document that combines an environmental assessment and a biological evaluation. This provision was implemented by simply attaching the documents together. Forest service officials believed that by continuing to prepare separate documents, they could plan and prepare their salvage sales faster and that combining the two documents resulted in an excessive amount of detailed information that was not needed for the decision-making activities pertaining to the forests' salvage sales. Finally, at the four forests visited, only one retired employee was rehired and a few contractors were used. Nationwide, 10 retired employees were rehired; no statistics are available on how many contractors were used.

We reviewed 14 salvage sales for which the Forest Service had received complaints from environmental organizations that the sales contained excessive volumes of green timber—live and healthy trees—and thus did not comply with the definition of a salvage sale under the salvage rider. Our analysis of the contract files for all of the 14 salvage sales showed that they contained sufficient documentation to support the Forest Service's conclusions that these sales met the salvage rider's definition of a salvage sale and the Forest Service's guidelines for implementing the rider. However, the Forest Service delayed offering 6 of the 14 timber sales until after the salvage rider had expired because of the more restrictive

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eligibility criteria for salvage sales set forth in the Secretary of Agriculture's July 2, 1996, memorandum.

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## Background

The Forest Service, within the U.S. Department of Agriculture, manages the 192 million-acre national forest system with its 155 national forests. During the past 12 years, such phenomena as insect infestations, droughts, and wildfires have increased on the national forest system's lands—particularly for western national forests—which have been altered over several decades by timber-harvesting practices and the control of wildfires. In 1996, for example, almost 50,000 wildfires on national forest lands burned over 1.1 million acres. The aforementioned phenomena have contributed to the amount of salvage timber on the national forest system's lands.

Since fiscal year 1977, the Forest Service has annually offered for sale about 1.6 billion board feet of salvage timber. Over this same 20-year period, however, the range of salvage timber offered varied from a low of 762 million board feet in fiscal year 1977, when the Forest Service first funded salvage sales, to a high of almost 2.9 billion board feet in fiscal year 1990 (see app. I). However, notwithstanding these efforts over the last 20 years, the Forest Service estimates that the national forests still contain about 13 billion board feet of salvage timber. While some of the salvage timber is inaccessible or too deteriorated to be of commercial value, much of it is marketable. Selling such timber can lessen the danger from future fires, improve the health of forests, and provide mills with a supply of timber. However, time is critical when selling salvage timber because it can deteriorate rapidly, thus making the harvest of such timber economically unfeasible.

To reduce the amount of salvage timber on national forest lands, the Congress established the emergency salvage program—referred to as the salvage rider—as part of the rescissions act of July 27, 1995. The salvage rider contained a number of provisions that were intended to increase the volume of salvage timber that the Forest Service offered for sale during the emergency period—July 27, 1995, to December 31, 1996. To increase the volume of salvage timber offered, the provisions in the salvage rider, among other things, exempted salvage sales from administrative appeals, limited the time available for the judicial review of salvage sales, eased the environmental procedures for planning and preparing salvage sales, and allowed rehiring retired employees without penalty. The salvage rider, which expired on December 31, 1996, also required the Secretary of

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Agriculture to provide congressional committees with periodic progress reports.

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## Projected Salvage Volumes Were Achieved, but More Could Have Been Offered for Sale

For fiscal years 1995 and 1996 and the first quarter of fiscal 1997, the Forest Service offered for sale a total of 4.6 billion board feet of salvage timber, which was 1.2 billion board feet above the programmed levels for this period before the salvage rider.<sup>2</sup> In addition, the total volume offered was about 2 percent more than the projected target of 4.5 billion board feet specified in the Secretary of Agriculture's June 29, 1995, letter to the Speaker of the House. However, significantly greater volumes could have been offered because the Forest Service, at the Department of Agriculture's direction, delayed 251 salvage sales involving about 752 million board feet that the Forest Service had planned to offer for sale under the emergency salvage program.

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## Salvage Volumes Offered Under the Rider Exceeded Prior Program Levels

In enacting the emergency salvage program, the Congress did not establish a specific level of increased salvage offerings that would achieve the purposes of the legislation. However, the Congress indicated that the Secretary of Agriculture was to achieve, to the maximum extent feasible, a sale volume of salvage timber above the previously programmed levels to reduce the backlogged volume of salvage timber.

By letter dated June 29, 1995, the Secretary of Agriculture advised the Speaker of the House that the Forest Service projected that its target was to offer about 4.5 billion board feet of salvage timber, plus or minus 25 percent, for sale under the emergency salvage program in fiscal years 1995, 1996, and the first quarter of fiscal year 1997.<sup>3</sup> The Secretary said that the actual amount offered would depend on resource conditions, markets, and changes in resource capability. As can be seen from table 1, the Forest

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<sup>2</sup>The Forest Service traditionally uses the term "offered" to reflect those sales formally advertised for sale rather than the definition in contract law that a timber sale is considered offered only when the Forest Service receives bids on the advertised timber. The Forest Service, in its required reports to the Congress under the rider, as well as in its requests for appropriations, used the traditional definition of offered. Therefore, because the Forest Service developed its initial targets using this definition, it seems to be a reasonable measure of achievement under the rider, and we are also using it throughout this report.

<sup>3</sup>It should be noted that this initial projection and the subsequent reports to the Congress dealing with the volumes of salvage timber offered used time periods different from the "emergency period" cited in the legislation. We could not reconcile this difference because the Forest Service did not maintain information on the volumes planned for sale during August and September 1995—the first 2 months of the emergency period. Therefore, we elected to use the same period used by the Forest Service in its reports to the Congress under the salvage rider—fiscal years 1995 and 1996 and the first quarter of fiscal 1997.

Service offered 1.2 billion board feet more than the amount that had been programmed before the salvage rider.

**Table 1: Original Planned Target and Actual Salvage Timber Volumes Offered in Fiscal Years 1995 and 1996 and the First Quarter of Fiscal 1997**

| Board feet in millions                |             |       |                   |       |
|---------------------------------------|-------------|-------|-------------------|-------|
|                                       | Fiscal year |       |                   | Total |
|                                       | 1995        | 1996  | 1997 <sup>a</sup> |       |
| Original planned target               | 1,587       | 1,449 | 357 <sup>b</sup>  | 3,393 |
| Actual volume offered                 | 1,852       | 1,936 | 818               | 4,606 |
| Increase over original planned target | 265         | 487   | 461               | 1,213 |

<sup>a</sup>First quarter of the fiscal year.

<sup>b</sup>The Forest Service did not have quarterly records on planned salvage volumes. Therefore, we used 25 percent of the planned annual volume.

In the Department's first and second required reports, the Secretary of Agriculture informed the Congress on September 1, 1995, and February 29, 1996, that the Forest Service intended to offer 4.5 billion board feet of salvage timber for sale, or an increase of about 1.1 billion board feet over the planned level of about 3.4 billion board feet. However, the Secretary emphasized that this target was an estimate and that final volumes could vary as much as plus or minus 25 percent—that is, from 3.4 billion to 5.6 billion board feet. As can be seen in table 2, the Forest Service exceeded the target specified by the Secretary of Agriculture.

**Table 2: Initial Target and Actual Salvage Timber Volumes Offered in Fiscal Years 1995 and 1996 and the First Quarter of Fiscal 1997**

| Board feet in millions                   |             |       |                   |                    |
|--|-------------|-------|-------------------|--------------------|
|  | Fiscal year |       |                   | Total              |
|  | 1995        | 1996  | 1997 <sup>a</sup> |                    |
| Initial target under the salvage rider   | 1,714       | 2,065 | 683               | 4,462              |
| Actual volume offered                    | 1,852       | 1,936 | 818               | 4,606 <sup>b</sup> |
| Increase or decrease over initial target | 138         | (129) | 135               | 144                |

<sup>a</sup>First quarter of the fiscal year.

<sup>b</sup>The total volume actually sold was less than the total volume offered for sale because about 265 million board feet that has been offered had not been awarded to the high bidder by December 31, 1996, and will be awarded in the second quarter of fiscal 1997, and about 470 million board feet received no bids due to deterioration of the timber and a reduction in the chip market.

Because the Forest Service does not maintain an inventory of salvage timber, we were unable to determine the extent to which the Forest Service's salvage timber sales during the emergency period had actually reduced the estimated 13 billion board feet of salvage timber capable of being harvested from the national forests.<sup>4</sup> The Forest Service does not know whether the volume of available salvage timber increased or decreased during the emergency period, because additional insect and fire damage continued to destroy green timber, while other timber was being lost to deterioration. The Forest Service does not know whether the current estimate of salvage timber capable of being harvested is more or less than the 13 billion board feet estimated at the time of the legislation.

## Department of Agriculture's Actions Delayed the Sale of Significant Volumes of Salvage Timber

The Secretary of Agriculture's July 2, 1996, memorandum to the Forest Service provided revised direction for the emergency salvage sale program.<sup>5</sup> According to the memorandum, the Secretary wanted to ensure that, pursuant to the President's direction, the sales prepared under the program (1) met the same environmental standards that they would have if they were prepared absent the enabling legislation and (2) would withstand normal review and appeal. The Secretary prescribed the criteria for all proposed sales for which bids had not yet been opened but allowed the sales not meeting these criteria to be prepared under authorities other than the emergency salvage program.<sup>6</sup>

In accordance with these more stringent criteria, the Forest Service reviewed its proposed salvage offerings and identified a total of 224 salvage sales, with an associated volume of 722 million board feet, that did not qualify for emergency sale status under the program. According to

<sup>4</sup>The Forest Service estimated that a volume of 13 billion board feet of salvage timber was capable of being harvested as of April 1995. According to Forest Service officials, the volume of 13 billion board feet does not meet the substantive requirements of all of the applicable environmental laws, forest plan standards and guidelines, or Endangered Species Act consultations. Furthermore, these officials said that if all of these requirements were applied, the available volume estimated by the agency would be about 5 billion board feet.

<sup>5</sup>On September 16, 1996, we issued a legal opinion (B-274505) to the Chairman, Subcommittee on Forests and Public Lands Management, Senate Committee on Energy and Natural Resources. We stated that the Secretary's memorandum constituted a "rule" as defined in 5 U.S.C. 804(3). As a consequence, the Secretary of Agriculture was required by 5 U.S.C. 801 (a)(1)(A) to submit a report to both the House and the Senate and to us in order for the rule to become effective. The Secretary of Agriculture disagreed with the GAO opinion and thus did not file the required report with either the Congress or us.

<sup>6</sup>The criteria were supplemented by the Department of Agriculture's Under Secretary for Natural Resources and Environment's October 18, 1996, memorandum to the Chief of the Forest Service, which stated that the presence of mistletoe—a slow-moving parasite that rarely kills trees—should not be considered an emergency unless the mistletoe threatens to change the structure of the timber stand within 3 years.



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Forest Service officials, these sales were delayed until after the salvage rider expired on December 31, 1996. Appendix II shows, by national forest, the number of sales, associated volumes, and reason why the sales were delayed as a result of the Secretary's July 2, 1996, memorandum.

The third required report to the Congress, dated August 30, 1996, reflected the more stringent criteria in the Secretary's memorandum. The projected volume of salvage timber to be offered was reduced from 4.5 billion to 3.8 billion board feet, which the report said was within the 4.5-billion board foot (plus or minus 25 percent) target in the Secretary's letter to the Speaker of the House.

On December 6, 1996, the Department of Agriculture's Under Secretary for Natural Resources and Environment issued a memorandum to the Forest Service that provided the results of the Department's review of the deferred sales submitted for exemption from the Secretary's July memorandum by Members of Congress or the public. In total, the Under Secretary exempted 10 sales from the Secretary's memorandum and allowed these sales to proceed. Eight of the 10 sales, comprising a total volume of 6.93 million board feet, were offered before the expiration of the rider on December 31, 1996. According to Forest Service officials, the remaining two sales, comprising a total volume of 0.6 million board feet, were not offered because there was not sufficient time to prepare the sales.

Finally, on December 13, 1996, the Under Secretary issued a second memorandum to the Forest Service that provided the final direction for the remainder of the emergency salvage program. The Under Secretary stated that the Forest Service should begin a steady transition to the expiration of the salvage rider and the return to full public participation in and legal review of the sale of salvage timber. He further stated that "[t]o reenforce the Department's commitment to implement the salvage rider in an evenhanded manner according to established time periods and procedures, the Forest Service should withhold all further advertisements" of salvage sales under the rider effective at the close of business on December 13, 1996. As a result, the Forest Service delayed an additional 27 sales with a volume of 29.7 million board feet. Appendix III shows, by Forest Service region, the number of sales and associated volumes affected.

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## Selected Provisions of the Salvage Rider Had Little Effect on Timber Volumes

The salvage rider contained numerous provisions designed to help the Forest Service expedite the preparation and award of salvage sales, thus increasing the volume of salvage timber offered for sale. We examined the Forest Service's implementation of and the effect of four of these provisions dealing with the elimination of the appeals process, expedited judicial review, preparation of combined environmental documents, and use of retired Forest Service employees and contractors at four national forests located in four different Forest Service regions. As discussed below, however, we found that at each of the forests we visited, the four provisions had little effect on expediting the sales or increasing the volume of the salvage timber offered for sale.

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## Elimination of Appeals Had Little Effect Because Salvage Sales Traditionally Experience Few Appeals

The salvage rider exempted the salvage timber sales from the Forest Service's normal appeal regulations and exempted the salvage sales from the automatic 45-day stay during which an appeal could be filed after the issuance of a decision by the Forest Service to offer timber for sale. Before the salvage rider went into effect, the amount of time required for an appeal to be filed and resolved could have delayed a timber sale by as much as 105 days.

Exempting the salvage sales from appeal had little effect on the number of sales or the actual volume of salvage timber offered for sale because few salvage sales had been appealed in the past. For example, in fiscal year 1994, of the 3,699 salvage sales offered for sale nationwide, only 53, or 1.4 percent, were appealed.<sup>7,8</sup> Of the 47 salvage sales offered in fiscal year 1994 at the four forests we visited, only 5 sales were appealed. However, according to Forest Service officials, the salvage sales offered under the emergency program were more controversial than prior salvage sales and therefore may have been appealed more frequently had the right to appeal been permitted.

Of the five appealed salvage sales at the four forests we visited, the Forest Service dismissed two—the first because the appeal did not contain the proper information and the second because an emergency condition existed and, as a result, the regional forester exempted it from appeal. Of the three remaining appealed salvage sales, the appellants withdrew their

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<sup>7</sup>Fiscal year 1994 was the last complete fiscal year before the enactment of the salvage rider, and hence was the last fiscal year that portrayed the conditions before the rider.

<sup>8</sup>These figures do not include salvage permits. In fiscal year 1994, the Forest Service did not distinguish between green and salvage permits; however, most permits, such as personal firewood permits, are for relatively low volumes.

appeal of two of the sales because the issues in the appeal were either adequately covered or mitigated by the Forest Service subsequent to the filing of the appeals. For the final appealed salvage sale, the Forest Service's reviewing officer affirmed the district ranger's decision that this sale conformed to the applicable laws and regulations and thus denied the appeal.

Although our analysis indicated that the salvage rider provision exempting salvage sales from appeal had little effect on the number of sales or the volume of salvage timber offered for sale under the emergency salvage program, officials from three of the four national forests we visited told us that the provision should be made a permanent part of the Forest Service's policies and guidelines because it has the potential to expedite the efforts at the national forests to offer salvage timber for sale after the expiration of the salvage rider. For example, officials at the Clearwater National Forest said that exempting salvage sales from appeal could speed up the forest's preparation for a salvage timber sale in two ways. First, the time between making the decision to proceed with a salvage sale and offering the sale would be reduced. Second, the salvage sale would not be submitted to a rigorous appeals resolution process that requires that national forest staff respond to comments, prepare transmittal letters, coordinate with forest management, and meet with the appellant.

On the other hand, officials from three of the four national forests said they found the appeals process to be beneficial to them in that it provided them with a forum for resolving environmental issues, thereby reducing the potential for legal challenges and costly delays in awarding the salvage sales.

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## Few Legal Challenges Made to Salvage Sales

The salvage rider provided an expedited judicial review process for those salvage sales for which legal challenges were received. The provision contained a number of elements for expediting the judicial review process, including the following: (1) salvage sales shall be subject to review only in the United States district court for the district in which the federal lands are located, (2) any challenge to salvage sales must be filed in the district court within 15 days after the date of the initial advertisement of the challenged sale, and (3) the district court shall render its final decision relative to any challenge within 45 days from the date that such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirement of the United States Constitution.

Our review showed that the 45-day time limit provision of the expedited judicial review process had minimal effect on the number of sales or volume of salvage timber offered for sale under the emergency salvage program because few legal challenges were brought against salvage sales offered for sale in fiscal year 1996. Of the 11,435 salvage sales nationwide, only 16, or 0.1 percent, had legal challenges. In 13 of the 16 challenges, however, the court did not render its decision within the 45-day requirement specified in the salvage rider.

The Department of Agriculture's Office of General Counsel was unable to provide us with the number of legal challenges attributable to salvage sales for fiscal years 1994 or 1995 because its statistics for those years do not distinguish between salvage and green sales; therefore, we were unable to determine whether the number of law suits increased or decreased. However, none of the four forests we visited had any legal challenges in fiscal years 1994 or 1995, nor did three of the four forests have legal challenges during fiscal year 1996. Of the 49 salvage sales offered by the four forests in fiscal year 1996, only 4 sales had legal challenges. Three of the four sales were at the Payette National Forest. The remaining sale was on both the Payette and the Boise National Forest. The Boise National Forest assumed the responsibility for resolving the legal challenge on this sale.

The district court judge reviewing the legal challenges upheld the Forest Service's salvage sale decisions on each of the four salvage sales. However, the judge exceeded the 45-day resolution period set forth in the salvage rider for three of the challenges.

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## Environmental Documents Were Not Combined

The salvage rider required that for each salvage sale, the national forests shall prepare a document that combines an environmental assessment required by the National Environmental Policy Act of 1969 and the biological evaluation required by the Endangered Species Act of 1973. This provision was intended to reduce the amount of time needed to prepare separate documents and thus expedite the preparation of salvage timber to be offered for sale under the emergency salvage program. The rider also allowed the Forest Service to use existing data prepared before the rider's enactment to avoid preparing new documentation.

None of the four national forests we visited prepared a single document that combined the environmental assessment and biological evaluation. However, the forests continued to prepare separate documents and then

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combined them with a staple or clip. Officials from the four national forests said that preparing separate environmental assessments and biological evaluations was more efficient because it required less work, saved time, and resulted in less information to read and comprehend. In addition, Payette National Forest officials said that by keeping the environmental assessments and biological evaluations separate, they could plan and prepare their salvage sales faster. In fact, officials from the Fish and Wildlife Service, one of the regulatory agencies that assesses the environmental impacts of salvage sales, told Payette National Forest officials that they preferred separate documents. Forest Service officials said that combining the two documents resulted in an excessive amount of detailed information that was not needed for the decision-making activities associated with national forest salvage sales.

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### Hiring of Former Employees Was Limited, and Some Private Contractors Were Used

The salvage rider provided that the Forest Service could (1) hire former employees who had received a voluntary separation incentive (buyout) without requiring the repayment of the incentive payment and (2) hire private contractors to help expedite the sale of salvage timber. Since 1992, the Forest Service made a concerted effort to reduce its work force because of the drastic reduction in the volume of green timber that was to be offered for sale. As a result, a significant number of employees with the skills needed to plan and prepare timber sales left the Forest Service. Consequently, when the salvage rider was enacted, the Forest Service needed people with the specialized skills to plan and prepare the environmental documents and contracts for the sale, mark the salvage timber to be sold, lay out the roads to the harvest sites, and administer the sales contracts.

In a memorandum to the regional foresters, a headquarters official stated that between 300 and 350 former staff who had the specialized skills to plan and prepare salvage sales would be needed to implement the emergency salvage program but that it would be unlikely to find contract personnel with the required skills as quickly as needed. In response, national forest officials identified the number of skilled people needed to plan and prepare their salvage sales and surveyed retired Forest Service employees to determine their interest in returning to Forest Service employment. However, the response from retired employees was generally negative because they did not want to return to work or had taken other employment. Nationwide, only a total of 10 former employees were hired.

At the four forests we visited, only one former employee was hired—at the Stanislaus National Forest. Three of the four forests hired a total of seven private contractors—four at the Stanislaus, two at the Clearwater, and one at the Deschutes. The Forest Service did not have information on the number of private contractors used to help plan, prepare, and offer the salvage sales nationwide.

Officials from two of the three national forests that had hired private contractors told us that the use of contractors helped their forests to expedite the sale of salvage timber under the emergency salvage program. The officials said that the use of contractors permitted Forest Service employees to perform other duties and accomplish other tasks and that the contractors filled skill positions for which the forests had limited in-house expertise. According to these officials, the contractors performed such tasks as preparing fuel treatment plans, marking and measuring salvage timber sale units, and helping prepare environmental assessment documents and cultural resource studies. Officials from the Stanislaus National Forest were so pleased with the quality of work done by their contractors that they planned to continue using private contractors to help plan and prepare salvage sales after the salvage rider expired.

## Forest Service Had Adequate Documentation on Salvage Sales to Justify Decisions

At three of the forests we visited, we reviewed 14 salvage sales for which the Forest Service had received complaints from environmental organizations that the salvage sales contained excessive volumes of green timber and therefore did not comply with the definition of salvage sales under the salvage rider. These organizations were concerned that because of the definition's breadth, the Forest Service had offered for sale large volumes of green timber in some salvage sales.

According to the salvage rider and the Forest Service's guidelines for implementing the rider,<sup>9</sup>

"The term 'salvage timber sale' means a timber sale for which an important reason for entry includes the removal of disease- or insect-infested trees, dead, damaged or down trees, or trees affected by fire or imminently susceptible to fire or insect attack. Such term also includes the removal of

<sup>9</sup>The definition of "salvage" used to implement the rider is different from the definition used by the Forest Service in its manuals that existed before the salvage rider was enacted. The rider expanded the Forest Service's definition to include trees that are imminently susceptible to fire and imminently susceptible to insect attack. According to the Department of Agriculture, some of the sales that met the rider's legislative definition did not meet the Forest Service Manual's definition of salvage. The Forest Service, however, revised the manual's definition of salvage in February 1996 to include trees that are imminently susceptible to insect attack.

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associated trees or trees lacking the characteristics of a healthy and viable ecosystem for the purpose of ecosystem improvement or rehabilitation, except that any such sale must include an identifiable salvage component of trees described in the first sentence.”

The four forests we visited had established procedures for determining when timber sales qualified as salvage sales. The files for all 14 salvage sales that we reviewed contained documentation supporting the Forest Service’s conclusion that these sales met the definition. We also found that as a result of the Secretary of Agriculture’s July 1996 memorandum, 6 of the 14 salvage sales had been delayed until after the salvage rider expired.

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## Salvage Sale Criteria Established at Forest Level

In an August 1995 memorandum to the regional foresters, the Chief of the Forest Service stated that a salvage sale under the salvage rider was a timber sale in which at least a portion of the timber met the definition of salvage and was one of the important reasons for offering the salvage timber for sale. However, the Chief did not prescribe a specific percentage of the salvage volume compared to the total volume that would be needed to qualify a timber sale as a salvage sale. He left that decision to the professional judgment of those on the national forests to determine, on the basis of local conditions, such as those resulting from wildfires or insect infestation, what qualified as a salvage sale. Thus, the Chief encouraged each national forest to establish a systematic process to determine when a timber sale qualified as a salvage timber sale.

Efforts to identify and document the portion of the timber qualifying as salvage, as well as to determine when a stand of timber was “imminently susceptible to fire or insect attack,” varied. However, we found that the four forests we visited had established the following procedures to help their ranger districts identify when a timber sale included an identifiable portion of salvage:

- To ensure consistency at each ranger district, the Deschutes National Forest’s science team prepared a written definition, together with a set of procedures, to classify timber stands as imminently susceptible or not to insect attack and/or wildfire. The definition and procedures provided a basis for a consistent, forestwide interpretation.
- The Payette National Forest, in conjunction with the Boise and Sawtooth National Forests, developed five criteria to determine what constituted a salvage timber sale. The three forests used the criteria—such as whether dead, diseased, or insect-infested trees are present within the project

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area—to determine whether a particular proposed timber sale qualified as a salvage sale. To qualify, at least two of the five criteria had to be met.

- The Stanislaus National Forest developed an incident activity plan to help ranger districts determine when a timber sale qualified as a salvage sale. The plan specified what timber qualified as salvage timber and provided procedures to determine whether the timber stands were imminently susceptible to fire or insect attack.
- The Clearwater National Forest prepared a salvage implementation plan to help ranger districts prepare and offer for sale salvage timber that fell under the emergency salvage program. An interdisciplinary team in either the forest supervisor's or ranger district's office reviewed and approved each proposed salvage timber sale.

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### Salvage Sales With Large Green Volumes Complied With the Definition of Salvage Timber

Subsequent to the salvage rider's implementation, several environmental organizations identified 86 planned Forest Service timber sales which they believed should not have been offered as salvage sales under the emergency salvage program. The environmental organizations were concerned that including excessive volumes of green timber in 46 of the 86 salvage sales would violate the Forest Service's rules and environmental laws and threaten watersheds, fisheries, and wildlife and recreational opportunities.

Twenty-two of the 46 identified salvage sales were at three of the forests we visited. None of the salvage sales under the emergency salvage program on the Deschutes National Forest were identified as including excessive volumes of green timber. We reviewed and analyzed the contract files for 14 of the 22 sales to determine the reasons why the three forests included green timber in the salvage sales and to verify that the timber sales complied with the definition of salvage timber in the salvage rider and the Forest Service's guidelines. We did not review the remaining eight salvage sales because the volume of timber or the number of acres involved was very small.

The contract files for all of the 14 salvage sales contained sufficient documentation to support the Forest Services's conclusion that these sales met the definition of a salvage sale in the salvage rider and the Forest Service's guidelines. Nevertheless, as a result of the Secretary of Agriculture's July 1996 memorandum, two of the forests delayed offering 6 of the 14 salvage sales that complied with the definition until after the salvage rider expired. Specifically, the documentation for these salvage sales showed the following:



- The four salvage sales at the Clearwater National Forest complied with the definition because the timber was either diseased, insect-infested, damaged and downed, or imminently susceptible to fire and insect attack. However, because of the more stringent criteria imposed by the Secretary's memorandum, the Clearwater National Forest delayed offering the four salvage sales until after the salvage rider expired because (1) three of the sales had initially been planned as green timber sales prior to the salvage rider's implementation and (2) in the fourth sale, the green timber comprised over 25 percent of the offering.
- The three salvage sales on the Payette National Forest complied with the definition because the timber was either dead, affected by fire, or imminently susceptible to fire and insect attack. None of these three salvage sales were affected by the Secretary's memorandum.
- The seven salvage sales at the Stanislaus National Forest complied with the definition because the timber was imminently susceptible to fire. However, because of the Secretary's memorandum, the Stanislaus delayed offering two of the seven sales until after the salvage rider expired because even though they were judged as being imminently susceptible to fire, the sales were not located near local communities or occupied structures.

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## Agency Comments

We provided a draft of this report to the Department of Agriculture for review and comment. In its response, the Department stated that our draft report did not fully describe the key features of the legislation because the rider not only expedited but also limited judicial review in that salvage sales were exempt from environmental laws. While we recognize that the rider limited judicial review in that the courts did not need to consider traditional questions raised under environmental statutes, our report only focused on identifying the number of legal challenges and determining whether the court rendered its decision within the 45-day time frame established by the salvage rider, and not on the overall implications of the salvage rider on judicial review.

The Department also said that our draft did not reflect that the salvage rider expanded the definition of salvage included in the Forest Service manual. We clarified our statement regarding the differences between the definition in the rider and that in the Forest Service manual. The Department also felt, however, that our draft implied that the Secretary's memorandum narrowed the definition of salvage unnecessarily. Our report does not draw this conclusion. Rather, our report reflects that the memorandum provided revised direction for the program to ensure that

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the sales prepared under the program met environmental standards and would withstand normal review and appeal.

The Department said that our draft report claimed that its actions canceled or delayed significant volumes of salvage timber but did not provide an accounting of the specific disposition of the timber volumes affected by the memorandum. It was not our intent to imply that the memorandum summarily canceled timber salvage sales. We were merely demonstrating that the implementation of the memorandum affected a significant volume of timber that the Forest Service had planned to offer during the emergency period. As to the exact volume in each category, the Forest Service could not provide us with that information. Because this information is not available, we have deleted the word canceled and classified all affected sales as delayed sales.

The full text of the Department's comments and our responses are found in appendix IV.

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## Scope and Methodology

To obtain the information in this report, we reviewed the relevant laws and the Forest Service's regulations, policies, and procedures related to the emergency salvage timber program; reviewed the pertinent contract files for the salvage sales from four national forests; and discussed the pertinent issues with the Department of Agriculture's Office of General Counsel and the Forest Service's headquarters and forest locations. A detailed description of our scope and methodology is found in appendix V. We conducted our review from June 1996 through January 1997 in accordance with generally accepted government auditing standards.

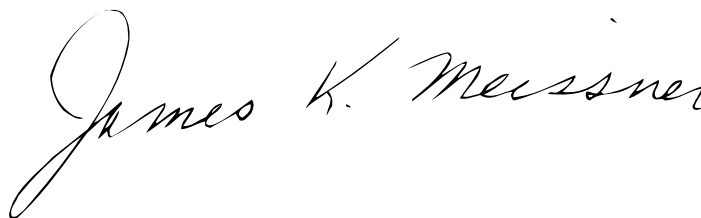
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As we arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 7 days after the date of this letter. At that time, we will send copies to the Secretary of Agriculture, the Chief of the Forest Service, and the Director, Office of Management and Budget. We will make copies available to others on request.

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If you or your staff have any questions about this report, please call me at (206) 287-4810. Major contributors to this report are listed in appendix VI.

Sincerely yours,

A handwritten signature in black ink that reads "James K. Meissner". The signature is written in a cursive style with a large, looping initial "J".

James K. Meissner  
Associate Director, Energy, Resources,  
and Science Issues

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# Timber Volumes Offered, Fiscal Years 1977 Through 1996

Volumes in millions of board feet

| Fiscal year       | Timber volume  |               |                | Salvage as a percent of total volume |
|-------------------|----------------|---------------|----------------|--------------------------------------|
|                   | Green          | Salvage       | Total          |                                      |
| 1977 <sup>a</sup> | 9,845          | 762           | 10,607         | 7.18                                 |
| 1978              | 9,969          | 1,534         | 11,503         | 13.34                                |
| 1979              | 10,771         | 1,662         | 12,433         | 13.37                                |
| 1980              | 10,471         | 1,964         | 12,435         | 15.79                                |
| 1981              | 11,017         | 1,142         | 12,159         | 9.39                                 |
| 1982              | 9,311          | 1,807         | 11,118         | 16.25                                |
| 1983              | 9,882          | 1,401         | 11,283         | 12.42                                |
| 1984              | 10,654         | 1,285         | 11,939         | 10.76                                |
| 1985              | 10,574         | 962           | 11,536         | 8.34                                 |
| 1986              | 10,489         | 1,179         | 11,668         | 10.10                                |
| 1987              | 9,357          | 2,118         | 11,475         | 18.46                                |
| 1988              | 9,116          | 2,232         | 11,348         | 19.67                                |
| 1989              | 8,744          | 1,771         | 10,515         | 16.84                                |
| 1990              | 8,187          | 2,872         | 11,059         | 25.97                                |
| 1991              | 4,471          | 1,709         | 6,180          | 27.65                                |
| 1992              | 3,650          | 1,412         | 5,062          | 27.89                                |
| 1993              | 2,649          | 1,906         | 4,555          | 41.84                                |
| 1994              | 2,403          | 1,005         | 3,408          | 29.49                                |
| 1995              | 2,155          | 1,852         | 4,007          | 46.22                                |
| 1996              | 2,079          | 1,936         | 4,015          | 48.22                                |
| 1997 <sup>b</sup> | 361            | 818           | 1,179          | 69.38                                |
| <b>Total</b>      | <b>156,155</b> | <b>33,329</b> | <b>189,484</b> | <b>17.59</b>                         |

<sup>a</sup>The National Forest Management Act was passed in 1976, and the first funding for salvage sales was in fiscal year 1977.

<sup>b</sup>Volumes are for the first quarter of fiscal year 1997.

Source: U.S. Forest Service.

# Effect of the Secretary of Agriculture's July 2, 1996, Memorandum

The Secretary of Agriculture's July 2, 1996, memorandum to the Chief of the Forest Service provided a revised direction for the emergency salvage sales conducted under the salvage rider. The memorandum prescribed certain criteria that must be applied to all proposed sales for which bids had not yet been opened. Table II.1 shows the number of salvage sales, the associated volumes, and the criteria used by the Forest Service to delay the salvage sales until after the expiration of the rider. Following is a brief description of the criteria used by the Forest Service.

Roadless—No salvage sales in inventoried roadless areas may go forward except those that qualify under the imminently-susceptible-to-fire criterion of the memorandum.

Imminently Susceptible—This category includes both imminently susceptible to fire and imminently susceptible to insect attack. To qualify as imminently susceptible to insect attack, trees must be located in areas that have a high risk of incurring insect attack and an anticipated change in stand structure or character in 3 years or less. To qualify as imminently susceptible to fire, trees must be located in areas with high fuel loading or where there is a high fire-risk rating for the specific habitat type, and near local communities or occupied structures.

Excessive Green—According to the memorandum, if there are sales that have a component of associated green timber greater than 25 percent after applying the other conditions of the memorandum, the sales should be deferred.

Not Originally a Salvage—Any sale or part thereof in preparation prior or subsequent to the enactment of the rider, which was identified to the public as a sale other than a salvage sale—including those sales that were withdrawn, such as for environmental reasons— may not go forward as a salvage sale under the rider unless the sale complies with the memorandum.

Nonemergency Mistletoe Sales—Mistletoe sales should not be considered an emergency unless the mistletoe truly threatens to change the structure of the stand within 3 years.<sup>1</sup>

<sup>1</sup>This criterion was added by the Department of Agriculture's Under Secretary for Natural Resources and Environment's memorandum to the Chief of the Forest Service, dated October 18, 1996.

Appendix II  
Effect of the Secretary of Agriculture's  
July 2, 1996, Memorandum

Significant Public Concern—According to the memorandum, if there are sales for which significant public concern remains after applying the other conditions of the memorandum, the sales should be deferred.

**Table II.1: Number of Salvage Sales, Associated Volumes, and Reasons for Delay, by National Forest**

Board feet in millions

| Region and forest                              | Number of sales | Sale in roadless area | Sale not imminently susceptible to insect attack or fire | Sale contained excessive green timber | Sale not originally a salvage sale | Nonemergency mistletoe sale | Significant public concern | Total        |
|--|-----------------|-----------------------|--|---------------------------------------|------------------------------------|-----------------------------|----------------------------|--------------|
| <b>Northern Region</b>                         |                 |                       |  |                                       |                                    |                             |                            |              |
| Beaverhead                                     | 8               | 0.6                   | 0.6  |                                       |                                    | 7.9                         |                            | 9.1          |
| Bitterroot                                     | 6               |                       |  |                                       |                                    | 3.7                         |                            | 3.7          |
| Clearwater <sup>a</sup>                        | 4               |                       |  | 1.9                                   | 36.2                               |                             |                            | 38.1         |
| Flathead                                       | 2               |                       |  |                                       | 11.2                               |                             |                            | 11.2         |
| Gallatin                                       | 1               |                       |  |                                       | 4.5                                |                             |                            | 4.5          |
| Helena   | 2               | 1.1                   |  |                                       |                                    |                             |                            | 1.1          |
| Idaho Panhandle                                | 6               | 15.0                  |  | 5.0                                   | 3.5                                |                             |                            | 23.5         |
| Kootenai <sup>b</sup>                          | 17              | 30.4                  | 4.8  | 22.6                                  |                                    |                             |                            | 57.8         |
| Lewis and Clark                                | 1               |                       |  |                                       |                                    | 0.7                         |                            | 0.7          |
| Lolo   | 2               |                       | 3.7  |                                       | 2.2                                |                             |                            | 5.9          |
| Nez Perce                                      | 5               | 13.0                  |  | 9.5                                   | 10.1                               |                             |                            | 32.6         |
| <b>Total</b>                                   | <b>54</b>       | <b>60.1</b>           | <b>9.1</b>   | <b>39.0</b>                           | <b>67.7</b>                        | <b>12.3</b>                 | <b>0.0</b>                 | <b>188.2</b> |
| <b>Rocky Mountain Region</b>                   |                 |                       |  |                                       |                                    |                             |                            |              |
| Grand Mesa, Uncompahgre, Gunnison <sup>c</sup> | 2               | 2.6                   |  |                                       | 3.6                                |                             |                            | 6.2          |
| San Juan/ Rio Grande <sup>d</sup>              | 0               |                       |  |                                       |                                    |                             |                            | 0.0          |
| Shoshone                                       | 2               |                       |  | 2.9                                   |                                    |                             |                            | 2.9          |
| White River <sup>e</sup>                       | 2               |                       |  |                                       |                                    |                             | 10.0                       | 10.0         |
| <b>Total</b>                                   | <b>6</b>        | <b>2.6</b>            | <b>0.0</b>   | <b>2.9</b>                            | <b>3.6</b>                         | <b>0.0</b>                  | <b>10.0</b>                | <b>19.1</b>  |
| <b>Southwestern Region</b>                     |                 |                       |  |                                       |                                    |                             |                            |              |
| Gila   | 1               | 5.5                   |  |                                       |                                    |                             |                            | 5.5          |
| Lincoln  | 10              |                       |  |                                       |                                    | 2.3                         |                            | 2.3          |
| Santa Fe                                       | 1               | 2.0                   |  |                                       |                                    |                             |                            | 2.0          |
| <b>Total</b>                                   | <b>12</b>       | <b>7.5</b>            | <b>0.0</b>   | <b>0.0</b>                            | <b>0.0</b>                         | <b>2.3</b>                  | <b>0.0</b>                 | <b>9.8</b>   |
| <b>Intermountain Region</b>                    |                 |                       |  |                                       |                                    |                             |                            |              |
| Ashley <sup>f</sup>                            | 1.5             | 6.0                   |  |                                       |                                    |                             |                            | 6.0          |
| Boise  | 6               | 34.5                  | 34.5   |                                       | 5.0                                | 4.6                         |                            | 78.6         |
| Bridger-Teton                                  | 3               | 2.0                   |  |                                       |                                    |                             |                            | 2.0          |

(continued)



**Appendix II**  
**Effect of the Secretary of Agriculture's**  
**July 2, 1996, Memorandum**

Board feet in millions

| Region and forest               | Number of sales | Sale in roadless area | Sale not imminently susceptible to insect attack or fire | Sale contained excessive green timber | Sale not originally a salvage sale | Nonemergency mistletoe sale | Significant public concern | Total        |
|---------------------------------|-----------------|-----------------------|--|---------------------------------------|------------------------------------|-----------------------------|----------------------------|--------------|
| Caribou                         | 3               | 4.0                   |  |                                       |                                    |                             |                            | 4.0          |
| Challis/Salmon                  | 19              | 5.4                   | 3.9  |                                       |                                    | 0.2                         |                            | 9.5          |
| Dixie                           | 1               |                       | 2.1  |                                       |                                    |                             |                            | 2.1          |
| Manti-LaSal                     | 5               | 11.7                  |  |                                       |                                    |                             |                            | 11.7         |
| Payette <sup>g</sup>            | 14              | 12.6                  | 18.3   |                                       | 30.2                               |                             |                            | 61.1         |
| Uinta                           | 2               | 3.2                   |  |                                       | 0.6                                |                             |                            | 3.8          |
| Wasatch-Cache <sup>f</sup>      | 2.5             | 5.0                   |  |                                       |                                    | 6.6                         |                            | 11.6         |
| <b>Total</b>                    | <b>57</b>       | <b>84.4</b>           | <b>58.7</b>  | <b>0.0</b>                            | <b>35.9</b>                        | <b>11.4</b>                 | <b>0.0</b>                 | <b>190.4</b> |
| <b>Pacific Southwest Region</b> |                 |                       |  |                                       |                                    |                             |                            |              |
| Eldorado                        | 4               |                       | 8.0  |                                       |                                    |                             |                            | 8.0          |
| Klamath                         | 6               | 37.9                  | 8.1  |                                       |                                    |                             |                            | 46.0         |
| Lassen                          | 2               |                       | 12.5   |                                       |                                    |                             |                            | 12.5         |
| Plumas                          | 5               |                       | 16.3   |                                       |                                    |                             |                            | 16.3         |
| Sequoia                         | 5               |                       | 16.3   |                                       |                                    |                             |                            | 16.3         |
| Sierra                          | 7               |                       | 13.6   |                                       |                                    |                             |                            | 13.6         |
| Six Rivers                      | 6               | 10.8                  |  |                                       |                                    |                             |                            | 10.8         |
| Stanislaus                      | 3               |                       | 4.8  |                                       |                                    |                             |                            | 4.8          |
| <b>Total</b>                    | <b>38</b>       | <b>48.7</b>           | <b>79.6</b>  | <b>0.0</b>                            | <b>0.0</b>                         | <b>0.0</b>                  | <b>0.0</b>                 | <b>128.3</b> |
| <b>Pacific Northwest Region</b> |                 |                       |  |                                       |                                    |                             |                            |              |
| Colville                        | 1               |                       |  | 9.0                                   |                                    |                             |                            | 9.0          |
| Malheur                         | 12              | 29.0                  | 17.2   |                                       |                                    |                             |                            | 46.2         |
| Ochoco                          | 1               | 1.5                   |  |                                       |                                    |                             |                            | 1.5          |
| Okanogan                        | 10              | 19.3                  | 8.0  |                                       |                                    | 11.8                        |                            | 39.1         |
| Siskiyou                        | 2               |                       | 5.5  |                                       |                                    |                             |                            | 5.5          |
| Umatilla                        | 5               | 7.1                   |  |                                       |                                    |                             |                            | 7.1          |
| Wallowa-Whitman                 | 4               |                       | 8.8  |                                       |                                    |                             |                            | 8.8          |
| Wenatchee <sup>h</sup>          | 1               | 12.0                  |  |                                       |                                    |                             |                            | 12.0         |
| Willamette                      | 2               | 13.0                  |  | 0.7                                   |                                    |                             |                            | 13.7         |
| Winema                          | 2               |                       | 8.2  |                                       |                                    |                             |                            | 8.2          |
| <b>Total</b>                    | <b>40</b>       | <b>81.9</b>           | <b>47.7</b>  | <b>9.7</b>                            | <b>0.0</b>                         | <b>11.8</b>                 | <b>0.0</b>                 | <b>151.1</b> |
| <b>Southern Region</b>          |                 |                       |  |                                       |                                    |                             |                            |              |
| NFs in Alabama                  | 1               |                       |  | 1.0                                   |                                    |                             |                            | 1.0          |
| Chattahoochee/Oconee            | 6               | 0.4                   |  |                                       |                                    |                             |                            | 0.4          |

(continued)

**Appendix II**  
**Effect of the Secretary of Agriculture's**  
**July 2, 1996, Memorandum**

Board feet in millions

| Region and forest              | Number of sales | Sale in roadless area | Sale not imminently susceptible to insect attack or fire | Sale contained excessive green timber | Sale not originally a salvage sale | Nonemergency mistletoe sale | Significant public concern | Total        |
|--------------------------------|-----------------|-----------------------|--|---------------------------------------|------------------------------------|-----------------------------|----------------------------|--------------|
| George Washington/ Jefferson   | 2               | 0.2                   |  |                                       |                                    |                             |                            | 0.2          |
| Ouachita <sup>i</sup>          | 0               |                       |  |                                       |                                    |                             |                            | 0.0          |
| <b>Total</b>                   | <b>9</b>        | <b>0.6</b>            | <b>0.0</b>   | <b>1.0</b>                            | <b>0.0</b>                         | <b>0.0</b>                  | <b>0.0</b>                 | <b>1.6</b>   |
| <b>Eastern Region</b>          |                 |                       |  |                                       |                                    |                             |                            |              |
| No forests affected.           | 0               |                       |  |                                       |                                    |                             |                            | 0.0          |
| <b>Alaska Region</b>           |                 |                       |  |                                       |                                    |                             |                            |              |
| Chugach                        | 4               | 10.3                  | 10.3   |                                       |                                    |                             |                            | 20.6         |
| Tongass                        | 4               | 12.9                  |  |                                       |                                    |                             |                            | 12.9         |
| <b>Total</b>                   | <b>8</b>        | <b>23.2</b>           | <b>10.3</b>  | <b>0.0</b>                            | <b>0.0</b>                         | <b>0.0</b>                  | <b>0.0</b>                 | <b>33.5</b>  |
| <b>Grand total<sup>j</sup></b> | <b>224</b>      | <b>308.9</b>          | <b>205.5</b>   | <b>50.7</b>                           | <b>107.2</b>                       | <b>37.8</b>                 | <b>10.0</b>                | <b>722.0</b> |

<sup>a</sup>Forest Service-wide statistics show three sales for 36.2 million board feet; however, forest-level records show four sales for 38.1 million board feet. We included the forest-level data.

<sup>b</sup>This forest had an additional sale, involving 0.72 million board feet, that was originally designated as roadless areas and subsequently released. This sale was then exempted from the Secretary's memorandum.

<sup>c</sup>This forest had an additional two sales, involving 0.5 million board feet, that were originally designated as roadless areas and subsequently released. These sales were then exempted from the Secretary's memorandum.

<sup>d</sup>This forest had an additional two sales, involving 0.26 million board feet, that were originally designated as roadless areas and subsequently released. These sales were then exempted from the Secretary's memorandum. This forest also had an additional sale involving 0.5 million board feet that was exempted from the Secretary's memorandum and permitted to go forward.

<sup>e</sup>This forest had an additional sale, involving 0.4 million board feet, that was originally designated as roadless areas and subsequently released. This sale was then exempted from the Secretary's memorandum.

<sup>f</sup>The Ashley and Wasatch-Cache National Forests shared one timber sale.

<sup>g</sup>Forest Service-wide statistics show one sale for 1.3 million board feet; however, forest-level records show three sales for 1.5 million board feet. We included the forest-level data.

<sup>h</sup>This forest had an additional sale involving 4.5 million board feet that was exempted from the Secretary's memorandum and permitted to go forward.

<sup>i</sup>This forest had an additional two sales, involving 0.65 million board feet, that were exempted from the Secretary's memorandum and permitted to go forward.

<sup>j</sup>In those instances where the Forest Service cited two or more criteria as reasons for delaying a sale, we allocated the respective volumes among each of the criteria cited.

# Effect of the December 13, 1996, Memorandum by the Department of Agriculture's Under Secretary for Natural Resources and Environment

**Table III.1: Salvage Volumes Deferred,  
by Region**

| Board feet in millions |                 |                   |
|------------------------|-----------------|-------------------|
| Region                 | Number of sales | Timber volume     |
| Northern               | 1               | 2.17              |
| Rocky Mountain         | 6               | 0.71              |
| Southwestern           | 3               | 8.00 <sup>a</sup> |
| Intermountain          | 3               | 14.5              |
| Pacific Southwest      | 7               | 2.88              |
| Pacific Northwest      | 1               | 0.70 <sup>b</sup> |
| Southern               | 6               | 0.71              |
| Eastern                | 0               | 0.00              |
| Alaska                 | 0               | 0.00              |
| <b>Total</b>           | <b>27</b>       | <b>29.67</b>      |

<sup>a</sup>One sale for 3.7 million board feet was waived from the requirement; however, the sale was not offered before December 31, 1996.

<sup>b</sup>One sale for 13.38 million board feet was waived from the requirement and was offered before December 31, 1996.

# Comments From the Department of Agriculture

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20250

February 11, 1997

Mr. Victor S. Rezendes  
Director, Energy, Resources and Science Issues  
Resources, Community and Economic Development Division  
General Accounting Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Mr. Rezendes:

Thank you for the opportunity to comment on the General Accounting Office (GAO) draft report to the Chairman of the Senate Committee on Energy and Natural Resources entitled Emergency Salvage Sale Program: Forest Service Met Its Projected Target, but More Timber Could Have Been Offered for Sale. I have several concerns which I want to share with you.

The Forest Service and other Federal agencies made an extensive and largely successful effort to implement a controversial law which was the subject of public and Congressional criticism for its entire 18-month duration. The GAO report for the Senate Committee on Energy and Natural Resources will be one of a few Federal sources of information evaluating the emergency salvage rider. Therefore, it is essential that the report reflect the full meaning of the Administration's policies, concerns, and objectives in implementing the provisions which GAO is evaluating.

I believe the report does not adequately describe the nature of the judicial circumstances under which the emergency salvage program was conducted. In describing the key features of the legislation, the report mentions "expedited judicial review" but sidesteps two important facts. First, in many cases judicial review was not expedited, but rather suspended. In effect, section 2001(i) of the rider significantly limited judicial review because salvage sales were exempted from environmental laws. Second, ironically, the rider resulted in a significant increase in the amount of litigation.

Another important omission is discussion of salvage. The report should clarify that the rider's definition expanded the definition of salvage in the Forest Service policy manual by including "imminently susceptible to fire and insect attack." As a result, some of the sales which met the rider's legislated definition did not meet the Forest Service manual definition of salvage. For example, the sales of trees "imminently susceptible to fire" that the GAO team observed in its trip to the Stanislaus National Forest did not qualify as salvage under the definition in the Forest Service policy manual.

AN EQUAL OPPORTUNITY EMPLOYER

See comment 1.

See comment 2.

See comment 3.

Appendix IV  
Comments From the Department of  
Agriculture

Mr. Victor S. Rezendes

2

See comment 4.

The draft report implies that my July 2, 1996, salvage directive narrowed the definition of salvage unnecessarily. I do not believe that is an appropriate characterization of my direction. My memorandum was a logical clarification of policy that was necessary to address strong and widespread public concern and to ensure strict compliance with the concept of "emergency salvage." My directive noted that the rider's definition of a salvage sale in section 2001(a)(3) is broad and vague. My direction kept the focus on emergency timber salvage consistent with the intent of the Act.

See comment 5.


The GAO report claims that the "Department of Agriculture's actions canceled or delayed significant volumes of salvage timber," but does not provide an accounting of the specific disposition of the 752 million board feet affected by my directive. In fact, the majority of the volume was simply delayed. It is anticipated that only a small fraction of this volume will be canceled. The characterization that my action specifically canceled a significant volume of timber is inaccurate.

See comment 6.

Finally, GAO implies that all merchantable dead and dying timber should be subject to salvage sales. The Forest Service views dead and dying trees not only as a commodity for extraction, but also as essential components of forest stand diversity and part of a normal functioning ecosystem in which such material is crucial for soil productivity, nutrient cycling, erosion control, and wildlife habitat. Therefore, the assumption that all of the merchantable dead and dying timber on the national forests should be sold does not conform with Forest Service policy.

Thank you again for letting me share my views on your report.

Sincerely,



DAN GLICKMAN  
Secretary

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## GAO Comments

1. We recognize that the salvage rider limited judicial review in that the courts did not need to consider the traditional questions raised under environmental statutes because under the salvage rider, the concerns of these statutes were deemed satisfied. Our report, however, focused only on identifying the number of legal challenges and whether the court rendered its decision within the 45-day time frame established by the salvage rider and not on the overall implications of the salvage rider on judicial review.
2. As stated in the draft report, the Department of Agriculture's Office of General Counsel's data for fiscal years 1994 and 1995 on legal challenges did not differentiate between salvage or green timber issues. Therefore, neither we nor the Department's Office of General Counsel could determine whether the number of legal challenges under the salvage rider has increased or decreased.
3. We clarified our statement about the Forest Service's guidelines for implementing the salvage rider to reflect that these guidelines differ from the Forest Service Manual's definition of salvage.
4. Our report drew no conclusions that the Secretary's memorandum narrowed the definition of salvage unnecessarily. Rather, our report reflects that the Secretary's memorandum provided revised direction for the emergency salvage sale program to ensure that sales prepared under the program (1) met environmental standards and (2) would withstand normal review and appeal. In addition, appendix II sets forth the revised criteria included in the Secretary's memorandum and the number and volumes of sales affected.
5. It was not our intent to imply that the Secretary's memorandum summarily canceled timber salvage sales. We were merely demonstrating that the implementation of the memorandum affected a significant volume of timber that the Forest Service had planned to offer during the emergency period. As a result of the memorandum, some sales were delayed and some sales ultimately would be canceled because they would not be marketable or would not meet the definition of a salvage sale after the rider expired. As to the exact volume in each category, the Forest Service could not provide us with that information. Because this information is not available, we have deleted the word "canceled" and classified all affected sales as delayed sales.

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6. Our report does not imply that all merchantable dead and dying timber should be subject to salvage sales. Our report included a Forest Service estimate of salvage timber that was capable of being harvested as background information as to why the salvage rider was enacted. We did say, however, that once a decision is reached to harvest salvage timber, time is critical because the timber could deteriorate quickly, thus losing economic value.

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# Objectives, Scope, and Methodology

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The Chairman, Senate Committee on Energy and Natural Resources, expressed concern over how well the salvage rider had worked because the Committee may consider either renewing the salvage rider, which expired on December 31, 1996, or including provisions of the rider in a proposed forest health bill.

As agreed with the requester's office, we (1) compared the volume of salvage timber offered by the Forest Service under the salvage rider from fiscal year 1995 through December 1996 with the volume that it had planned to offer for the same period prior to passage of the rider, and determined the effect of the Secretary of Agriculture's July 2, 1996, memorandum, which placed more restrictions on salvage sales; (2) determined whether four specific provisions of the salvage rider helped the Forest Service to offer salvage timber for sale more timely; and (3) determined if certain salvage sales that were of concern to environmental organizations met the definition of salvage timber as specified in the salvage rider's and Forest Service's guidelines.

To obtain the information in this report, we reviewed relevant Forest Service regulations, policies, and procedures related to the emergency salvage timber program. We reviewed and analyzed reports by the Forest Service, the Department of Agriculture, and 23 environmental organizations on various issues associated with the emergency salvage program. We also reviewed the Department of Agriculture's first three reports to the Congress on the program as mandated in the salvage rider. We visited Forest Service headquarters in Washington, D.C., as well as four of the Forest Service's national forests located in four different Forest Service regions—the Clearwater, in the Northern Region; the Payette, in the Intermountain Region; the Deschutes, in the Pacific Northwest Region; and the Stanislaus, in the Pacific Southwest Region. We visited these four national forests because they had large volumes of salvage timber to be offered for sale, were in different Forest Service regions, and had 22 of the 46 salvage timber sales identified by environmental organizations as containing excessive volumes of green timber. We also made site visits to selected salvage sales in each of the three national forests.

To compare the salvage timber volume programmed to be offered for sale before the salvage rider with the salvage volume offered for sale under the rider, we obtained data from Forest Service officials on the salvage volume they had programmed in the Forest Service's appropriation requests for fiscal years 1995, 1996, and 1997. Because appropriation requests cover an entire fiscal year and the Forest Service does not develop quarterly



estimates, we computed the estimated program volumes for the first quarter of the fiscal year 1997 by taking one-fourth of the estimated volume for the entire year. While Forest Service officials indicated that actual first quarter results are normally less than 25 percent of the annual results and thus our calculation may be overstated, we considered 25 percent a reasonable estimate because the Forest Service used 25 percent of the annual volume for planning purposes for the first quarter of fiscal year 1997 under the rider. We compared the programmed volumes to the actual salvage volumes offered by the Forest Service for the same period. We also compared the actual salvage volume offered with the target volume established by the Secretary of Agriculture at the inception of the salvage rider. The Forest Service traditionally uses the term “offered” to reflect those sales formally advertised for sale rather than the definition in contract law that a timber sale is considered offered only when the Forest Service receives bids on the advertised timber. The Forest Service, in its required reports to the Congress under the rider, as well as in its requests for appropriations, used the traditional definition of offered. Therefore, because the Forest Service developed its initial targets using this definition, it seems to be a reasonable measure of achievement under the rider, and we are also using it throughout this report.

To determine the effect of the Secretary of Agriculture’s July 2, 1996, memorandum, which revised the eligibility requirements for salvage sales under the rider, we obtained and analyzed the Forest Service’s reports that showed the number of sales, associated volumes, and reasons why the sales were delayed until after the rider expired on December 31, 1996. We also reviewed the effect of the Department of Agriculture’s Under Secretary for Natural Resources and Environment’s December 13, 1996, memorandum, which directed the Forest Service not to advertise any salvage sales after December 13, 1996. To determine the effect of this memorandum, we discussed it with Forest Service officials and obtained Forest Service reports.

To determine whether four specific provisions of the salvage rider helped the Forest Service offer salvage timber for sale more timely, we reviewed and analyzed the contract files for each salvage timber sale offered for sale in fiscal years 1994 and 1996 on the four national forests we visited. Fiscal 1994 was the last complete fiscal year prior to the salvage rider’s enactment and hence the last fiscal year that would portray conditions before the rider and fiscal year 1996—the only complete fiscal year during the period in which the salvage rider was in effect and the only complete fiscal year that would portray the conditions while the rider was in effect.

This comparison was used to provide insight into the effect of the various provisions. In addition, we discussed the effects of the four provisions with officials of the Forest Service's headquarters and at each of the national forests we visited. We obtained data from and discussed with the Department of Agriculture's Office of General Counsel the provision dealing with expedited judicial review.

To determine if certain salvage timber sales met the definition of salvage timber as specified in the salvage rider, we reviewed and analyzed the Forest Service's compilation of the complaints received from environmental organizations alleging that the specific salvage sales contained excessive green timber and thus did not meet the definition of salvage as stated in the rider. Twenty-two of the sales were at three of the four national forests we visited. We reviewed the contract files for 14 of the 22 sales. We did not review the remaining eight salvage sales because the volume of timber or the number of acres involved were minimal, such as the low volume of timber in firewood sales. We also made site visits with forest officials to 5 of the 14 salvage sales in order for the officials to further explain and illustrate to us why the salvage sales contained green timber.

We conducted our review from June 1996 through January 1997 in accordance with generally accepted government auditing standards.

# Major Contributors to This Report

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