

## ELKHORN RIDGE TIMBER SALE

SEPTEMBER 4, 1996.—Ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

### R E P O R T

[To accompany H.R. 2711]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2711) to provide for the substitution of timber for the canceled Elkhorn Ridge Timber Sale, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of H.R. 2711 is to provide for the substitution of timber for the canceled Elkhorn Ridge Timber Sale.

#### BACKGROUND AND NEED FOR LEGISLATION

In October 1987, the Bureau of Land Management (BLM) sold 3.8 million board feet of timber within the Elkhorn Ridge area in Mendocino County near Laytonville, California. As the result of a lawsuit filed with the Federal District Court in 1989 by the Sierra Club, the BLM reassessed the impacts of the sale on the area's wild and scenic river corridor, the northern spotted owl, marbled murrelet and the at-risk coho salmon, currently petitioned for Federal listing under the Endangered Species Act. Public comment received on two BLM environmental impact statements overwhelmingly recommended that the timber sale contract be terminated.

The Elkhorn Ridge sale site lies within the South Fork Eel River Management Area, containing 17,200 acres of public lands in Mendocino County near the South Fork Eel River. The River has been identified as a "Tier 1 Key Watershed" in the President's Northwest Forest Plan. The purpose of the designation is to main-

tain existing native anadromous fish stocks until habitat conditions can be improved and to identify the watershed as having the highest potential and priority for restoration.

Based on these considerations, the BLM signed a record of decision on May 27, 1994, stopping the harvest of the timber sale. Eel River Sawmills filed a claim under the Contract Disputes Act for resolution of the Elkhorn Ridge timber sale contract, seeking damages of \$2.4 million. On October 21, 1994, BLM notified Eel River Sawmills that the contract was terminated. BLM offered a profit-only settlement which was rejected by Eel River.

The BLM's preferred option in resolving the timber contract is to substitute timber from less environmentally sensitive areas in the region. BLM has identified three suitable sale areas which would be nearly equal in value to the Elkhorn timber sale. These are: Sheridan/Carr Creek near Weaverville; Powerline northwest of Deadwood; and Deadwood, between Deadwood and Lewiston; all in Trinity County, California. BLM's Regional and the Department of the Interior Solicitors have concurred in BLM's determination that such a substitute would be in the public interest and the most suitable resolution to this legal dispute.

#### COMMITTEE ACTION

H.R. 2711 was introduced on December 5, 1995, by Congressman Frank Riggs (R-CA). The bill was referred to the Committee on Agriculture and additionally to the Committee on Resources. Within the Committee on Resources, the bill was referred to the Subcommittee on National Parks, Forests and Lands. On May 30, 1996, the Subcommittee held a hearing on H.R. 2711, where Mr. Matt Millenbach, Deputy Director of the BLM, testified in support of the legislation. On June 27, 1996, the Subcommittee met to mark up H.R. 2711. The bill was ordered favorably reported to the Full Committee by voice vote without amendment. On July 17, 1996, the Full Resources Committee met to consider H.R. 2711. The bill was ordered favorably reported to the House of Representatives by voice vote without amendment in the presence of a quorum.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Substitution of timber for canceled timber sale*

Section 1 authorizes the BLM to substitute, without competition, a contract for timber identified for harvest located on public lands administered by the BLM in the State of California of comparable value for the following terminated timber contract: Elkhorn Ridge Timber Sale, Contract No. CA-050-TS-88-01. Nothing in this section shall be construed to change any law or policy beyond the specified timber sale substitution.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

## INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 2711 will have no significant inflationary impact on prices and costs in the operation of the national economy.

## COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2711. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

## COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2711 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. Enactment of H.R. 2711 would result in a loss of offsetting receipts to the Federal Government of approximately \$2 million. However, the bill could also result in a savings to the Federal Government by eliminating the need to pay for the canceled timber contract.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2711.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2711 from the Director of the Congressional Budget Office.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 25, 1996.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2711, a bill to provide for the substitution of timber for the canceled Elkhorn Ridge timber sale, as ordered reported by the House Committee on Resources on July 17, 1996. Enacting H.R. 2711 would affect offsetting receipts and thus direct spending; therefore, pay-as-you-go procedures would apply to the bill. We estimate that the increase in direct spending would total about \$2 million over the 1997–2000 period. Enacting this bill could also re-

sult in some savings to the federal government because it would eliminate the possibility that a court might order the government to pay compensation for canceling the Elkhorn Ridge timber sale. CBO cannot estimate the likelihood, extent, or timing of any such savings, but we expect that any potential savings would not be realized until after 1998.

H.R. 2711 would authorize the Bureau of Land Management (BLM) to offer timber to Eel River Sawmills as a substitute for the canceled Elkhorn Ridge timber sale. In May 1994, BLM stopped the harvest of timber from that sale. That contract termination could result in court proceedings to determine whether the federal government is liable for paying compensation to Eel River Sawmills, which had been awarded the Elkhorn Ridge contract. The company and BLM have agreed to a settlement whereby the agency would offer the company substitute timber in exchange for the timber covered by the original Elkhorn Ridge contract. Enacting H.R. 2711 would allow BLM to fulfill that settlement agreement by awarding the substitute timber to Eel River Sawmills at no additional cost to the company.

By authorizing the Secretary of the Interior to provide substitute timber that BLM would otherwise be likely to sell through competitive bidding, this bill would probably reduce offsetting receipts to the Treasury and thus increase federal outlays. According to BLM, the appraised value of the proposed substitute timber is about \$2 million, which is the value that BLM would use to set the minimum bid in a competitive bidding process. Thus, selling the substitute timber would likely result in a winning bid of at least that amount. Therefore, CBO estimates that enacting H.R. 2711 would result in a loss of \$2 million in offsetting receipts over the 1997–2000 period, net of required payments to States.

At the same time, enacting this bill could result in savings to the federal government—perhaps offsetting some or all of the costs identified above—by eliminating the need for compensation that a court might otherwise require the government to pay for canceling the Elkhorn Ridge contract. CBO cannot estimate the likelihood, magnitude, or timing of any such compensation. Based on information from BLM, CBO expects that any such savings would not be realized until after fiscal year 1998. Resolving the dispute through legislation also could reduce federal administrative costs by avoiding some litigation expenses.

H.R. 2711 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). The state of California would receive 4 percent of the receipts from timber sales affected by this bill. Because we estimate that the bill would result in lower receipts from the timber sales, we estimate that payments to the state would be reduced, but that any such reduction would be less than \$100,000.

If you wish further details on this estimate, we will be pleased to provide them. The staff contacts are Victoria V. Heid (for federal costs), and Marjorie Miller (for the state, local, and tribal impact).

Sincerely,

JUNE E. O'NEILL, *Director*.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 2711 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 2711 would make no changes in existing law.



## A P P E N D I X

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U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
*Washington, DC, July 24, 1996.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources, Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for advising the Committee on Agriculture that on July 17, 1996, the Committee on Resources had ordered reported H.R. 2711, a bill to provide for the substitution of timber for the canceled Elkhorn Ridge Timber Sale. This Committee received primary referral of the bill.

However, in the interest of time and the circumstances of this matter, this Committee has no objection to expediting consideration of H.R. 2711 by the full House without consideration by this Committee or its Subcommittee on Resource Conservation, Research, and Forestry by waiving consideration of the bill at this time. However, our waiver on consideration of H.R. 2711 should not be considered as precedent for any future referrals of similar measures relating to timber sale substitution. Moreover, if this bill or any similar bill is conferenced with the Senate, this Committee reserves the right to request to be included as conferees.

As also your cooperation is appreciated.

Sincerely,

PAT ROBERTS, *Chairman.*

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