The original documents are located in Box 70, folder "10/22/76 S3091 National Forest Management Act of 1976 (1)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library

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THE WHITE HOUSE

ACTION

WASHINGTON October 20, 1976

Last Day: October 23

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON From Oner

SUBJECT:

S. 3091 - National Forest Management Act of 1976

Attached for your consideration is S. 3091, sponsored by Senator Humphrey and thirteen other Senators.

The enrolled bill amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to provide detailed policy guidelines for management of the National Forest System and to "fix" the timber production problems arising out of the "Monongahela Decision" and its aftermath.

S. 3091 is discussed more fully in the OMB enrolled bill report at Tab A.

The Departments of Agriculture and Commerce, the Council of Economic Advisers, the Council on Environmental Quality, the Environmental Protection Agency and OMB all recommend approval.

Specifically, Agriculture states:

"Our concern is not only that the sale programs are being reduced, but that scientifically sound forestry practices are restricted. We estimated that a nationwide implementation of the court's interpretation would reduce our timber sale program by 50%, resulting in adverse impacts on timber supply and affecting forest management in general and major adverse impacts on forest utilization and wildlife habitat. The new sale authority is sound, and we strongly support it."

The Departments of Justice and Interior defer to USDA and Treasury has no recommendation.



Posted 126

Max Friedersdorf recommends strong approval of the enrolled bill and the Counsel's Office (Kilberg) has no objection.

RECOMMENDATION

I recommend that you sign S. 3091 at Tab B.

I also recommend that you approve the signing statement at Tab C which has been cleared by Doug Smith.

Approve ______



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 18 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3091 - National Forest

Management Act of 1976

Sponsors - Sen. Humphrey (D) Minnesota and

13 others

Last Day for Action

October 23, 1976 - Saturday

Purpose

Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to provide detailed policy guidelines for management of the National Forest System -- particularly with respect to timber production.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture Council of Economic Advisers Environmental Protection Agency	Approval Approval Approval
Council on Environmental Quality	Approval
Department of Commerce Department of the Interior	Approval Defers to Agriculture
Department of Justice Department of the Treasury	Defers to Agriculture No recommendation

Discussion

The Organic Act of 1897 authorized establishment of National Forest Reserves to improve and protect the condition of forested areas of the United States and to "furnish a continuous supply of timber for the use and necessities of the people of the United States." Since then, a series of Acts have expanded or otherwise redefined these purposes. The present Forest Service policy



of multiple use management is based on the Multiple Use-Sustained Yield Act of 1960. The Forest and Rangeland Renewable Resources Planning Act of 1974 provides a framework for developing a multi-year program plan for the activities of the Forest Service based on an assessment of the national demand for and supply of these resources.

Timber has been sold from national forests pursuant to the Organic Act since their establishment. This was relatively noncontroversial for many years and its legitimacy was generally reinforced by subsequent legislation -- most notably the Multiple Use-Sustained Yield Act of 1960. However, as use of the national forests increased for various purposes, conflicts occurred. Considerable litigation has resulted over the past decade, much of it designed to reduce or end development of national forests for timber, minerals, grazing, or other purposes.

In August 1975, the Fourth Circuit Court of Appeals affirmed a lower court decision restricting three planned timber sales in the Monongahela National Forest. Decided amid a highly emotional outcry by environmentalist groups against the practice of "clear-cutting," the ruling upheld a strict interpretation of the 1897 Organic Act limiting such sales to "dead, physiologically mature, or large trees" which have been individually marked for removal. In December 1975, the Federal District Court for Alaska adopted the conclusion of the Fourth Circuit Court and applied the same standards to an existing 50-year timber sale executed in 1951 to the Ketchikan Pulp Company.

As a result of these decisions, timber sales in the four State region including Virginia, West Virginia, and the Carolinas, have been reduced to approximately 10 percent of planned levels for 1976. Part of the long-term Alaska sale has been halted and other cases are pending in different areas of the country. National forest timber sales would be reduced by 75 percent in the short-run if these decisions were applied nation-wide and by about 50 percent after an adjustment to the new requirements. Further, the Forest Service and the



forestry profession as well as the timber industry believe that application of these standards would eliminate a number of environmentally and economically sound forestry practices, including clear-cutting and periodic thinning which are essential to promote optimum growth and timber productivity.

The enrolled bill would amend the Forest and Rangeland Renewable Resources Act and related Acts to provide new timber sale authority, to reformulate a number of other existing Forest Service authorities, and to establish new broad forest management guidelines. Principally, it would:

- -- Permit the Secretary to carry out a timber sale program utilizing scientific knowledge and procedures, including clear-cutting, to meet overall multipleuse sustained yield objectives and to provide flexibility from a strict definition of sustained yield (i.e., establishing annual harvest rates for each forest at levels which can be maintained indefinitely regardless of physical and economic waste). This authority, the basic purpose of the legislation, supersedes the restriction of the 1897 Organic Act as recently interpreted by the courts.
- -- Direct the Secretary of Agriculture, within 2 years, to establish appropriate regulations concerning the development and revision of land management plans including specific guidelines for:
 - o developing environmental impact statements where required by the National Environmental Policy Act;
 - o determining the suitability of lands for resource management;
 - establishing criteria governing the size and location of planned timber harvests as well as acceptable production techniques (including clear-cutting);
 - developing a process for estimating the longterm benefits and costs of timber production throughout the National Forest System; and,

- establishing standards to ensure that timber harvests generally do not occur prior to the attainment of maximum standard growth.
- -- Apply the principles of sustained yield production to limit timber removal to levels which can be maintained indefinitely, provided that the Secretary of Agriculture may permit exceptions to meet overall, multiple-use objectives of the land management plan. Such exceptions could be justified to avoid timber waste through stand mortality, to achieve balanced age class distribution within a production unit, or to ensure community and regional economic stability.
- -- Direct the Secretary to establish procedures designed to obviate collusive bidding practices including a requirement to use sealed bids on all timber sales except as otherwise determined by the Secretary.
- -- Require that in the future, all amounts earned or credited to purchasers of national forest timber for road construction or other allowable purposes be counted as "monies received" for purposes of determining the 25 percent share of national forest receipts to be returned to the various States, thereby increasing the States' share of Federal timber receipts.
- -- Direct the Secretary of Agriculture to submit to the Congress annually for the next 8 years, an estimate of funds necessary to replant acreage equal to that scheduled to be cut over during the period, plus a sufficient portion of the existing backlog of lands requiring reforestation to eliminate that backlog in 8 years. For this purpose, the bill would authorize annual appropriations of \$200 million for the next 8 years. Such appropriations would be available until expended.

In extensive hearings before several congressional committees, the Department of Agriculture voiced the Administration's strong opposition to numerous provisions of both S. 3091 and a related House bill, H.R. 15069. Many of these issues have been sharply contested by the timber industry, environmental groups, and the Department of Agriculture over the past six months.

Initially, the Administration's strategy was to attempt to limit consideration to the immediate issue of clarifying the authority of the Forest Service to resume its timber sales program. However, as it became clear that desirable timber sale authority would be tied to a number of other provisions, some of which were viewed as seriously objectionable, a strong effort was made to eliminate or to minimize the worst of these features such as:

- -- A strict, inflexible definition of sustained yield.
- -- Congressional interference with Presidential budget prerogatives by requiring that the proposal for various activities be proportional to the multi-year Renewable Resources Program plan and that the Director of the Office of Management and Budget explain any variations from the Program to as many as six congressional committees.
- -- A requirement that calculation of the State and county share of national forest receipts be based on gross receipts before costs of certain roads and reforestation activities on timber sale areas are deducted.
- -- Language which would increase the vulnerability of administrative decisions to nonproductive litigation.

As enrolled, S. 3091 is clearly far from what the Administration would prefer to have. On the other hand, through numerous compromises, the budget interference problem has been deleted and the other problems listed above have been moderated with the exception of expanding the State and county share of receipts.

The bill has substantial budget implications. Assuming appropriation of the full authorization for reforestation projects and several other requirements (e.g. increased payments to counties), increased annual costs would be about \$265 million. However, the bill would avoid a potential loss of timber receipts which could otherwise occur if the court interpretations of present authority were applied nationwide. Personnel requirements would be increased to prepare regulations, accomplish more detailed national forest land use planning, and to carry out an expanded program of reforestation.



In its attached enrolled bill letter, Agriculture recommends approval of S. 3091. Although citing continuing reservations with regard to several portions of the bill, the Department nevertheless states its overriding concern that recent Federal court decisions have seriously affected its existing timber sales program in several States:

"Our concern is not only that the sale programs are being reduced, but that scientifically sound forestry practices are restricted. We estimated that a nationwide implementation of the court's interpretation would reduce our timber sale program by 50 percent, resulting in adverse impacts on timber supply and affecting forest management in general with major adverse impacts on forest utilization and wildlife habitat. The new sale authority is sound, and we strongly support it."

We concur in Agriculture's recommendation that you approve S. 3091. In view of the number of Federal court challenges pending across the country with respect to the national forest timber sales program, it is essential that appropriate sales authority be provided. As indicated, we continue to have serious reservations concerning a number of provisions of the enrolled bill, including:

- -- Unnecessary limitation of the Secretary's authority to prescribe appropriate regulations for the commercial harvesting of timber on national forest lands.
- -- Creation of a number of new reporting requirements which will be both costly and unnecessary.
- -- Authorization of increased Federal expenditures including \$1.6 billion over the next eight years for reforestation of cut-over areas.

However, as undesirable as certain provisions of the present bill may be, it provides badly needed timber sale authority, and we do not consider it likely that a more acceptable bill could be enacted in the next Congress.

Paul H. O'Neill Acting Director

Enclosures



DEPARTMENT OF AGRICULTURE OFFICE OF THE SECRETARY

WASHINGTON, D. C. 20250

October 8, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget

Dear Mr. Lynn:

In response to the request of your office, here is our report on the enrolled enactment S. 3091, a bill "To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

The Department of Agriculture strongly recommends that the President approve the enactment.

- S. 3091 expands the requirements for a Renewable Resource Assessment and Program, provides detailed direction on the preparation of land management plans including direction for public participation, provides additional direction on the review of Forest Service programs, provides new direction on reforestation, provides additional direction for the transportation system, and clarifies the status of the National Forest System. It also amends the Organic Act of 1897 to provide for new timber sale authority, provides for increased payments to States, and transfers the functions of the National Forest Reservation Commission to the Secretary of Agriculture.
- S. 3091 builds on the strong statutory base of the Secretary of Agriculture in the administration of Forest Service programs. It specifically expands and strengthens the direction of the Multiple-Use Sustained-Yield Act of 1960 and the Forest and Rangeland Renewable Resources Planning Act of 1974 in the development of land management plans. Emphasis throughout the enactment is on a balanced consideration of all resources in the land management process with provision for public participation. The enactment repeals a portion of the Act of June 4, 1897, pertaining to harvest of timber, and replaces it with a more comprehensive authority. This revision is essential since the court's interpretation of the 1897 Act has resulted in a major reduction in timber sale programs in Virginia, West Virginia, North Carolina, and South Carolina. In addition, recent court actions in Alaska, Texas, and Georgia have acted to extend the impact to these States. Our concern is not only that the sale programs are being reduced, but that scientifically sound forestry practices are restricted. We estimated that a nationwide implementation of the court's interpretation would reduce our timber sale program by 50 percent, resulting in adverse impacts on timber supply and affecting forest management in general with major adverse impacts on forest utilization and wildlife habitat. The new sale authority is sound, and we strongly support it.

In addition to providing direction on land management planning and timber sale authority, which we support, the enactment also provides direction in a number of other areas. In the development of the bill in the Senate, the House, and Conference Committee, we had a full opportunity to report and testify on the various provisions. We supported the provision to strengthen direction for the transportation system, to clarify the status of National Forest System lands, to transfer the functions of the National Forest Reservation Commission to the Secretary, and to amend the Knutson-Vandenberg Act. We recommended that the revision of payments to States for schools and roads not be adopted. We were not successful in this latter recommendation. We also would have preferred that the reforestation provision be more closely tied to the Renewable Resource Program; however, the Congress chose to place a higher priority on reforestation than that placed in the original Resources Planning Act. We supported the Senate provision to amend the National Forest Roads and Trails Systems Act; however, the Conferees instead adopted a provision, as part of the timber sale authority, to allow small business timber purchasers the option to elect that the Secretary build proposed permanent roads rather than be allowed timber purchaser credit. We would have preferred that this latter provision not be included in the enactment; however, we believe that procedures can be developed to minimize any adverse impacts on sale administration.

Major agency effort will be necessary to implement S. 3091, particularly in the areas of land management planning (meeting a 1985 target date for completion), development of comprehensive regulations in 2 years, expediting reforestation and forest stand improvement, meeting new report requirements, and revision of timber sale provisions to comply with new direction on sales.

On balance, we find the enactment a reasonable compromise of the many competing interests which affect the National Forest System and other Forest Service programs. We strongly recommend that the President approve the enactment.

We also recommend that a signing ceremony be arranged to call attention to this important legislation. A proposed signing message is attached.

Sincerely,

JOHN A. KNEBEL Acting Secretary

Attachment

STATEMENT BY THE PRESIDENT

Today I am pleased to sign S. 3091 -- the National Forest Management Act of 1976 -- an act of great significance to the conservation and management of this Nation's natural resources.

This Act is another important milestone in the evolution of forest policy and conservation law governing our steward-ship of a major part of this Nation's great natural heritage, the National Forest System.

In America's first century, our forests and their vast resources seemed to our forefathers inexhaustible. By the late nineteenth century, however, the spirit of expansion and development had led to much abuse of our forest lands. Fires frequently raged out of control over millions of acres, devastating floods were increasing, and our wildlife was being depleted.

With wisdom and timeliness, this Nation began to establish Federal forest reserves to protect our forest lands and to guarantee that future generations would enjoy their benefits. Although the first Federal forester had been hired just a hundred years ago in 1876, it was the establishment of the forest reserves in 1891 which sped the development and practice of professional, scientific forestry on Federal lands.

Today the National Forest System comprises 187 million acres of forest and range lands in 44 States and Puerto Rico, and provides millions of Americans outstanding outdoor recreation and wilderness experiences, as well as many wood products, substantial mineral and energy resources, clean and plentiful water, forage for domestic livestock, and homes for many species of fish, wildlife, and plants.

From its inception, the National Forest System was administered not only to protect forest lands, but also to restore their productivity. After an early period of basic

custodial protection, a philosophy evolved to manage the National Forests in such a way that they provided a variety of uses and benefits for present and future generations. This concept of managing lands on a multiple-use, sustained-yield basis, which was confirmed by law in 1960, has always been a challenge. It has led to continuous discussion and debate over the proper mix of resource uses.

In the past decade, the use and management of the timber resources of the National Forests culiminated in a court suit challenging the manner in which National Forest timber is harvested. The decision in the Monongahela National Forest case had the initial effect of severely reducing timber sales on all the National Forests in South Carolina, North Carolina, Virginia and West Virginia, causing hardships for the forest products industry and its many employees. Applied nationwide, the court's decision would severely restrict the timber supply from all the National Forests, led to the Act before me today.

While the National Forest Management Act of 1976 evolved from a timber management controversy, the Act goes far beyond a simple remedy of the court's decision. Basically, the Act expands and refines the forest resource assessment and planning requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974 -- one of the first Acts I signed upon taking office. This Act reaffirms and further defines the concept of multiple-use, sustained-yield management and outlines policies and procedures for land management planning in the National Forest System. Emphasis throughout the Act is on a balanced consideration of all resources in the land management process.

Of equal importance, this Act guarantees the public full opportunity to participate in National Forest land and resource

planning. Finally, it recognizes the importance of scientific research and cooperation with State and local governments and private landowners in achieving wise use and management of the Nation's forest resources.

In my consideration of this legislation, a statement made in 1907 by Gifford Pinchot, the first Chief Forester of the Forest Service, was brought to my attention. Mr. Pinchot said,

"There are many great interests on the National Forests which sometimes conflict a little. They must all be fit into one another so that the machine runs smoothly as a whole. It is often necessary for one man to give way a little here, another a little there. But, by giving way a little at the present, they both profit by it a great deal in the end."

This National Forest Management Act of 1976 is the product of diverse and often conflicting interests. Officials of the Department of Agriculture and its Forest Service, conservation organizations, the timber industry, labor, professional foresters, and members of Congress have worked for months to develop sound legislation. The Nation has profited as a result of their efforts. On balance, I find this Act to be a reasonable compromise of the many competing interests which affect the National Forest System.

Therefore, in this Bicentennial year of our Nation, and in this Centennial Year of Federal Forestry, I am very pleased to sign into law S. 3091, the National Forest Management Act of 1976.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO .:

Date:

October 19

Time:

200pm

FOR ACTION: George Humphreys

Max Friedersdorf Bobbie Kilberg Paul Leach

cc (for information):

Jack Marsh Ed Schmults Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 20

Time: 1000am

SUBJECT:

H.R091-National Forest Management Act of 1976

ACTION REQUESTED:

__ For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

X For Your Comments

Draft Remarks

REMARKS:

please returnto judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE. JR. For the President WASHINGTON

LOG NO.:

Date:

October 19

Time:

FOR ACTION: George Humphreys

Max Friedersdorf Bobbie Kilberg

Paul Leach

cc (for information):

200pm

Jack Marsh Ed Schmults

Steve McConahev

FROM THE STAFF SECRETARY

DUE: Date: October 20

Time: 1000am

SUBJECT:

S.3091-National Forest Management Act of 1976

ACTION REQUESTED:

_ For Necessary Action

For Your Recommendations

____ Prepare Agenda and Brief

____ Draft Reply

X For Your Comments

____ Draft Remarks

REMARKS:

please returnto judy johnston, ground floor west wing

Ecommond approval & signing ecomony in Richmond, Va., Raligh, M.C., or Columbia, S.C.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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Austra M. Carmod And the Liestages

WASHINGTON ! .

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For Necessary Action

_ For Your Recommendations

____ Prepare Agenda and Brief

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X For Your Comments

____ Draft Remarks

REMARKS:

3.6

please returnto judy johnston, ground floor west wing

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James M. Carmon

ACTION MEMORANDUM

WASHINGTON :

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Date:

October 19

Time: 200pm

FOR ACTION: George Humphreys

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Paul Leach

cc (for information): Jack Marsh

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SUBJECT:

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____ For Your Recommendations

____ Prepare Agenda and Brief

____ Draft Reply

X For Your Comments

____ Draft Remarks

REMARKS:

1.7

please returnto judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Japes M. Carmon

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Today I am pleased to sign an act of great significance to the conservation and management of this Nation's natural resources--S. 3091, the National Forest Management Act of 1976.

This Act is another important milestone in the evolution of forest policy and conservation law governing the stewardship of a major part of this Nation's great natural heritage--the National Forest System.

In America's first 150 years, our forefathers carved a nation out of wilderness. To them, our forests and their vast resources seemed inexhaustible. But, by the late nineteenth century, the spirit of expansion and development had led to much abuse of our forest lands. Fires frequently raged out of control over millions of acres, devastating floods were increasing, and our wildlife was being depleted.

With wisdom and timeliness, this Nation began to establish Federal forest reserves to protect our forest lands and to guarantee that future generations would enjoy their benefits. And, although the first Federal forester had been hired in 1876, it was the establishment of the forest reserves in 1891 which sped the development and practice of professional, scientific forestry on Federal lands.

Today the National Forest System comprises 187 million acres of forest and range lands in 44 States and Puerto Rico, and provides millions of Americans outstanding outdoor recreation, wilderness experiences, many wood products, clean and plentiful water, forage for domestic livestock, and homes for many species of fish, wildlife, and plants.

more

From its inception, the National Forest System was administered not only to protect forest lands, but also to restore their productivity. After an early period of basic custodial protection, a philosophy evolved to manage the National Forests in such a way that they provided a variety of uses and benefits for present and future generations. This concept of managing lands on a multiple-use sustained-yield basis, which was confirmed by law in 1960, has always been a challenge. It has led to continuous dialogue and, in some cases, controversy over the proper mix of resource uses.

In the last decade, the use and management of the timber resources of the National Forests has been particularly controversial, culminating in a court suit challenging the manner in which National Forest timber is harvested. The court's decision which, if applied nationwide, would severely restrict timber supply from the National Forests, led to the Act before me today.

While the National Forest Management Act of 1976 emerged from a timber management crisis, the Act goes far beyond a simple remedy of the court's decision. Basically, it expands and refines the forest resource assessment and planning requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974—one of the first Acts I signed upon taking office. The Act reaffirms and further defines the concept of multiple—use, sustained—yield management and outlines policies and procedures for land management planning in the National Forest System. Emphasis throughout the Act is on a balanced consideration of all resources in the land management process.

Of equal importance, this Act guarantees the public full opportunity to participate in National Forest land and resource planning. And finally, it recognizes the importance of scientific research and cooperation with State and local governments and private landowners in achieving wise use and management of the Nation's forest resources.

In my consideration of this legislation, a statement made in 1907 by Gifford Pinchot, the first Chief Forester of the Forest Service, was brought to my attention. Mr. Pinchot said,

"There are many great interests on the National Forests which sometimes conflict a little. They must all be fit into one another so that the machine runs smoothly as a whole. It is often necessary for one man to give way a little here, another a little there. But, by giving way a little at the present, they both profit by it a great deal in the end."

This National Forest Management Act of 1976 is the product of diverse and often conflicting interests. The Forest Service and officials of this Administration, conservation organizations, the timber industry, labor, professional foresters, and members of Congress have worked for months to develop sound legislation. The task has been time consuming and often difficult, but by each party giving a little here and a little there, and by acting out of a mutual desire to protect and wisely manage our National Forests, the Nation has profited in the end. On balance, I find this Act to be a reasonable compromise of the many competing interests which affect the National Forest System.

Therefore, in this Bicentennial year of our Nation, and in this Centennial Year of Federal Forestry, I am very pleased to sign into law S. 3091, the National Forest Management Act of 1976.

#

THE CHAIRMAN OF THE COUNCIL OF ECONOMIC ADVISERS WASHINGTON

October 7, 1976

Dear Mr. Frey:

The Council of Economic Advisers has reviewed the enrolled bill S. 3091 "National Forest Management Act of 1976." We are aware that a veto of this legislation could lead to substantial increases in the prices charged for lumber because "clear cutting" of lumber on Federal lands would be prohibited and thus recommend that it be accepted. However, we would like to note that we are opposed in principal to this legislation for the following reasons.

First, the legislation would substantially increase the burden of regulation in connection with logging operations on Federal lands. Since one major thrust of the President's program has been to remove burdensome regulation this is a distinct drawback. Second, we believe that certain provisions of the bill pertaining to the development of long term plans may prevent the Secretary of Agriculture from acting where sharp increases in demand cause rapid increases in lumber prices. Ideally, sufficient Federal timber resources should be available so that increases in lumber demand can be met from Federal loans without drastic increases in prices.

In conclusion, the Council of Economic Advisers would ordinarily oppose the legislation. However, we are informed by the Department of Commerce that a Presidential veto may cause a sever disruption to lumber markets. Therefore, we reluctantly recommend the President sign the

legislation.

Alan Greenbpan

Mr.James Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20513

ATTN: Ms. Ramsey
Room 7201 NEOB





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WASHINGTON, D.C. 20460

OCT 7 1976

OFFICE OF THE ADMINISTRATOR

Dear Mr. Lynn:

This is in response to your October 4, 1976, request for a report on S. 3091, an enrolled bill "To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

The enrolled bill repeals the provision of present law which prohibits the sale of any tree in the National Forest system which is not dead, matured, or large-growth, and amends present laws - the Multiple-Use Sustained Yield Act of 1960 (MSA) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) - so as to impose on timbering in the National Forest system planning and other controls intended to maximize resource protection while allowing appropriate harvest methods.

Specifically, the bill would permit clearcutting, the harvest method found in two recent and separate judicial decisions to be in violation of the foregoing provision of present law, but only in accordance with an existing resource management and protection plan on lands determined by the Secretary of Agriculture to be suitable for timber harvesting.

The bill contains other provisions intended to improve the harvesting and use of timber. The Secretary would be required to report on the potential for increased use of wood and wood wastes from harvesting methods and urban wood wastes, and by wood product recycling.

The Secretary would be required to reforest timbered areas at a rate which would not only cover areas timbered in any one year, but an increment of previously-timbered areas not yet reforested over an 8-year period.

The RPA provides for a Renewable Resource Program in accordance with which the Secretary manages the National Forest System and other programs. The bill amends the Program requirements by adding recommendations for improving, among other things, air, water, and soil resources on private and public forest and range lands and emphasis on the multipleuse sustained-yield concept.

The bill amends the RPA provisions requiring National Forest system land and resource plans by adding requirements that: (1) require public participation; (2) tie in the MSA; (3) specify planning procedures; (4) provide for the abovementioned advisory committee; (5) require the Secretary to designate areas unsuitable for timbering; (6) require standards which ensure that trees harvested are generally mature; and (7) require implementing regulations which carry out the foregoing, ensure application of NEPA, and specify guidelines for achieving the resource protection goals of the Renewable Resource Program.

The bill contains other administrative, conforming, and regulatory provisions which: (1) require that timber haul roads be returned to nature within 10 years unless needed by the Forest Service; (2) limit the amount of timber sold to ensure multiple-use and sustained yield; (3) ensure public participation in formulation of management plans, including standards, criteria, and guidelines; (4) authorize National Forest timber sales and impose requirements, including sales contracts not exceeding 10 years, Forest Service marking of sold trees, and standards ensuring maximum use of harvested trees; and (5) validation of existing timber sales contracts.

The bill provides payments to States for schools and roads from timber sales receipts; authorizes acquisition of lands within National Forest boundaries for watershed protection purposes; authorizes trading National Forest land or timber for private lands within National Forest boundaries; and provides a Dutch Elm disease program.

The Environmental Protection Agency recommends that the President sign the enrolled bill into law.

S. 3091 is a significant step in the establishment of policy guidelines for administration of the National Forests. The bill makes the use of a controversial tree-harvesting method, clearcutting, permissible; but

places its use in a context which forcefully imposes laudable environmental protection and multiple-use, sustained-yield principles. For example, under the bill determinations must be made that clearcutting is the optimum method for realizing the management plan; that an interdisciplinary review has assessed environmental, biological, and esthetic impacts and the cut will be done so as to protect such values; that the cut will be shaped and blended with the natural terrain; that the size of the cut area is limited; and that the harvested timber is generally fully mature. The bill also establishes a non-Forest Service advisory committee of scientists to aid the Secretary in controlling clearcutting as required.

The bill contains many other salutary provisions: public participation in decision-making; shorter contract commitment; long-range planning; designation of areas unsuitable for timbering; and guidance on the applicability of the National Environmental Policy Act.

We regard the enrolled bill as allowing needed timber production while providing the basis for effective protection of the environment and other values, and we urge its approval.

Sincerely yours

Administrator

Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C. 20503

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

OCT 4 1976

MEMORANDUM FOR JAMES M. FREY
OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: Enrolled Bill, S. 3091, "To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

This is in response to your request for the Council's views on the subject enrolled bill. Our views are expressed in the attached letter from Chairman Peterson to President Ford.

The Council strongly recommends that the President sign the enrolled bill.

Constance K. Lundberg Acting General Counsel

Attachment

EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON ENVIRONMENTAL QUALITY 722 JACKSON PLACE, N. W. WASHINGTON, D. C. 20006

SEP 3 0 1976

Dear Mr. President:

I am writing to you now in anticipation that the Congress will enact the National Forest Management Act of 1976.

I have followed the development of this legislation with keen interest. It is sound, forward-looking legislation which provides policy direction for managing the National Forests to maintain the long term productivity of renewable resources.

It accomplishes these desirable objectives:

- (1) Provides new authority for selling Wational Forest timber and repeals the language in the Organic Act of 1897 which led to cessation of timber sales on several "ational Forests by court order.
- (2) Directs the Secretary of Agriculture to develop guidelines, regulations, and standards for land management plans, and environmentally sound forest practices.
 - (3) Specifically directs the Forest Service to:
 - (a) limit timber production on unsuitable lands
 - (b) ensure the preservation and diversity of plant and animal communities
 - (c) permit clearcutting only under conditions specified in regulations and guidelines set forth by the Secretary.
- (4) Authorizes a program for replanting the large backlog of National Forest lands that need reforestation.
 - (5) Reaffirms the doctrine of multiple use.
- (6) Clarifies sustained yield (as used in the Multiple use Act of 1960) by requiring even flow management, so that as mature trees are harvested an equal volume is replaced by new growth.

- (7) Improves opportunity for the public to express its views and participate in developing plans and programs.
- (8) Makes the National Forest System permanent, subject to disposition only by Congress.
- (9) Other sections of the legislation deal with forest transportation systems, revenue sharing, and submission of reports.

The overall effect of the Act is to strengthen the Penewable Resources Planning Act of 1974. This was the first legislation you signed into law on becoming President.

I strongly urge you to also sign the Tational Forest Management Act of 1976 into law.

Sincerely,

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Russell W. Peterson Chairman

The President
The White House
Washington, DC 20500



OCT 7 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning S. 3091, an enrolled enactment

"To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

This enrolled enactment, cited as the "National Forest Management Act of 1976", is a product of Congressional review and revision which, in the opinion of this Department properly confers on the Secretary of Agriculture flexibility, authority, and a broad base from which to regulate the management of renewable National Forest resources for subtained yield and multiple use.

S. 3091 received major impetus from recent decisions of the Federal courts first, in the so-called Monongahela case in West Virginia, and subsequently in the States of Alaska and Texas, which interpreted the 12th undesignated paragraph of the Forest Service Organic Act of 1897 (16 U.S.C. §476) as prohibiting any sale of timber from National Forest lands except for "dead, matured, or large growth of trees" which have been individually marked. These decisions effectively prohibit use by the Forest Service of a number of silvicultural systems, including clear-cutting and commercial thinning, which are essential to sound forest management. The National Forest system encompasses 155 National Forests in 44 States and contains over 187 million acres. About half of the softwood timber reserves in the United States are located on National Forest lands. The strict application of the Organic Act adopted in recent Federal court decisions will, if adopted nationwide, drastically reduce the possibility of sales of national forest timber. This could well result not only in economic dislocation in areas of the



country where those sales are important to the local economy, but could have an inflationary impact on the cost of building materials and lumber products.

S. 3091 would repeal the section of the Organic Act which has been inflexibly construed by the Federal courts and replace it with statutory provisions which will facilitate the application of scientific forestry principles in the management of the National Forests. At the same time, S. 3091 contains important environmental safeguards to protect such resources as soil, watershed, wildlife habitat, and streams and require that the Forest Service adhere to the principles of the Multiple-Use, Sustained Yield Act of 1960.

We believe that this enrolled enactment will provide the legislative basis for the sound, full and beneficial management through scientific means of our National Forests. Accordingly, we recommend the President approve this legislation.

Enactment of this legislation will not involve any expenditure of funds by this Department.

Sincerely,

General Counsel



United States Department of the Interior

OFFICE OF THE SECRETARY WASHINGTON, D.C. 20240

OCT 6 - 1976

Dear Mr. Lynn:

This responds to your request for the views of this Department on the enrolled bill S. 3091, "To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

We defer to the Department of Agriculture as to the need for and desirability of S. 3091.

As enrolled, S. 3091 would amend the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 476; 16 U.S.C. 1601) to provide additional direction to the Secretary of Agriculture in his administration and management of the National Forest System. The amendments to the 1974 Act would provide comprehensive requirements and guidelines for land management planning, including provisions concerning reforestation, the renewable resource program, limitations on timber removal, transportation system planning in conjunction with environmental goals, and public participation in U.S. Forest Service programs.

Further, the enrolled bill repeals the provision of the Organic Act of June 7, 1897, as amended, dealing with the authority for timber sales on National Forest System lands, and creates new provisions concerning such authority. S. 3091 also further amends the Acts of May 23, 1908, and March 1, 1911, as amended, to include certain additional collections made by the Secretary as moneys received by Agriculture for the purpose of determining payments to the States.

S. 3091 also amends the Act of June 9, 1930, the "Knuston-Vandenberg Act," to change the formula for allocating revenue for reforestation on harvested lands.



As enrolled, S. 3091 does not affect any of the statutory authority under which the Secretary of the Interior administers lands under his jurisdiction. Accordingly, we defer to the Department of Agriculture as to the merits of the enrolled bill.

Sincerely yours,

Resistant Secretary of the Interior

Honorable James T. Lynn Director, Office of Management and Budget Washington, D.C.

Department of Instice Washington, D.C. 20530

October 7, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 3091 (entitled the National Forest Management Act of 1976), "To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

The bill establishes a number of environmental guidelines in an attempt to improve and bring better balance to the management of the National Forest System. Included in S. 3091 are a set of findings which address the importance of renewable resources and the need to improve the management of the National Forest System, and the importance of areas of other Federal, State and private forests and rangeland. Section 2.

The bill provides for the promulgation of guidelines by the Secretary of Agriculture which would allow timber harvesting only where "soil, slope, or other watershed conditions will not be irreversibly damaged,...there is assurance that such lands can be adequately restocked within five years after harvest," and other environmental considerations. Section 6(E). Also, the guidelines would provide that clearcutting be allowed only under limited conditions. Section(F). In this regard, the bill would in essence amend the 1897

Organic Act, 16 U.S.C. 475-482, which was interpreted in the Monongahela decision, West Virginia Div. of Izaak Walton L. of Am., Inc. v. Butz, 522 F.2d 945 (C.A. 4, 1975), to preclude clearcutting. The court there noted that the Organic Act, enacted over 75 years ago, may well be an "anachronism." 522 F.2d at 955. The court then observed that "the appropriate forum to resolve this complex and controversial issue is not the courts but the Congress." Ibid. The Congress has now acted.

From a legal perspective, the Department of Justice sees nothing in S.3091 which would lead us to recommend that the bill be vetoed. Whether this legislation should be enacted involves policy considerations as to which we make no recommendation.

The Department of Justice defers to the Department of Agriculture as to whether this bill should receive Executive approval.

Sincerely,

Michael M. Uhlmann

Assistant Attorney General Office of Legislative Affairs



THE GENERAL COUNSEL OF THE TREASURY WASHINGTON, D.C. 20220

OCT 5 1976

Director, Office of Management and Budget Executive Office of the President Washington, D. C. 20503

Attention: Assistant Director for Legislative

Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 3091, "To amend the Forest and Rangeland Renewable Resources Planning Act of 1974, and for other purposes."

The enrolled enactment would make changes in laws governing Forest Service programs designed to improve the management of the forest resources of the National Forest System. The major provisions would: (1) require the Secretary of Agriculture to issue regulations setting out the process for the development and revision of land management plans with specified guidelines and criteria for the protection, use, and development of the renewable resources of the National Forest System, (2) set out new provisions governing timber sales on National Forest Systems lands, and (3) insure that counties in which National Forest System lands are located will receive 25 percent of the total income from Forest Service timber sales.

The Department has no recommendation to make on the merits of the enrolled enactment.

Sincerely yours,

General Counsel

Richard R. Albrecht

ACTION MEMORANDUM	LOC	; NO.:
Date: October 19	Time: 200pm	
FOR ACTION: George Humphreys Max Friedersdorf Bobbie Kilberg Paul Leach	cc (for information):	Jack Marsh Ed Schmults Steve McConahe
FROM THE STAFF SECRETARY		
DUE: Date: October 20	Time: 1000am	
SUBJECT:		
S.3091-National Fore	est Management Act o	f 1976
		÷
ACTION REQUESTED:		
For Necessary Action	For Your Recom	mendations

REMARKS:

A. 18. "

please returnto judy johnston, ground floor west wing

___ Draft Reply

____ Draft Remarks

DK PCX 10/20/76

_ Prepare Agenda and Brief

X For Your Comments

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Laber M. Germon

Date: October 20 Time: 1015am

FOR ACTION: Doug Smith

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: October 20

Time: as soon as possible

SUBJECT:

S. 3091 - National Forest Management Act of 1976

ACTION REQUESTED:

For Necessary Action	For Your Recommendations
Prepare Agenda and Brief	Draft Reply
X For Your Comments	Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

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THE WHITE HOUSE Stave Satterfield (395-3495) being
STATEMENT BY THE PRESIDENT PROPERTY OF THE PROP

sha markus Today I am pleased to sign an act of great significance to the conservation and management of this Nation's natural resources -- S. 3091, the National Forest Management Act of 1976.

This Act is another important milestone in the evolution of forest policy and conservation law governing the stewardship of a major part of this Nation's great natural heritage--the National Forest System.

In America's first 150 years, our forefathers carved a nation out of wilderness. To them, our forests and their vast resources seemed inexhaustible. But, by the late nineteenth century, the spirit of expansion and development had led to much abuse of our forest lands. Fires frequently raged out of control over millions of acres, devastating floods were increasing, and our wildlife was being depleted.

With wisdom and timeliness, this Nation began to establish Federal forest reserves to protect our forest lands and to guarantee that future generations would enjoy their benefits. And, although the first Federal forester had been hired in 1876, it was the establishment of the forest reserves in 1891 which sped the development and practice of professional, scientific forestry on Federal lands.

Today the National Forest System comprises 187 million acres of forest and range lands in 44 States and Puerto Rico, and provides millions of Americans outstanding outdoor recreation, wilderness experiences, many wood products, clean and plentiful water, forage for domestic livestock, and homes for many species of fish, wildlife, and plants.

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From its inception, the National Forest System was administered not only to protect forest lands, but also to restore their productivity.

After an early period of basic custodial protection, a philosophy evolved to manage the National Forests in such a way that they provided a variety of uses and benefits for present and future generations. This concept of managing lands on a multiple-use sustained-yield basis, which was confirmed by law in 1960, has always been a challenge. It has led to continuous dialogue and, in some cases, controversy over the proper mix of resource uses.

In the last decade, the use and management of the timber resources of the National Forests has been particularly controversial, culminating in a court suit challenging the manner in which National Forest timber is harvested. The court's decision which, if applied nationwide, would severely restrict timber supply from the National Forests, led to the Act before me today.

While the National Forest Management Act of 1976 emerged from a timber management crisis, the Act goes far beyond a simple remedy of the court's decision. Basically, it expands and refines the forest resource assessment and planning requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974—one of the first Acts I signed upon taking office. The Act reaffirms and further defines the concept of multiple—use, sustained—yield management and outlines policies and procedures for land management planning in the National Forest System. Emphasis throughout the Act is on a balanced consideration of all resources in the land management process.

Of equal importance, this Act guarantees the public full opportunity to participate in National Forest land and resource planning. And finally, it recognizes the importance of scientific research and cooperation with State and local governments and private landowners in achieving wise use and management of the Nation's forest resources.

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In my consideration of this legislation, a statement made in 1907 by G. ford Pinchot, the first Chief Forester of the Forest Service, was brought to my attention. Mr. Pinchot said,

"There are many great interests on the National Forests which sometimes conflict a little. They must all be fit into one another so that the machine runs smoothly as a whole. It is often necessary for one man to give way a little here, another a little there. But, by giving way a little at the present, they both profit by it a great deal in the end."

This National Forest Management Act of 1976 is the product of diverse and often conflicting interests. The Forest Service and officials of this Administration, conservation organizations, the timber industry, labor, professional foresters, and members of Congress have worked for months to develop sound legislation. The task has been time consuming and often difficult, but by each party giving a little here and a little there, and by acting out of a mutual desire to protect and wisely manage our National Forests, the Nation has profited in the end. On balance, I find this Act to be a reasonable compromise of the many competing interests which affect the National Forest System.

Therefore, in this Bicentennial year of our Nation, and in this Centennial Year of Federal Forestry, I am very pleased to sign into law S. 3091, the National Forest Management Act of 1976.

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Office of the White House Press Secretary

THE WHITE HOUSE

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Fires frequently raged out of control over millions of acres, devastating floods were increasing, and our wildlife was being depleted.

With wisdom and timeliness, this Nation began to establish Federal forest reserves to protect our forest lands and to guarantee that future generations would enjoy their benefits. Although the first Federal forester had been hired in 1876, it was the establishment of the forest reserves in 1891 which sped the development and practice of professional, scientific forestry on Federal lands.

Today the National Forest System comprises 187 million acres of forest and range lands in 44 States and Puerto Rico, and provides millions of Americans outstanding outdoor recreation wilderness experiences, as well as many wood products, clean and plentiful water, forage for domestic livestock, and homes for many species of fish, wildlife, and plants.

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In the last decade, the use and management of the timber resources of the National Forests has been particularly controversial culmination in a court suit challenging the manner in which National Forest timber is harvested. The court's decision which, if applied nationwide, would severely restrict timber supply from the National Forests, led to the Act before me today.

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In my consideration of this legislation, a statement made in 1907 by Gifford Pinchot, the first Chief Forester of the Forest Service, was brought to my attention. Mr. Pinchot said,

"There are many great interests on the National Forests which sometimes conflict a little. They must all be fit into one another so that the machine runs smoothly as a whole. It is often necessary for one man to give way a little here, another a little there. But, by giving way a little at the present, they both profit by it a great deal in the end."

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EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 18 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3091 - National Forest

Management Act of 1976

Sponsors - Sen. Humphrey (D) Minnesota and

13 others

Last Day for Action

October 23, 1976 - Saturday

Purpose

Amends the Forest and Rangeland Renewable Resources Planning Act of 1974 to provide detailed policy guidelines for management of the National Forest System -- particularly with respect to timber production.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Council of Economic Advisers	Approval
Environmental Protection Agency	Approval
Council on Environmental Quality	Approval
Department of Commerce	Approval
Department of the Interior	Defers to Agriculture
Department of Justice	Defers to Agriculture
Department of the Treasury	No recommendation

Discussion

The Organic Act of 1897 authorized establishment of National Forest Reserves to improve and protect the condition of forested areas of the United States and to "furnish a continuous supply of timber for the use and necessities of the people of the United States." Since then, a series of Acts have expanded or otherwise redefined these purposes. The present Forest Service policy

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Forest Management Act of 1976 -- an act of great significance
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In America's first century, our forests and their vast resources seemed to our forefathers inexhaustible. By the late nineteenth century, however, the spirit of expansion and development had led to much abuse of our forest lands. Fires frequently raged out of control over millions of acres, devastating floods were increasing, and our wildlife was being depleted.

With wisdom and timeliness, this Nation began to establish Federal forest reserves to protect our forest lands and to guarantee that future generations would enjoy their benefits. Although the first Federal forester had been hired just a hundred years ago in 1876, it was the establishment of the forest reserves in 1891 which sped the development and practice of professional, scientific forestry on Federal lands.

Today the National Forest System comprises 187 million acres of forest and range lands in 44 States and Puerto Rico, and provides millions of Americans outstanding outdoor recreation and wilderness experiences, as well as many wood products, substantial mineral and energy resources, clean and plentiful water, forage for domestic livestock, and homes for many species of fish, wildlife, and plants.

From its inception, the National Forest System was administered not only to protect forest lands, but also to restore their productivity. After an early period of basic

National Porests in such a way that they provided a variety of uses and benefits for present and future generations. This concept of managing lands on a multiple-use, sustained-yield basis, which was confirmed by law in 1960, has always been a challenge. It has led to continuous discussion and debate over the proper mix of resource uses.

In the past decade, the use and management of the timber resources of the National Forests culiminated in a court suit challenging the manner in which National Forest timber is harvested. The decision in the Monongahela National Forest case had the initial effect of severely reducing timber sales on all the National Forests in South Carolina, North Carolina, Virginia and West Virginia, causing hardships for the forest products industry and its many employees. Applied nationwide, the court's decision would severely restrict the timber supply from all the National Forests, led to the Act before me today.

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This National Forest Management Act of 1976 is the product of diverse and often conflicting interests. Officials of the Department of Agriculture and its Forest Service, conservation organisations, the timber industry, labor, professional foresters, and members of Congress have worked for months to develop sound legislation. The Nation has profited as a result of their efforts. On balance, I find this Act to be a reasonable compromise of the many competing interests which affect the National Forest System.

Therefore, in this Bicentennial year of our Nation, and in this Centennial Year of Federal Forestry, I am very pleased to sign into law S. 3091, the National Forest Management Act of 1976.