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## The 1995 Salvage Timber Sale Rider: A Recipe for Environmental Devastation

### I. Introduction

On July 27, 1995 President William J. Clinton signed into law the 1995 Rescissions Bill, which contained among other provisions, an amendment entitled the Emergency Salvage Timber Sale Program.<sup>1</sup> This "rider" suspends various environmental laws through December of 1996 to expedite logging on national forests across the country and, in effect, allows the U.S. Forest Service and the Bureau of Land Management (BLM) to award timber sales to logging companies without having to proceed through the normal environmental regulatory processes. This rider applies to all "salvage" timber within each national forest, all federal lands within the range of the spotted owl, and all timber not previously released under Section 318 of Public Law 101-121.<sup>2</sup> Along with designating these areas for immediate logging, the rider contains other sections regarding limitations and implementation.

This rider's significance lies in its drastic effect on the ecosystems of the areas designated for immediate logging. By suspending all existing environmental laws designed to protect the flora and fauna of our national forests, it has the potential of creating a biological disaster.<sup>3</sup> By authorizing immediate logging of this timber without complying with essential environmental safeguards, the environmental repercussions will be devastating. The timber industry, while arguing in support of the rider, claims that existing environmental laws are too complex to follow and are the direct cause of decreased profits and lost jobs.<sup>4</sup> The timber industry

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<sup>1</sup> 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, 1995, Pub. L. 104-19, 109 Stat. 194.

<sup>2</sup> §2001(b), §2001(d), §2001(k) respectively.

<sup>3</sup> Tom Kenworthy, *Timber-Salvage Debate Has Roots in the West, Congressional Plan Feeds Hopes of Some, Raises Fear in Others*, SEATTLE TIMES, May 14, 1995, at B5. A crash salvage program will damage soils, increase erosion into streams, extend into roadless areas that are important wildlife sanctuaries and overlook the critical importance of decomposing wood.

<sup>4</sup> *Timber Industry Jobs Rise*, SEATTLE POST-INTELLIGENCER, June 19, 1995, at B1. However, industry's job losses are attributed partly to cutbacks in federal timber sales, which began in the late 1980's, and partly to automation, structural and market adjustments.

thereby claims that only through the waiver of environmental laws and a major salvage logging drive will a rising flood of layoffs be stemmed.<sup>5</sup>

The significance of the rider's passage is also seen in its effect on existing environmental laws. In effect, it exempts the U.S. Forest Service and BLM from complying with various environmental laws and regulations that these agencies were previously compelled to follow.<sup>6</sup> These laws are essential in protecting the fragile ecosystems and habitats of sensitive wildlife throughout the country.<sup>7</sup> The rider, however, authorizes the logging of trees "without the benefit of the standard environmental safeguards that are meant to protect salmon streams and watersheds . . . and citizens [are] legally barred from filing suit to object to any violation of environmentally sound harvesting no matter how gross."<sup>8</sup>

This comment will provide information relating to passage of the rider as well as further discussion of prior affected laws. Also, Clinton's position regarding the rider and the agreement between the agency directors concerning implementation will be discussed. Further, an in-depth analysis of the language of the rider, including a thorough discussion of the three affected areas, will follow. Finally, this comment will discuss the effects of implementation and highlight a timber sale which illustrates these effects.

## II. Environmental Laws Exempted From Application

This rider suspends numerous environmental laws and regulations from affecting all salvage timber sales, sales within the range of the northern spotted owl, and all previously unawarded Section 318 sales. One of these suspended laws is the National Environmental Policy Act of 1969 (NEPA)<sup>9</sup>, which requires that all federal agencies "contemplate the [environmental] context and consequences of their actions before acting, [thus] mandating a particularized process of program planning."<sup>10</sup> NEPA directs all federal agencies to create and maintain conditions "under which

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<sup>5</sup> *Id.* However, according to state employment economists, Oregon and Washington forest products have experienced a net increase of 4,000 jobs since Clinton took office in 1993. Senator Patrick Leahy (D-VT) stated that the job growth shows that the timber industry has exaggerated its jobs losses and hence the need for emergency salvage logging.

<sup>6</sup> See § 2001(i).

<sup>7</sup> Tom Kenworthy, *Timber Sales Deal Rekindles Furor, Clinton's Acceptance of Harvest Jeopardizes Northwest Forest Plan*, WASHINGTON POST, Aug. 29, 1995, at A1.

<sup>8</sup> *Clinton's Veto the Right Action*, SEATTLE POST-INTELLIGENCER, June 12, 1995, at A5.

<sup>9</sup> 42 U.S.C. § 4321 (1994).

<sup>10</sup> Zygmunt J.B. Plater et al., ENVIRONMENTAL LAW AND POLICY: NATURE, LAW AND SOCIETY 596 (1992).

man and nature can exist in productive harmony.”<sup>11</sup> The purpose of NEPA is “to ensure that environmental information is available to both government officials and the public prior to federal decisions producing significant environmental effects.”<sup>12</sup>

Section 102 of NEPA defines the procedural process by which federal agencies must incorporate environmental factors into their decision making.<sup>13</sup> Federal agencies are to conduct an environmental assessment (EA) of the proposed action to determine whether it is necessary to prepare a comprehensive environmental impact statement (EIS) or issue a finding of no significant impact (FONSI).<sup>14</sup> An agency issuing a FONSI need only complete an EA, which is a “threshold document, and is held to a lower degree of analysis than an EIS.”<sup>15</sup> Federal agencies are required to draft an EIS for “all major Federal actions significantly affecting the quality of the human environment.”<sup>16</sup> The document must include, among other points, “statements considering alternatives, a full and fair discussion of significant environmental impacts, a discussion on mitigation measures and an evaluation of cumulative impacts.”<sup>17</sup>

NEPA requires that each sale be open to public comment and appeal, a process that has been essential in shaping national forest management policy. The public may appeal a timber sale offered by the U.S. Forest Service or BLM by requesting that a decision be reviewed at a higher organizational level.<sup>18</sup> If upon heightened review the public believes that the agency is still violating a statutory requirement, it can seek judicial review through challenging the agency in court. Judicial review of timber sale proposals is essential in protecting against unlawful logging because it

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<sup>11</sup> 42 U.S.C. § 4331. Further, it attempts to “promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.” *Id.* at § 4321.

<sup>12</sup> Linda M. Bolduan, *The Hatfield Riders: Eliminating the Role of the Courts in Environmental Decision Making*, 20 ENVTL. L.J. 329, 330-31 (1990) citing 40 C.F.R. § 1500.1 (1988). Both the public and federal agencies are to develop information to help the agency officials fully consider the environmental consequences of their actions.

<sup>13</sup> 42 U.S.C. § 4331(a).

<sup>14</sup> Bart Brush, *National Environmental Policy Act*, 22 ENVTL. L.J. 1163 (1992) citing 40 C.F.R. § 1508.9(1). These regulations also allow the federal agency to categorically include or exclude certain types of activities from the NEPA process. 40 C.F.R. § 1508.4.

<sup>15</sup> PLATER ET AL; *supra* note 10, at 619.

<sup>16</sup> 42 U.S.C. § 4332(2)(C) (1988).

<sup>17</sup> *Sierra Club v. Penfold*, 857 F.2d 1307, 1312 (9th Cir. 1988); 40 C.F.R. § 1502.13-16. The 9th Circuit has interpreted NEPA broadly so as to make as liberal an interpretation as possible to accommodate its application.

<sup>18</sup> Bolduan, *supra* note 12, at 331. See 36 C.F.R. § 217, 251(c) (1989) (regulations for appealing U.S. Forest Service decisions). For example, a decision by the district ranger can be appealed to the regional forester.

provides "a public forum that allows for independent review of agency actions."<sup>19</sup>

Another significant environmental law that the rider suspends is the Endangered Species Act of 1973.<sup>20</sup> Passage of this act was the United States' first genuine attempt to protect endangered and threatened species from extinction and is "widely considered to be the most powerful environmental law in the nation."<sup>21</sup> The Act consists of three principal approaches to the problem of conserving species threatened with extinction. First, it attempts to reduce world-wide demand for endangered species by closing down the United States' market.<sup>22</sup> Second, the Act prohibits against "taking" any endangered species. Taking is defined as harassing, harming, pursuing, or hunting the species.<sup>23</sup> Finally, it imposes a prohibition on all federal agencies from harming the endangered species or modifying its habitat.<sup>24</sup> This act has been essential in protecting the existence of endangered species, primarily by its prohibition on destruction or modification of a species' habitat by federal agencies such as the U.S. Forest Service and BLM.<sup>25</sup>

While the timber industry has welcomed the salvage rider with open arms, environmentalists across the country are outraged. With no environmental laws or regulations to give teeth to suits filed against the government for violating the law, the public, in effect, has no enforceable legal course of action.<sup>26</sup> The rider explicitly denies citizens their right to challenge illegal logging in court.<sup>27</sup>

Aside from the drastic limiting effect the rider has on seeking relief through legal avenues, it also raises serious concerns about the heightened environmental degradation that will undoubtedly result from increased

<sup>19</sup> *Id.* at 332. NEPA does not specifically provide for judicial review of agency actions, but the public can bring suits under the Administrative Procedures Act (APA), 5 U.S.C. §§ 551-706 (1988).

<sup>20</sup> 16 U.S.C. § 1531-43 (1988 & Supp. 1993).

<sup>21</sup> Ike C. Sugg, *Caught in the Act: Evaluating the Endangered Species Act, Its Effects on Man and Prospects for Reform*, 24 CUMB. L. REV. 1, 2 (1993). The ESA has come under continued criticism for restricting land use, and will likely be reformed by the 104th Congress.

<sup>22</sup> 16 U.S.C. § 1538. The Act makes it illegal for any person subject to the jurisdiction of the United States to import into or export from the U.S. any endangered species. *Id.* at § 1538(a)(1)(A). The underlying concept was that the only way to prevent extinction is by shutting down the market for such species in developed countries, with the U.S. being one of the primary markets for endangered species.

<sup>23</sup> *Id.* at § 1532(19).

<sup>24</sup> *Id.* at § 1536.

<sup>25</sup> PLATER ET AL; *supra* note 10, at 657.

<sup>26</sup> *See* § 2001(i).

<sup>27</sup> *Id.*

logging. The rider mandates that the U.S. Forest Service and BLM log billions of board feet of timber from the national forests, regardless of the impact on fish, wildlife, and water quality.<sup>28</sup> This will certainly result in extensive environmental destruction through increased road construction, habitat fragmentation, watershed degradation, erosion, and local and regional extinction.<sup>29</sup>

### III. White House Position and Environmentalist Reaction

In response to the salvage logging legislation, the White House has received more than sixty thousand letters, faxes, e-mail messages, and phone calls from Americans imploring President Clinton to veto the bill.<sup>30</sup> The President, however, succumbed to the pressure of Congress and signed the bill on July 27, 1995. On the day the rider was signed, leaders from the major environmental organizations held a "21 Chainsaw Salute" in front of the White House condemning the President for signing the rider into law.<sup>31</sup> In addition, the President received close to one thousand pieces of wood urging him to veto the bill.<sup>32</sup>

This rider has also come at a time when environmentalists are attempting to combat Congress's assault on the nation's natural resources. A group of GOP lawmakers are arguing that federal environmental rules are too costly and burdensome to industry, property owners, and state and local governments.<sup>33</sup> Republicans of the 104th Congress have set out to rewrite many of the nation's environmental laws, including the Clean

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<sup>28</sup> *Water Bird May Undo Forest Plan Provision Tucked in Bill, Could Open Door to Legal Challenges*, SEATTLE TIMES, Sept. 4, 1995, at B3. A board foot is an industry unit of measure equal to the cubic contents of a piece of lumber one foot square by one inch thick.

<sup>29</sup> Howie Wolke, *Salvage Mania and The Forest Health Sham*, Greater Salmon-Selway Project, at 1. Roadless areas are the last secure habitats for species that cannot co-exist with development. They form linkages between big wilderness ecosystems and provide crucial refuge for various species. Currently, over 1/2 of the national forests are roaded, cutover, or developed. Only 1/6 of the system is protected wilderness, and 1/4, roughly 45 million acres, remains unprotected wildland. *Id.* at 2.

<sup>30</sup> Austin Nichols, *Environmental Groups Blast Clinton for Signing Timber Rider; Hold '21 Chainsaw Salute' in Front of the White House*, ECONET, Aug. 2, 1995. Also, on the day of the signing, the Wilderness Society delivered 350,000 petitions from Americans demanding that President Clinton take action to protect U.S. forests, wilderness and other public lands.

<sup>31</sup> *Id.* The list of groups involved included the Sierra Club, Wilderness Society, Defenders of Wildlife, and Friends of the Earth.

<sup>32</sup> *Id.*

<sup>33</sup> Gary Lee, *Environmental Groups Launch Counterattack After Losses on Hill*, WASHINGTON POST, Aug. 19, 1995, at A6.

Water and Endangered Species Acts.<sup>34</sup> In response, environmental leaders have launched an ardent defense of the current federal system of environmental protection.<sup>35</sup> By concentrating their efforts on Capitol Hill and actively enlisting supporters throughout the country, they hope to successfully combat Congress's assault on the environment.<sup>36</sup>

As a result of signing the rider, Clinton's status among the environmental community was severely damaged. Roger Sulnick, executive director of the American Oceans Campaign, explained: "It is disturbing that the voices of thousands of Americans who urged President Clinton to veto this bill will be muted by the sickening roar of chainsaws in our national forests. The administration should be ashamed for allowing special interests to destroy our national heritage."<sup>37</sup> In response to the rider, Roger Schlickeisen, president of the Defenders of Wildlife, stated that it "was just one of the opening salvos in the war on our wildlife and public lands by this Congress, and President Clinton is already giving up. The chainsaws today symbolize how he went from standing tall to falling over as quickly as a logged tree."<sup>38</sup>

President Clinton initially vetoed the rescissions bill, in part because it contained a nearly identical salvage logging rider which he initially condemned as a "very bad environmental provision."<sup>39</sup> In what continues to be a familiar pattern within the Clinton administration, the President switched his position and signed the bill even though it still contained the salvage rider provision.<sup>40</sup> In a statement to Republican leadership in Congress indicating that he no longer opposed the salvage timber provision, Clinton claimed that the U.S. Forest Service and BLM "do not need laws or citizens to successfully manage the national forests."<sup>41</sup> Environmentalists and other opponents of the rider remain skeptical of this assertion. Oregon Congressman Peter DeFazio expressed outrage over the President's action: "The Clinton administration says 'trust us.' But I don't

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<sup>34</sup> *Congress in Midst of Overhauling Environment Laws, Critics: Changes Do More Harm Than Good*, SEATTLE TIMES, Sept. 10, 1995, at A3.

<sup>35</sup> Lee, *supra* note 33, at A6.

<sup>36</sup> *Id.* A recent survey by the Mellman Group pollster found that 62% of respondents said that Congress's priority should be to do more to protect the environment, while 29% said Congress should reduce regulations.

<sup>37</sup> Nichols, *supra* note 30, at 1.

<sup>38</sup> *Id.*

<sup>39</sup> Jerry Greenberg, *Senate Continues Environmental Assault, Passes Logging Bill*, July 21, 1995, for Internet. The only significant change in the new legislation shortened the time period in which legal challenges would be prohibited, from September 1997 to December 1996.

<sup>40</sup> Scott Sonner, *News Analysis: Clinton Leaves Democrats Angry Over Forest Policy*, SEATTLE TIMES, July 5, 1995, at B3.

<sup>41</sup> *Clinton Flip-Flops on Salvage*, INNERVOICE, July/Aug., 1995.

trust any federal agency with the kind of unlimited power granted by this salvage amendment.”<sup>42</sup>

The concern regarding the effects of implementation of the rider is widespread. In a letter to Clinton’s chief of staff, Leon Panetta, retired Forest Service Regional Forester Zane Smith, wrote,

I am frightened with the ill-advised proposals now coming before you to short circuit the public’s role in Forest Service decision making and provisions to relieve the agency from basic environmental considerations. The frustrations connected with the slowness in restoring timber sales are understandable. They do not merit, though, an abandonment of the right of the public for full disclosure and redress for decisions that may be improper. My 34-year career in the Service . . . convinces me that there are more suitable alternatives. These, after all, are the citizens’ forests. Citizen control, no matter how inefficient, must be retained.<sup>43</sup>

The President, in response to an overwhelming negative reaction to signing the bill, attempted to make amends with opponents of the rider. On August 1, the President issued a memorandum for the Secretaries of the Interior, Agriculture, Commerce, and the Administrator of the EPA.<sup>44</sup> The memoranda directed these individuals to utilize the broad discretion allotted to them in the rider regarding implementation and to comply with existing environmental laws.<sup>45</sup> It directed them to implement the rider “in an environmentally sound manner, in accordance with [the President’s] Pacific Northwest Forest Plan, other existing forest and land management policies and plans, and existing environmental laws, *except those procedural*

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<sup>42</sup> *Id.* A column in the Washington Post also chastised the President for being out of touch with political, economic, and environmental realities: “The White House got the politics of the West wrong. The region is now an urban and suburban region with diversified economies, less rural than the country as a whole, where the great majority of voters feels passionately about the natural resources that define the place. For the rest, the timber provisions won’t buy the President votes of many loggers, ranchers, or environmentalists.” Jessica Matthews, *Wrong Time to Compromise*, THE WASHINGTON POST, July 4, 1995, at A21.

<sup>43</sup> *Id.*

<sup>44</sup> Memorandum from President Clinton for the Dep’t of Agriculture, The Interior, Commerce, and U.S. EPA (Aug. 1, 1995) (Subject: Implementing Timber Related Provisions to Public Law 104-19). Clinton indicated that he did not support the salvage timber provision and expressed concern that it would lead to litigation that could slow down his forest management program.

<sup>45</sup> *Id.* The President stated that “Public Law 104-10 gives us the discretion to apply current environmental standards to the timber salvage program, and we will do so.” *Id.*



*actions expressly prohibited by (the rider).*"<sup>46</sup> This memorandum directed the respective department heads to enter into a memorandum of agreement "to make explicit the new streamlining procedures, coordination, and consultation actions" that the President had previously directed the departments to develop and which they have already implemented under existing environmental laws.<sup>47</sup>

Although unenforceable by law, the Memoranda of Agreement promulgated by the directed departments provides guidance to regional foresters in implementing the salvage rider program.<sup>48</sup> The Memoranda expressed the signatory parties' interest in continued compliance with existing environmental laws while fulfilling the objectives of the rider. The Secretaries agreed to monitor forest health and ecosystem management while "achieving to the maximum extent feasible a salvage timber sale volume above the programmed level and in accordance with [the rider]."<sup>49</sup> They also determined to involve the public early in the comment process to allow opportunity to provide input into the development of salvage timber sales.<sup>50</sup> Although the Memoranda helped to insure that the environmental impact of implementation will be considered, it was still insufficient to override the rider's imminent threat to the environment by leaving essential environmental laws exempted from application.

#### IV. § 2001(b): Salvage Timber Sales

The first section of the rider concerns all salvage timber sales on all national forests and public lands throughout the United States.<sup>51</sup> The rider mandates the immediate logging of all salvage timber sales, with "salvage timber" defined as timber which is diseased or insect infected, dead, damaged, down, affected by fire or imminently susceptible to fire or insect attack.<sup>52</sup> "Salvage timber" also includes "any 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 component of 'salvage' timber."<sup>53</sup>

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<sup>46</sup> *Id.* (emphasis added).

<sup>47</sup> *Id.*

<sup>48</sup> Memoranda of Agreement of Timber Salvage Related Activities Under Public Law 104-19 Between the Dep'ts of Agriculture, The Interior, and Commerce, and U.S. EPA (Aug. 9, 1995).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* The Memoranda recognized the importance of public involvement given the prohibition of administrative appeals.

<sup>51</sup> § 2001(b), *Completion of Salvage Timber Sales*.

<sup>52</sup> § 2001(a)(3).

<sup>53</sup> *Id.*

This broad definition of salvage timber to also include green (living) trees is environmentally disastrous, since associated green trees are also exempt from the same environmental laws as the salvage timber.<sup>54</sup> This conveniently worded provision illustrates the actual purpose of the rider; to appease the timber industry's demand for increased logging. It also illustrates the timber industry's power and influence over the 104th Congress. Although legally inconsequential, the aforementioned Memoranda of Agreement between the various departments also warned that care must be taken to avoid abusive harvesting of green trees associated with the salvage timber.<sup>55</sup>

The salvage timber sales section mandates the use of expedited procedures by the U.S. Forest Service and the BLM when preparing, advertising, offering and awarding timber sale contracts.<sup>56</sup> The rider authorizes the agencies to achieve, to the maximum extent feasible, a timber sale program that reduces the backlogged volume of salvage timber. The expedited procedures require that the agencies prepare a document combining an environmental assessment under NEPA with a biological evaluation under Section 7 of the ESA.<sup>57</sup> It also authorizes the use of an existing environmental assessment or biological evaluation if the documentation applies to the federal lands covered by the proposed timber sale.<sup>58</sup> This section gives broad discretion to the Secretaries to influence the scope and content of the required documentation.<sup>59</sup>

The impetus behind congressional support of this section regarding salvage timber was to provide jobs for the timber industry and improve the perceived "forest health crisis" of excessive fuel wood.<sup>60</sup> The U.S. Forest Service and the timber industry claim that years of fire suppression in the national forests has created a widespread "crisis" of potentially catastrophic fires due to unnatural fuel wood buildups, insect epidemics, and diseased forests.<sup>61</sup> They claim that through immediate logging of all salvage timber, which is highly flammable, disastrous blazes will be prevented.<sup>62</sup>

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<sup>54</sup> Kenworthy, *supra* note 3, at B5.

<sup>55</sup> Memoranda of Agreement, *supra* note 48.

<sup>56</sup> § 2001(b)(1).

<sup>57</sup> § 2001(c)(1)(A). The purpose of the biological assessment is to identify any endangered or threatened species which are likely to be affected by the proposed action.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> Kenworthy, *supra* note 3, at B5. Tim Lillebo, of the Oregon Natural Resources Council, rebutted the forest health presumption; "I don't call that forest health, I don't call that fire prevention; I call that logging." *Id.*

<sup>61</sup> Wolke, *supra* note 29, at 1.

<sup>62</sup> *Id.* at 5.

However, it has been proven that the existence of a "health crisis" within our forests is highly questionable, and more likely the result of the influential timber industry affecting Congressional decision making.<sup>63</sup> Notwithstanding the controversy, salvage timber and fire are essential in sustaining a viable environment.

The importance of salvage timber and fire to enhance ecosystem fertility is universally understood. Standing dead trees (snags) and fallen logs are crucial wildlife habitat components, especially in old-growth and post-fire environments.<sup>64</sup> Many species require snags and deadfall for feeding, nesting, denning, or roosting that can be found in areas recently burned.<sup>65</sup> Pileated woodpeckers require large snags for nesting and roosting, and winter survival for many woodpecker species is dependent upon insects that find refuge in dead wood.<sup>66</sup> Also, deadfall and snags provide denning sites for lynx, marten, fisher, and black bear.<sup>67</sup> The above list of species which utilize salvage timber is cursory at best; there are many more species that depend upon dead, dying, or diseased trees.

In addition, dead trees are an essential part of nutrient and moisture storage in the soil.<sup>68</sup> They provide microsites essential to plant succession. They contribute one set of functions while they stand, and another when they fall.<sup>69</sup> Because dead trees fall at random intervals, they provide these important functions over a prolonged period of time.<sup>70</sup> There is little question that salvage logging is extremely destructive to native forest ecosystems in general, and to fish and wildlife in particular.<sup>71</sup> By removing all salvage timber from selected sale locations, local ecosystems will be denied the important functions that this timber serves. The effect of the rider is to maximize this destruction by authorizing the logging of an additional 4 to 5 billion board feet of salvage timber between now and December 31, 1996.<sup>72</sup>

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<sup>63</sup> Kenworthy, *supra* note 3, at B5.

<sup>64</sup> Wolke, *supra* note 29, at 1.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> David Bayles, et al., *Forest Health and Salvage Logging: What's the Connection?*, INNERVOICE, May/June 1995.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* Logging causes soil erosion and sediment displacement which adversely affect fish through decreased water quality (turbidity).

<sup>72</sup> Asta Bowen, *Salvage Logging Law Signed By Clinton a 'Small Abomination'*, SEATTLE POST-INTELLIGENCER, Aug. 2, 1995, at editorial page. It would involve clearing about 4.5 million acres, or about 700 square miles of forest.

Along with salvage timber, the natural cycle of fire plays a vital role in maintaining ecosystem equilibrium and has shaped the forests of western and northern North America for many millennia.<sup>73</sup> For example, Michigan's jack pines cannot reproduce without fire, and Kirtland's warblers cannot reproduce without jack pines.<sup>74</sup> Fire is also essential to the continued survival of lodgepole pines, whose cones require cyclical blazes to open and disseminate the seeds.<sup>75</sup> Wildfire expedites nutrient cycling by returning rich ash to the soil and by reducing competition among trees.<sup>76</sup> It also acts to control insects and disease by reducing suitable habitat for epidemics and by directly killing insects and pathogens.<sup>77</sup>

Since the great fires of 1910, U.S. Forest Service policy has been to extinguish all fires by 10 a.m. the following day.<sup>78</sup> This policy has succeeded in creating a recipe for disaster by not allowing natural low intensity surface fires to kill off highly flammable fuel-wood.<sup>79</sup> Before U.S. Forest Service intervention, most Western forest fires burned "cooler" since excess combustible timber was prevented from accumulating by the frequency of fires.<sup>80</sup> Fred Bird, fire management officer at Rocky Mountain National Park, explains: "Most people don't realize that we can't continue to suppress fires. As fuels accumulate, fires are getting bigger and hotter."<sup>81</sup> Now, the U.S. Forest Service and timber industry are using the accumulation of fuel loads as an excuse to increase salvage logging.

Instead of immediately extinguishing all forest fires, the U.S. Forest Service should develop a management plan that allows lightning ignited fires to burn on public lands except where it threatens homes or towns.<sup>82</sup> Prescribed burning should be utilized to offset years of suppression to thin fuel loading, though "we cannot make thinning into a timber sale because the economics of abuse skew the whole process."<sup>83</sup> In light of the importance of salvage timber and wildfire to the ecosystem, the U.S. Forest

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<sup>73</sup> Wolke, *supra* note 29, at 3.

<sup>74</sup> Ted Williams, *Only You Can Postpone Forest Fires*, SIERRA, July/Aug. 1995, at 39.

<sup>75</sup> Wolke, *supra* note 29, at 3.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Rick Bass, *The Fires Next Time*, AUDUBON, Sept./Oct. 1995, at 64.

<sup>81</sup> George Wuerthner, *Fire Power*, NATIONAL PARKS, May/June 1995, at 33.

<sup>82</sup> Wolke, *supra* note 29, at 3.

<sup>83</sup> Williams, *supra* note 74, at 41.

Service should allow forest succession to progress without unneeded human interference.<sup>84</sup>

#### V. § 2001(d): Lands Described in Option 9

The second area affected by the salvage logging rider concerns federal lands described in the “Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl” (Option 9).<sup>85</sup> Option 9 was the culmination of an immense effort in public land management to address the “human and environmental needs served by the federal forests of the Pacific Northwest and northern California.”<sup>86</sup> An inter-agency, interdisciplinary team of expert scientists, economists and sociologists was assembled to develop a report assessing ten management options, of which Option 9 was chosen.<sup>87</sup> Option 9, entitled “Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl,” was signed by the Secretaries of Agriculture and the Interior on April 13, 1994.<sup>88</sup>

Option 9 was designed to address the plight of the spotted owl while taking into consideration the concerns of the timber industry. In effect, it outlines various environmental restrictions and safeguards that the U.S. Forest Service and BLM must observe while preparing a timber sale.<sup>89</sup> For example, it requires that buffers be placed around riparian areas, certain ecologically sensitive areas be restricted from logging, and that for each proposed sale a specified component of snags and green trees be retained.<sup>90</sup>

The area affected by Option 9 includes all national forests and public lands west of the Cascades located in Washington, Oregon, and northern California.<sup>91</sup> Following passage of the rider, timber sales within these forests are to be offered “notwithstanding any decision, restraining order, or injunction issued by a United States court . . . .”<sup>92</sup> This will result in

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<sup>84</sup> Wolke, *supra* note 29, at 7.

<sup>85</sup> § 2001(d).

<sup>86</sup> *Record of Decision*, Apr. 13, 1995, at 1. Signed by Mike Epsy, Secretary of Agriculture, and by Bruce Babbitt, Secretary of the Interior.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 3.

<sup>90</sup> *Id.* at i.

<sup>91</sup> *Id.* at 12.

<sup>92</sup> § 2001(d).

the immediate release of all timber sales that were initially stalled for violating the law. Undoubtedly, release of these sales will result in severe environmental repercussions, especially toward fisheries and wildlife within the range of the spotted owl.<sup>93</sup> Again, the rider authorizes these sales to be awarded without the procedural safeguards of NEPA or the substantive protection of the Endangered Species Act, among other laws.

#### VI. § 2001(k): Section 318 Sales

The third section of the rider concerns all previously offered and unawarded timber sale contracts subject to Section 318 of Public Law 101-121 (103 Stat. 745).<sup>94</sup> The rider mandates that the

agency concerned shall act to award, release, and permit to be completed in fiscal years 1995 and 1996 with no change in originally advertised terms, volumes, and bid prices, all timber sale contracts offered or awarded before that date in any unit of the National Forest System or district of the Bureau of Land Management subject to section 318 . . .<sup>95</sup>

Section 318 was a provision in a 1989 appropriations bill which authorized the logging of 8 billion board feet of timber per year.<sup>96</sup> The U.S. Forest Service and BLM, however, were not exempt from complying with the Endangered Species Act, which requires that the agencies first receive U.S. Fish and Wildlife approval before awarding a timber sale.<sup>97</sup> This insured that the survival of all threatened and endangered species was not jeopardized by the harvesting of trees in a sensitive area. Thus, in order to protect threatened wildlife, primarily the marbled murrelet, environmentalists were successful in obtaining an injunction for 62 timber sales equaling approximately three hundred million board feet of timber.<sup>98</sup>

There had been considerable debate between the timber industry and environmentalists regarding language in the rider releasing all previously

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<sup>93</sup> Kenworthy, *supra* note 3, at B5.

<sup>94</sup> § 2001(k). The sales involve 270 million board feet of timber, enough to build 27,000 houses.

<sup>95</sup> § 2001(k)(1).

<sup>96</sup> Department of the Interior and Related Agencies Appropriations Act, 1988, Oct. 23, 1989, Pub. L. 101-121, 103 Stat. 701.

<sup>97</sup> *Id.* at § 318(c)(2).

<sup>98</sup> Eric Pyne, *Groups Sue to Block 57 Timber Sales in Northwest*, SEATTLE TIMES, Aug. 11, 1995, at B1.

suspended Section 318 timber sales. The timber industry argued that the provision applies to all timber sale contracts offered throughout Oregon, Washington, and northern California that were withheld from release since 1989, as well as the 62 unreleased Section 318 sales.<sup>99</sup> Environmentalists and the Clinton administration argued that the language applies solely to the 62 remaining unreleased Section 318 timber sales.<sup>100</sup>

The Undersecretary of Agriculture, Jim Lyons, and the Director of the BLM, Mike Dombeck, issued a letter to Jack Ward Thomas, Chief of the Forest Service, regarding the controversy surrounding effectuation of the Section 318 sales.<sup>101</sup> They asserted that the language of the rider is clear on its face and applies only to the 62 remaining Section 318 sales.<sup>102</sup> They argued that the interpretation asserted by the timber industry "is wholly inconsistent with the history of the Section 318 sales issue."<sup>103</sup> Speaking for the Clinton administration, they expressed concern that this reading would undermine the President's Northwest Forest Plan, especially since the rider significantly reduces the customary public policy considerations that would otherwise guide implementation of timber sales.<sup>104</sup>

In response to the continued disagreement, the issue was taken to a federal district court in Eugene, Oregon for resolution.<sup>105</sup> Judge Hogan, in siding with the timber industry, ruled that the salvage rider applied to all Northwest timber sales awarded since passage of the 1989 appropriations bill containing Section 318, not merely the 62 unreleased sales.<sup>106</sup> The Clinton administration unsuccessfully appealed the decision to the 9th U.S. Circuit Court of Appeals in San Francisco.<sup>107</sup> The government had filed affidavits from experts saying logging the timber sales could jeopardize Snake River salmon, northern spotted owls and marbled

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<sup>99</sup> *Administration Yields, Orders Release of Timber*, OREGONIAN, Oct. 27, 1995, at C7. This expansive interpretation of the language would require at least an additional 170 million board feet of timber to be cut.

<sup>100</sup> Memorandum from James R. Lyons, Undersecretary of Agriculture and Mike Dombeck, Director of Bureau of Land Management, to Jack Ward Thomas, Chief of U.S. Forest Service and Elaine Zielinski, Oregon State Director, Bureau of Land Management (Aug. 22, 1995) (Subject: Section 2001(k) of the 1995 Rescissions Act).

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.* The Northwest Forest Plan developed from a timber summit that President Clinton hosted in early 1993. It sets aside forest reserves and stream buffers to protect the spotted owl, murrelet, and other wildlife species.

<sup>105</sup> See *NFRC v. Glickman* (D. Ore), Sept. 27, 1995.

<sup>106</sup> *Disputed Sales of Old-Growth Back in Court Today*, SEATTLE POST-INTELLIGENCER, Oct. 25, 1995, at B4.

<sup>107</sup> *Id.*

murrelets, all of which are threatened or endangered species.<sup>108</sup> The timber industry countered, asserting that holding up the timber sales would be contrary to the intent of Congress.<sup>109</sup> Its attorney argued that Congress had already considered the environmental impacts of logging the sales but decided that they were not serious enough to keep from cutting the timber.<sup>110</sup>

A second controversy surrounding release of the Section 318 sales concerns a restriction regarding any threatened or endangered bird species. The rider states that “[n]o sale unit shall be released or completed under this subsection if any threatened or endangered species is *known to be nesting* within the acreage that is subject of the sale unit.”<sup>111</sup> In drafting this language, Congress was aware of the impact that the remaining Section 318 sales has on the marbled murrelet.<sup>112</sup> The presence of marbled murrelets was the primary reason for holding up the 62 timber sales in the original Section 318 rider.

The problem arises because of the difficulty in ascertaining the location or existence of a marbled murrelet nest. Murrelets are obscure, robin-sized seabirds that spend most of their lives foraging at sea but nest high in old growth trees, making the birds extremely difficult to locate.<sup>113</sup> The timber industry and environmentalists have disagreed as to the interpretation of the “known to be nesting” language. The timber industry has argued that the language requires biologists to actually find an active murrelet nest within the unit or locate eggshell fragments or concentrated murrelet feces on the forest floor.<sup>114</sup> Environmentalists countered this interpretation, asserting that it does not adequately protect murrelet nesting sites.<sup>115</sup> Instead, they argued that since murrelets are so elusive, biologists should use the Pacific Seabird Protocol, which acknowledges a stand as occupied if the birds are observed flying through the trees or heard calling.<sup>116</sup>

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<sup>108</sup> Jeff Barnard, *Court Rejects Delay on Logging*, OREGONIAN, Oct. 26, 1995, at D3.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> § 2001(k)(2) (emphasis added).

<sup>112</sup> Memoranda, *supra* note 48, at “additional direction on §2001(k) of the 1995 Rescissions Act.”

<sup>113</sup> Pyne, *supra* note 98, at B1. In fact, murrelets do not really make nests at all, instead laying their eggs on branches.

<sup>114</sup> *Id.* Congressional lawmakers have argued that the Clinton administration conceded this point during negotiations on the legislation. In a July 27 letter they wrote, “Unless there is direct evidence of current nesting, the sale unit must be released.”

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*



Which method is used to determine murrelet habitat is a critical issue. Through the end of 1994, only 73 murrelet nests had been discovered in the Pacific Northwest.<sup>117</sup> In contrast, hundreds of occupied murrelet sites have been identified using the scientific protocol.<sup>118</sup>

## VII. Roman Dunn: A Case-Study of Environmental Devastation

An analysis of the Roman Dunn timber sale in the Coast Range of Oregon will provide a clear illustration of the devastating environmental effects of the rider. Roman Dunn is a timber sale originally authorized to be logged under Section 318 of the 1989 appropriations bill but, along with other environmental violations, the presence of marbled murrelets in the area had stalled its release.<sup>119</sup> However, under section 2001(k) of the rider, which authorizes immediate release of all Section 318 sales, Roman Dunn will be logged regardless of the environmental devastation that will undoubtedly result.

Roman Dunn consists of three hundred to five hundred year old trees, classic old-growth that spotted owls, marbled murrelets, and other species depend upon for survival.<sup>120</sup> Spotted owls and marbled murrelets have been documented in the unit as recently as September 2, 1995 and the sale is within an area designated as critical habitat for the spotted owl, as well as proposed critical habitat for the murrelet.<sup>121</sup> Critical habitat is designated by the government as essential to the future survival of an endangered or threatened species. In addition, the President's Northwest Forest Plan had designated the Roman Dunn area a Late Successional Reserve, where cutting trees older than 80 years old is prohibited.<sup>122</sup>

The U.S. Fish and Wildlife Service has recognized that the Oregon Coast Range is already overcut and that spotted owl pairs on the northern three-quarters of the province have extremely low amounts of habitat and

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<sup>117</sup> Kenworthy, *supra* note 7, at A1.

<sup>118</sup> Judge Hogan signed an appealable order on January 19, 1996 which stated that to invoke § 2001(k)(2) the agency must find that a murrelet is currently nesting within sale unit boundaries. See Doug Heiken, *Save Murrelets, Repeal Rider*, OREGON NATURAL RESOURCES COUNCIL, Jan. 22, 1996.

<sup>119</sup> Lance Robertson, *Time May Be Up For Old Trees*, REGISTER-GUARD, Sept. 25, 1995, at 1C.

<sup>120</sup> *Id.* The cutting units contain Douglas fir trees four to eight feet in diameter and western hemlock trees three to four feet in diameter. Also, fire scares are persuasive throughout the units, indicating that the big trees have survived many fires.

<sup>121</sup> Doug Heiken, *The Rider's Ugly Head Comes Into Full View in the Roman Dunn Timber Sale*, OREGON NATURAL RESOURCES COUNCIL, Jan. 22, 1996. The BLM claims that their nests are nearby (1.5 miles from the cutting units) but not actually within the sale location.

<sup>122</sup> *Id.*

may be at the threshold of local extinction.<sup>123</sup> The Service recognizes that even minimal losses of habitat may have serious ramifications for spotted owls in this critical area.<sup>124</sup> Furthermore, a group of Coast Range timber sales that Roman Dunn is part of, and that section 2001(k) of the rider orders the cutting of, represents as much as 20 percent of the known nesting habitat for marbled murrelets in the lower 48 states.<sup>125</sup> In addition, the unit area encompasses two creeks which sustain several threatened aquatic species, including the coho salmon, southern torrent salamander, and tailed frog.<sup>126</sup>

Prior to passage of the rider, the above factors would have been considered when assessing a unit for potential sale. The U.S. Forest Service and BLM would have had to consult with the U.S. Fish and Wildlife Service to assure that a sale does not violate the Endangered Species Act, as does Roman Dunn due to the presence of spotted owls and marbled murrelets in the area. Also, since the area was designated a Late Successional Reserve, the President's Northwest Forest Plan would have categorically excluded Roman Dunn from any logging whatsoever. Now, the rider orders a "clearcut" of all ecologically critical old-growth trees where the forest was originally presumed to remain untouched.

In addition, NEPA would have required an assessment of the cumulative affects that Roman Dunn and nearby sales would have on marbled murrelets and spotted owls in the area. It also would have allowed the public the opportunity to appeal the sale or seek judicial review to ensure that all environmental factors are fully considered. The rider, however, authorizes the harvesting of Roman Dunn with minimal consideration of any ecological repercussions. It mandates clearcutting of all the trees within the sale area, regardless of the ecological devastation that will occur or the various environmental laws being violated.

### VIII. Environmental Activism in Response to Rider Implementation

Since the beginning of implementation of the rider, environmentalists across the Northwest have returned to the forests to launch a counter-attack against logging mandated by the rider. From the redwoods of

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<sup>123</sup> *Id.*

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> Lance Robertson, *Last Stand*, REGISTER-GUARD, Oct. 1, 1995, at 2C. In fact, prior to passage of the rider, the U.S. Fish and Wildlife Service told the BLM to change the sale to retain 40% of the canopy closure to protect nearby owls and murrelets. However, the rider authorizes the BLM to go back to the original contract terms which mandate right up to the streams.

California, north through Oregon's ancient Douglas firs and into Alaska's coastal rain forest, activists are attempting to physically block the logging of ancient forests that they have fought to protect since the early 1980s.<sup>127</sup> As Doug Heiken of Oregon Natural Resources explains: "Many people thought we were done cutting old-growth. But we're back to the same old stuff."<sup>128</sup> Activist protests are utilizing tactics that hark back to the early 1980s and include tree sittings, mass arrests on logging roads and, in extreme cases, destruction of logging equipment and tree spiking.<sup>129</sup> Most of the activism has taken place at the most controversial timber sale areas, including Sugarloaf, Roman Dunn, and Warner Creek.

Since the rider has eliminated the environmentalists' most effective weapon, access to the courts, they have been forced to return to civil disobedience to voice their concern. As Boyd Peter, formerly with the Audubon Society, explains; "When you close the courtroom door is when this country historically has practiced civil disobedience, from the Boston Tea Party to school-lunch counter sit-ins and Rosa Parks saying she is not sitting in the back of the bus."<sup>130</sup> Tim Hermach of the Native Forest Council adds: "First, we lost the political arena. Then, we lost the legal arena. Now we have nothing left but the court of public opinion and acts of civil disobedience."<sup>131</sup>

One of the timber sale locations that has sparked considerable environmental activism is Sugarloaf. Located in an ancient forest reserve within the Siskiyou National Forest in Southern Oregon, Sugarloaf has become a symbol for environmentalists protesting logging in the Northwest.<sup>132</sup> Containing trees more than four hundred years old, the area encompasses essential foraging habitat for the northern spotted owl. Initially, after withstanding two legal challenges by environmental groups in court, the logging plan was altered to be more environmentally considerate and an injunction protecting the spotted owl was lifted.<sup>133</sup>

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<sup>127</sup> *Id.* at 1A.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* One man chained himself to a heavy metal door ripped off its hinges from a local tavern. Also, activists barricaded the Forest Service road leading to the logging site with deep trenches, boulders and concrete-filled barrels.

<sup>130</sup> Jeff Barnard, *Forest Activists Tactics Change*, OREGONIAN, Oct. 12, 1995, at D2.

<sup>131</sup> Peter Seeth & Eric Gorski, *U.S. Forest Service Goes on the Defensive*, OREGONIAN, Sept. 9, 1995, at A1.

<sup>132</sup> Jeff Barnard, *Forest Service Leaves Three Sugarloaf Tree-Sitters High and Wet*, OREGONIAN, Sept. 26, 1995, at B4.

<sup>133</sup> Eric Gorski, *15 Arrested in Sugarloaf Timber Sale Protest*, OREGONIAN, Sept. 12, 1995, at A7.

Environmentalists had hoped Sugarloaf would be spared after the President's Northwest Forest Plan had designated the area as a reserve and thus exempt from logging.<sup>134</sup> However, in the 1989 appropriations bill, Congress made it immune from court challenges to provide local mills with timber while in the midst of the spotted owl controversy.<sup>135</sup> Although itself not a direct victim of the rider legislation, Sugarloaf represents the environmental degradation that will result from the rider's destructive logging mandates.

On October 9, 1995, more than 150 people gathered at Sugarloaf to rally in protest of the logging that had begun.<sup>136</sup> At the gathering, 57 people were arrested, including a Unitarian Minister, a grandmother, and two juveniles.<sup>137</sup> The protesters crossed into a closed area surrounding the timber sale and were led away in plastic handcuffs.<sup>138</sup> Previously, fifteen protesters were arrested at Sugarloaf after they crossed a locked gate, violating a federal closure order in the forest.<sup>139</sup> In anticipation of the increased confrontation and civil disobedience, the U.S. Forest Service sealed off thirty-five square miles of land around the sale area.

Boise Cascade Corporation, the logging company assigned to harvest the timber at Sugarloaf, was forced to log cautiously as thirty tree spikes were found, one by a logger who broke his chainsaw on a sixteen inch spike.<sup>140</sup> Although the spikes were likely remnants of a spiking operation in 1992, the U.S. Forest Service had planned to guard the road blocks twenty-four hours a day for the duration of the logging.<sup>141</sup> In addition, logging crews found and removed a tree-sitting platform and discovered brown paint covering blue blazes on several trees marked for logging.<sup>142</sup> Also, three protestors had climbed trees marked to be cut to keep loggers from cutting them down.<sup>143</sup>

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<sup>134</sup> *Id.*

<sup>135</sup> Barnard, *supra* note 130, at D2.

<sup>136</sup> *Largest Mass Arrest Occurs at Sugarloaf Timber Harvest*, OREGONIAN, Oct. 11, 1995, at B4.

<sup>137</sup> *Id.*

<sup>138</sup> *Id.* Environmentalists are asking that entrance into the sale area be permitted to ensure that logging is performed in compliance with contract specifications.

<sup>139</sup> Gorski, *supra* note 133, at A1. Anyone caught inside the closed area was subject to a fine not more than \$500 or imprisonment for not more than 6 months, or both.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

<sup>143</sup> *Three Protesters Climb Trees to Stop Sugarloaf Logging*, OREGONIAN, Sept. 25, 1995, at B4. The U.S. Forest Service commented that since the protesters were not interfering with logging they would be left alone until they decided to climb down.

Further, two environmentalists, in response to the rider, have launched a hunger strike on the steps of the Federal Building in Eugene, Oregon.<sup>144</sup> They are sleeping in tents erected on concrete at the southwest corner of the Federal Building, which houses the U.S. Forest Service's Willamette National Forest headquarters.<sup>145</sup> The hunger strikers' demands include public hearings on logging of old-growth forests and a separate vote of the rider in Congress so the issue can be debated "in the light of day."<sup>146</sup> One participant added, "our remaining ancient forests are threatened by a backdoor Congressional trick to sell our precious public assets at fire sale prices. We want Congress to deal with forest issues honestly."<sup>147</sup>

Another protest rally took place at Roman Dunn, which as previously discussed, is a highly controversial timber sale. The Bureau of Land Management had closed off a three hundred acre area around the timber sale in anticipation of protests against the logging.<sup>148</sup> In response, logging equipment was sabotaged by vandals who attempted to stop the logging.<sup>149</sup> Jim Flynn, editor of the *Earthfirst!* magazine in Eugene, Oregon commented; "I applaud these people who did this. Sometimes that's what it takes: outlaw tactics to fight outlaw federal agencies."<sup>150</sup>

The use of sabotage and civil disobedience in furthering the environmental movement has created controversy amongst the various environmental organizations. Larger environmental groups, such as the Wilderness Society, discourage civil disobedience and prefer to pursue their agenda through Congress and the courts.<sup>151</sup> Michael Carrigan, director of Oregon Peaceworks in Salem, explains: "We condemn all violence, whether it is to property or people. It may slow things down in the short term, but it is not going to help our movement to protect the ancient forest in the long term."<sup>152</sup> Other more radical environmental groups such as

<sup>144</sup> Lance Robertson, *Hunger Strike Fights Logging of Old Growth*, REGISTER-GUARD, Oct. 10, 1995, at A3. The protesters were Tim Ream, a former U.S. Environmental Protection Agency employee, and Shannon Wilson, who recently quit his job with AmeriCorps to protest Clinton's signing of the bill with the salvage logging rider attached.

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> *BLM Closes Off Area Around Timber Sale in Coast Range*, OREGONIAN, Sept. 27, 1995, at D6.

<sup>149</sup> *Logging Equipment Sabotaged Near Roseburg*, OREGONIAN, Oct. 20, 1995, at D5. The vandals poured a damaging substance into the cranks of a bulldozer and an excavator, as well as tampered with a road grader, compactor, and fire truck.

<sup>150</sup> *Id.*

<sup>151</sup> Seeth, *supra* note 131, at A14.

<sup>152</sup> Logging, *supra* note 149, at A14.

Earthfirst! see compromise as giving up on the last of the West's virgin forests. Without any legal recourse, they argue, physical action must be taken to ensure preservation of the remaining scarce old-growth trees.<sup>153</sup>

## IX. Conclusion

The recently enacted salvage timber sale provision will result in the additional logging of billions of board feet of timber, causing extensive environmental devastation of sensitive ecosystems throughout the country. This rider exemplifies the disastrous results of enacting "back door" legislation without a thorough discussion and presentation of all issues involved. In what has consistently typified American politics, this rider illustrates the unwieldy influence of big business and industry over Congressional lawmakers, often at the expense of our nation's wildlife.

By exempting from application many of the nation's essential environmental laws, numerous sensitive species and delicate ecosystems will be left unprotected. Without the procedural safeguards of NEPA or the substantive protection of the Endangered Species Act, extensive logging will take place without a sufficient consideration of the ensuing environmental degradation. Further, the rider ignores the importance of salvage timber in maintaining environmental viability by authorizing the immediate logging of all salvage sales, regardless of the impact to nearby wildlife.

Although the timber industry has complained of decreased profits and lost jobs in recent years, this rider is not a sensible solution to their perceived crisis. Authorization of a major logging drive to appease timber industry demands is a short-term solution to a complex problem, while causing long-term environmental devastation. The environmental harm inevitably caused by this rider will hopefully demonstrate to Americans the harmful affects of similar environmental riders, and they will act with local representatives to combat their existence.

*Curt Wilson*

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<sup>153</sup> Robertson, *supra* note 126, at 6A.

