

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 054 - FOLDER -003**

**[10/18/1995-11/07/1995]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Todd Stern to Elena Kagan. Subject: Dinner (1 page)	10/27/1995	Personal Misfile
002. email	Christopher Cerf to Elena Kagan. Subject: Dinner (1 page)	10/30/1995	Personal Misfile

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**COLLECTION:**

Clinton Presidential Records  
Automated Records Management System (Email)  
WHO ([Kagan])  
OA/Box Number: 500000

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**FOLDER TITLE:**

[10/18/1995 - 11/7/1995]

2009-1006-F  
ke711

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**RESTRICTION CODES**

**Presidential Records Act - [44 U.S.C. 2204(a)]**

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

**Freedom of Information Act - [5 U.S.C. 552(b)]**

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)

CREATION DATE/TIME:18-OCT-1995 18:32:43.94

SUBJECT: RE: amtrak sap language

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:18-OCT-1995 18:42:25.18

TEXT:

Pena never raised the issue! You and I and Janno should have a conference call tomorrow to see whose compromise works best for DoT. Let me know what your schedule is like.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Cheryl L Sweitzer ( SWEITZER\_C ) (WHO)

CREATION DATE/TIME:19-OCT-1995 14:11:26.31

SUBJECT: Judge's Retirement Party

TO: James Castello ( CASTELLO\_J ) (WHO)  
READ:19-OCT-1995 14:12:07.81

TO: Jeffrey J. Connaughton ( CONNAUGHTO\_J ) (WHO)  
READ:19-OCT-1995 14:36:05.62

TO: Jennifer D. Dudley ( DUDLEY\_J ) (WHO)  
READ:19-OCT-1995 15:46:26.63

TO: Kimberly A. Holliday ( HOLLIDAY\_K ) (WHO)  
READ:19-OCT-1995 14:25:01.06

TO: Bruce R. Lindsey ( LINDSEY\_B ) (WHO)  
READ:25-OCT-1995 15:13:48.19

TO: Jane C. Sherburne ( SHERBURNE\_J ) (WHO)  
READ:20-OCT-1995 10:09:53.03

TO: Odetta S. Walker ( WALKER\_O ) (WHO)  
READ:19-OCT-1995 14:12:59.07

TO: Virginia Canter ( CANTER\_V ) (WHO)  
READ:19-OCT-1995 16:46:53.25

TO: Christopher D. Cerf ( CERF\_C ) (WHO)  
READ:19-OCT-1995 14:32:29.75

TO: Vicki J. Divoll ( DIVOLL\_V ) (WHO)  
READ:23-OCT-1995 08:26:17.64

TO: Mark D. Fabiani ( FABIANI\_M ) (WHO)  
READ:19-OCT-1995 17:52:48.00

TO: David Fein ( FEIN\_D ) (WHO)  
READ:19-OCT-1995 14:11:46.84

TO: Rochester M. Johnson ( JOHNSON\_RM ) (WHO)  
READ:20-OCT-1995 09:35:56.94

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:19-OCT-1995 14:22:11.53

TO: Marvin Krislov ( KRISLOV\_M ) (WHO)  
READ:19-OCT-1995 14:19:13.72

TO: John Lane ( LANE\_J ) (WHO)  
READ:NOT READ

TO: Marna E. Madsen ( MADSEN\_M ) (WHO)  
READ:19-OCT-1995 14:12:12.81

TO: Clifford J. Mauton ( MAUTON\_C ) (WHO)

READ:19-OCT-1995 14:14:56.48

TO: Cheryl D. Mills ( MILLS\_C ) (WHO)  
READ:19-OCT-1995 14:58:54.69

TO: Gloria T. Mitchell ( MITCHELL\_G ) (WHO)  
READ:NOT READ

TO: Melissa M. Murray ( MURRAY\_MM ) (WHO)  
READ:19-OCT-1995 14:19:46.98

TO: Miriam R. Nemetz ( NEMETZ\_M ) (WHO)  
READ:19-OCT-1995 14:11:52.11

TO: Stephen R. Neuwirth ( NEUWIRTH\_S ) (WHO)  
READ:19-OCT-1995 14:13:09.92

TO: Victoria L. Radd ( RADD\_V ) (WHO)  
READ:19-OCT-1995 14:12:49.76

TO: Stacy E. Reynolds ( REYNOLDS\_S ) (WHO)  
READ:19-OCT-1995 14:12:18.41

TO: Renee A. Warren ( WARREN\_R ) (WHO)  
READ:19-OCT-1995 14:24:46.76

TO: Kathleen M. Whalen ( WHALEN\_K ) (WHO)  
READ:19-OCT-1995 14:19:59.99

TO: Natalie Williams ( WILLIAMS\_N ) (WHO)  
READ:21-OCT-1995 19:14:52.81

TO: Jon Yarowsky ( YAROWSKY\_J ) (WHO)  
READ:31-OCT-1995 13:13:17.61

TEXT:

Just to let everyone know there IS a party in the planning  
for the Judge's retirement --

It looks like the party will be on Tuesday, October 31st, from  
5:00-7:00 p.m. in the Roosevelt Room. It may be someplace even  
better (!!!) -- we're waiting to hear -- that's why there has not  
been an official notice yet.

As soon as I know, I will contact everyone. Until then, please  
mark your calendar for the 31st at 5:00.

thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)

CREATION DATE/TIME:20-OCT-1995 11:58:34.72

SUBJECT: RE: Timber litigation

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:20-OCT-1995 12:13:12.96

TEXT:

What are the political implications of this?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

CREATION DATE/TIME:20-OCT-1995 12:37:53.81

SUBJECT: RE: yesterday's decision

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:20-OCT-1995 14:39:08.64

CC: Dinah Bear ( BEAR\_D ) (CEQ)

READ:20-OCT-1995 12:49:23.20

CC: Kathleen A. McGinty ( MCGINTY\_K ) (CEQ)

READ:20-OCT-1995 13:16:23.39

TEXT:

Elena,

The political implications are minor and are not additive to the political implications or consequences we've already accepted by our previous actions.

Enviros will be pleased; sport and commercial fishery interests will be pleased; the timber industry plaintiffs will be displeased. On balance, I think we come out ahead.

Yesterday's decision was a small step in the overall exercise of responding to the rescissions bill. We have a VERY big decision to make next week, namely what position to take in the Kentucky district court litigation (and anticipated Idaho litigation) regarding the substantive standards we think we are applying to salvage timber sales under the bill. In other words, since the sale is being challenged as "arbitrary and capricious" we have to show it wasn't because we made the decision based on ....

something..... What that something is isn't entirely clear.

It's at least the President's directive and the MOA, but we probably do not have agreement among the agencies now whether other substantive laws apply. This will be fun.

I hope this is responsive to your question. Let me know if you'd like more penetrating analysis. I'm glad you're part of the team.

Tom

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME:20-OCT-1995 19:08:37.07

SUBJECT: NRFC Interrogatory

TO: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

READ:20-OCT-1995 19:11:04.55

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:23-OCT-1995 09:28:53.78

TEXT:

DOJ proposes the following answer to the interrogatory asking the government to "Identify the highest ranking government officials in the Department of Agriculture, Department of Interior, the Executive Office of the President, and the Council on Environmental Quality, or anywhere else in the executive branch of the government, who are directly and personally responsible for the implementation of section 2001(k) of the Pub. L. 104-19, including compliance with Judge Hogan's order of September 13, 1995."

Justice's proposed response is as follows:

"Only the land management agencies can actually implement section 2001(k) of the Pub. L. 104-19. Therefore the highest ranking government officials who are directly and personally responsible for the implementation of Pub. L. 104-10, including compliance with Judge Hogan's order of September 13, 1995, are Secretary of Agriculture Dan Glickman and Secretary of the Interior Bruce Babbitt."

My reaction is to strike the first sentence and start the response by simply stating, "The highest ranking . . . . .". It seems to me that the first sentence suggests the desirability of asking a second question. What do both of you think?

DOJ needs any comments by NOON on Monday.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME:23-OCT-1995 09:35:47.03

SUBJECT: RE: NRFC Interrogatory

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:23-OCT-1995 09:38:14.19

CC: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

READ:23-OCT-1995 13:01:55.23

TEXT:

I will; thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: David E. Kalbaugh ( KALBAUGH\_D ) (WHO)

CREATION DATE/TIME:23-OCT-1995 10:57:11.65

SUBJECT: Preparation of Your Commission

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:23-OCT-1995 11:03:51.69

CC: G. Timothy Saunders ( SAUNDERS\_GT ) (WHO)

READ:23-OCT-1995 11:10:57.72

TEXT:

Todd Stern has requested that we prepare a commission of appointment for you.

In order to do so, we need to know how you would like your name to read, and what State you would like to have on the document (the state can be where you currently reside or where you were born or raised, it's your choice).

Please advise.

Thank you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeffrey J. Connaughton ( CONNAUGHTO\_J ) (WHO)

CREATION DATE/TIME:23-OCT-1995 12:17:44.08

SUBJECT: DOJ Welfare Conferee Letter

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:23-OCT-1995 13:43:53.51

TO: James Castello ( CASTELLO\_J ) (WHO)

READ:23-OCT-1995 12:18:18.50

TEXT:

You should have a copy. We should discuss what purpose this letter serves. It rambles on about legal issues raised (some well-founded, others arguably not so, still others simply mentioned as concerns) by the House and Senate bills, without providing an easily discernible "bottom-line" of the changes we want made. If we don't expect any changes to be made, why write a long and boring legal critique of a (Senate-like) bill the President may soon sign?

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Cathy R. Mays ( MAYS\_C ) (OPD)

CREATION DATE/TIME:23-OCT-1995 15:52:23.99

SUBJECT: Ideas Meeting

TO: Rahm Emanuel ( EMANUEL\_R ) (WHO)  
READ:NOT READ

TO: Donald A. Baer ( BAER\_D ) Autoforward to: Angus S. King  
READ:23-OCT-1995 16:05:46.56

TO: William Curry ( CURRY\_W ) (WHO)  
READ:23-OCT-1995 17:48:53.66

TO: Kamarck, Elaine C. ( Elaine C. Kamarck@EOP\_OVP@CCGATE@EOPMRX )  
READ:NOT READ

TO: Gene B. Sperling ( SPERLING\_G ) Autoforward to: Daniel Taber  
READ:23-OCT-1995 16:52:22.42

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:25-OCT-1995 15:34:17.73

TO: Paul J. Weinstein, Jr ( WEINSTEIN\_P ) (OPD)  
READ:23-OCT-1995 16:49:51.79

TO: Michael Waldman ( WALDMAN\_M ) (OPD)  
READ:24-OCT-1995 10:11:11.56

TO: Jonathan M. Prince ( PRINCE\_J ) (WHO)  
READ:24-OCT-1995 11:48:55.64

TO: Paul R. Dimond ( DIMOND\_P ) (OPD)  
READ:23-OCT-1995 18:09:23.07

CC: Christa T. Robinson ( ROBINSON\_C ) (WHO)  
READ:23-OCT-1995 16:15:10.90

CC: Wendy C. New ( NEW\_W ) (VPO)  
READ:23-OCT-1995 16:02:42.15

TEXT:

Bruce Reed is requesting your attendance at an ideas brainstorming session on Thursday, October 26, at 1:00 p.m. in Room 211, OEOP. Please confirm your availability with Cathy Mays, extension 66515. Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME:23-OCT-1995 15:33:33.52

SUBJECT: RE: NRFC Interrogatory

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:23-OCT-1995 15:41:03.43

CC: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

READ:23-OCT-1995 18:25:22.41

TEXT:

I have talked to DOJ about the wording for interrogatory #5. Peter Coppelman and Ellen, who argued last week's motions in front of Judge Hogan. They feel very strongly that while we are technically correct in our proposed modification to the response because Rutzick didn't phrase his question correctly, it is too cute by half to take advantage of that and that we need an explanation of why no WH, EOP or CEQ names appear in the response. DOJ believes Hogan will without an explanation, Hogan will consider it nonresponsive, with ill consequences towards the gov. I am not inclined to die over this, but if either of you are, now is the time - otherwise, it's out the door.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dorothy L. Karayannis ( KARAYANNIS\_D ) (OPD)

CREATION DATE/TIME:23-OCT-1995 15:34:01.64

SUBJECT: PARTIAL BIRTH ABORTN BILL

TO: Martha Foley ( FOLEY\_M ) (WHO)

READ:23-OCT-1995 15:34:41.12

TO: Nancy-Ann E. Min ( MIN\_N ) (OMB)

READ:23-OCT-1995 16:42:55.11

TO: James Castello ( CASTELLO\_J ) (WHO)

READ:23-OCT-1995 16:00:55.39

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:23-OCT-1995 15:41:30.44

TO: George Stephanopoulos ( STEPHANOPO\_G ) Autoforward to: Laura Capp

READ:23-OCT-1995 16:50:36.41

TO: Betsy Myers ( MYERS\_B ) (WHO)

READ:23-OCT-1995 16:10:38.37

TO: Janet Murguia ( MURGUIA\_J ) (WHO)

READ:23-OCT-1995 21:45:37.54

TO: Barbara C. Chow ( CHOW\_B ) (WHO)

READ:23-OCT-1995 18:21:11.67

TO: Deborah L. Fine ( FINE\_D ) (OPD)

READ:23-OCT-1995 15:34:18.58

TO: Barbara D. Woolley ( WOOLLEY\_B ) (WHO)

READ:23-OCT-1995 17:29:33.76

TO: Jeremy D. Benami ( BENAMI\_J ) (WHO)

READ:23-OCT-1995 16:54:04.62

CC: James I. Blount ( BLOUNT\_J ) (OMB)

READ:23-OCT-1995 16:09:06.50

CC: Odetta S. Walker ( WALKER\_O ) (WHO)

READ:23-OCT-1995 16:22:07.20

CC: Nicole R. Rabner ( RABNER\_N ) (WHO)

READ:23-OCT-1995 15:34:13.85

CC: Katharine M. Button ( BUTTON\_K ) (WHO)

READ:23-OCT-1995 17:48:40.32

CC: Stacey L. Rubin ( RUBIN\_S ) (WHO)

READ:23-OCT-1995 15:44:51.82

CC: Laura Capps ( CAPPS\_L ) (WHO)

READ:23-OCT-1995 16:50:36.41

TEXT:

Emailing to confirm that the Partial Birth Abortion Bill meeting will be Wednesday, October 25 from 4:00 - 5:00pm in OEOB Rm 230. Thank you.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME:25-OCT-1995 21:18:21.25

SUBJECT: Bad news - we lost.

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:26-OCT-1995 09:08:25.87

TEXT:

The Ninth Circuit denied our motion for a stay of the district court's order. Oral argument was extremely harsh and very problematic; many of the questions directed towards the government attorney were irrelevant and argumentative (does that sound like an objection!) and directed towards the Senate's attack on Jim Lyons and issues already decided (in favor of the government) related to the contempt motion.

Argument on the appeal is set for the week of Jan. 8th.

The consensus of everyone at Justice is that there is no point in pursuing a rehearing request. Lois Schiffer is working on a statement for the press and I'll obviously fax it to you when I get it.

The consequences of this are that we will begin releasing nearly 230 million board feet of old growth tomorrow morning. There will be a dramatic increase in protests, press, criticism of the administration for signing the bill, etc.

Sorry I don't have better news!

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)

CREATION DATE/TIME:26-OCT-1995 09:22:02.32

SUBJECT: RE: fyi

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:26-OCT-1995 09:34:45.26

TEXT:

Harold talked to Pena. Pena whined alot. Harold said, I will look into it but I think OLC is a problem and your staff and WH staff and OLC are trying to work out a compromise. That was the end of that.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins ( HASKINS\_M ) (OMB)

CREATION DATE/TIME:26-OCT-1995 09:33:58.63

SUBJECT: Revised DOJ Conferee Letter

TO: Kenneth S. Apfel ( APFEL\_K ) (OMB)  
READ:26-OCT-1995 11:00:09.67

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ:26-OCT-1995 12:39:28.18

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:26-OCT-1995 10:14:19.24

TO: Barry White ( WHITE\_B ) (OMB)  
READ:26-OCT-1995 14:20:10.71

TO: Keith J. Fontenot ( FONTENOT\_K ) (OMB)  
READ:26-OCT-1995 17:24:34.31

CC: James C. Murr ( MURR\_J ) (OMB)  
READ:26-OCT-1995 10:29:57.36

CC: Janet R. Forsgren ( FORSGREN\_J ) (OMB)  
READ:26-OCT-1995 09:59:09.96

CC: Stacy L. Dean ( DEAN\_S ) (OMB)  
READ:26-OCT-1995 11:24:46.60

CC: Jack A. Smalligan ( SMALLIGAN\_J ) (OMB)  
READ:26-OCT-1995 10:03:10.17

TEXT:

This morning, you should be receiving a copy of the REVISED Justice Department letter to the welfare reform conferees. We have asked that comments be returned to us by 4 pm today.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME:26-OCT-1995 14:51:18.15

SUBJECT: timber sales

TO: Elena Kagan

( KAGAN\_E ) (WHO)

READ:26-OCT-1995 15:34:29.01

TEXT:

As the result of last night's order, the Forest Service and BLM are in the process of releasing timber sales today. I was just asked whether the President has any other authority under which he could order the agencies to refrain from going ahead with the sales. i don't think so, but that's more in your ball park. Does anything spring to mind? In defense of national salmon? I doubt it, but . . . .??

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME:26-OCT-1995 20:20:07.81

SUBJECT: Timber press release

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:27-OCT-1995 07:47:26.94

TEXT:

Just faxed to you Justice's press release on timber decision.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins ( HASKINS\_M ) (OMB)

CREATION DATE/TIME:26-OCT-1995 17:18:31.07

SUBJECT: DOJ REVISED Welfare Reform Conferee Letter

TO: Kenneth S. Apfel ( APFEL\_K ) (OMB)  
READ:26-OCT-1995 17:34:29.62

TO: Janet L. Himler ( HIMLER\_J ) (OMB)  
READ:27-OCT-1995 08:32:03.18

TO: David J. Haun ( HAUN\_D ) (OMB)  
READ:26-OCT-1995 17:18:44.34

TO: Steven M. Mertens ( MERTENS\_S ) (OMB)  
READ:26-OCT-1995 17:27:54.05

TO: Lisa B. Fairhall ( FAIRHALL\_L ) (OMB)  
READ:26-OCT-1995 17:35:34.11

TO: Larry R. Matlack ( MATLACK\_L ) (OMB)  
READ:26-OCT-1995 17:35:00.46

TO: Francis S. Redburn ( REDBURN\_F ) (OMB)  
READ:27-OCT-1995 08:28:28.97

TO: Robert G. Damus ( DAMUS\_R ) (OMB)  
READ:26-OCT-1995 18:39:16.98

TO: Janet Murguia ( MURGUIA\_J ) (WHO)  
READ:26-OCT-1995 19:48:20.51

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:26-OCT-1995 18:21:08.36

TO: Ingrid M. Schroeder ( SCHROEDER\_I ) (OMB)  
READ:27-OCT-1995 09:06:58.95

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ:26-OCT-1995 19:05:59.11

TO: Diana M. Fortuna ( FORTUNA\_D ) (OPD)  
READ:26-OCT-1995 17:42:13.41

TO: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)  
READ:27-OCT-1995 11:15:56.34

TO: Harry E. Moran ( MORAN\_H ) (OMB)  
READ:26-OCT-1995 18:02:42.72

TO: Alicia K. Kolaian ( KOLAIAN\_A ) (OMB)  
READ:26-OCT-1995 17:18:33.88

TO: Barry T. Clendenin ( CLENDENIN\_B ) (OMB)  
READ:26-OCT-1995 18:50:28.48

TO: Mark E. Miller ( MILLER\_ME ) (OMB)

READ:29-OCT-1995 15:35:47.24

TO: Richard J. Turman (TURMAN\_R) (OMB)  
READ:29-OCT-1995 21:04:19.22

TO: Richard B. Bavier (BAVIER\_R) (OMB)  
READ:26-OCT-1995 17:25:36.08

TO: Katherine K. Wallman (WALLMAN\_K) (OMB)  
READ:26-OCT-1995 18:08:43.48

TO: Bruce D. Beard (BEARD\_B) (OMB)  
READ:27-OCT-1995 07:53:57.81

TO: E. Irene James (JAMES\_E) (OMB)  
READ:26-OCT-1995 17:18:37.23

TO: Bruce W. McConnell (MCCONNELL\_B) (OMB)  
READ:26-OCT-1995 17:52:40.97

TO: Martha M. Gagne (GAGNE\_M) (OMB)  
READ:26-OCT-1995 17:20:33.49

TO: Bruce K. Sasser (SASSER\_B) (OMB)  
READ:26-OCT-1995 18:05:09.96

TO: Harry G. Meyers (MEYERS\_H) (OMB)  
READ:26-OCT-1995 17:48:41.16

TO: Wanda J. Foster (FOSTER\_W) (OMB)  
READ:26-OCT-1995 17:19:22.41

TO: Elena Kagan (KAGAN\_E) (WHO)  
READ:26-OCT-1995 17:24:03.68

TO: Jeffrey J. Connaughton (CONNAUGHTO\_J) (WHO)  
READ:26-OCT-1995 17:20:08.62

CC: James C. Murr (MURR\_J) (OMB)  
READ:26-OCT-1995 18:39:23.34

CC: Janet R. Forsgren (FORSGREN\_J) (OMB)  
READ:27-OCT-1995 15:02:01.76

CC: Barry White (WHITE\_B) (OMB)  
READ:26-OCT-1995 17:20:16.28

CC: Keith J. Fontenot (FONTENOT\_K) (OMB)  
READ:26-OCT-1995 17:18:45.66

CC: Christine B. Ellertson (ELLERTSON\_C) (OMB)  
READ:26-OCT-1995 17:19:08.34

TEXT:

If you plan to respond to LRM 2891--DOJ's REVISED welfare reform conferee letter--please forward me your comments by 10:30 AM tomorrow.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: James Castello ( CASTELLO\_J ) (WHO)

CREATION DATE/TIME:27-OCT-1995 10:27:18.73

SUBJECT: F.Y.I.

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:27-OCT-1995 10:36:15.45

TEXT:

=====  
===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:27-OCT-1995 08:52:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Robert J. Pellicci

ATT SUBJECT: House Action on Partial-Birth Abortion Bill

ATT TO: Nancy-Ann E. Min ( MIN\_N )

ATT TO: James Castello ( CASTELLO\_J )

ATT CC: Barry T. Clendenin ( CLENDENIN\_B )

ATT CC: Janet R. Forsgren ( FORSGREN\_J )

ATT CC: James C. Murr ( MURR\_J )

TEXT:

ALERT --

HR 1833, legislation banning partial-birth abortions is tentatively scheduled for full House Action next week -- as early as Tuesday, October 31. Floor action will be subject to the bill getting a rule.

In anticipation of floor action, are we going to do a SAP on this bill? If so, I need guidance as to what the Administration's position is going to be.

Please let me know at your earliest convenience. Thanks.

=====  
===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: James Castello ( CASTELLO\_J ) (WHO)

CREATION DATE/TIME:27-OCT-1995 10:29:01.43

SUBJECT: F.Y.I.

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:27-OCT-1995 10:58:57.70

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:27-OCT-1995 10:20:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Nancy-Ann E. Min

ATT SUBJECT: RE: House Action on Partial-Birth Abortion Bill

ATT TO: Robert J. Pellicci ( PELLICCI\_R )

ATT CC: James Castello ( CASTELLO\_J )

ATT CC: Barry T. Clendenin ( CLENDENIN\_B )

ATT CC: Janet R. Forsgren ( FORSGREN\_J )

ATT CC: James C. Murr ( MURR\_J )

TEXT:

we (alice, et al) are having a meeting to discuss this on monday am. i'll try to give you guidance then. fyi, the groups (naral) tell me they don't think it will come up till thursday at the earliest.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Bruce N. Reed ( REED\_B ) (WHO)

CREATION DATE/TIME:27-OCT-1995 13:10:43.03

SUBJECT: My comments

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:27-OCT-1995 14:24:44.06

TEXT:

I sent these to Melinda a few minutes ago, but you're right and I'm wrong about deleting the caveats on our constitutional argument.

Thanks for working with OLC -- the new draft was much much better.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:27-OCT-1995 12:53:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Bruce N. Reed

ATT SUBJECT: RE: justice welfare reform views letter

ATT TO: Stephen C. Warnath ( WARNATH\_S )

ATT CC: Melinda D. Haskins ( HASKINS\_M )

TEXT:

I concur in all of Steve's comments.

I also have the following concerns:

p. 2, last graph of minor mothers argument: This graph (which begins "The provisions also might be challenged ...") should be deleted. This is a much weaker legal point, and I don't think we should be arguing for some constitutional right to have children outside marriage.

p. 5, both graphs: I strongly agree with Steve that it's ridiculous to argue the other side's case here. Both these graphs should be dropped.

p. 10, item 4 (battered individuals): This is a policy issue, not a legal one -- and I don't agree with their position. The last version I saw of the SSA views letter actually argued that this provision should not apply at all to SSI. There is no legal reason to make the provision mandatory, and it might have the perverse effect of letting any absent father know that the surest way to stop a woman from naming him as the father of her child is to beat her up.

Thanks.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME:27-OCT-1995 15:22:49.03

SUBJECT: Draft #1

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:27-OCT-1995 15:43:31.47

TEXT:

Third paragraph sentence will be changed to read "The Department of Justice advises that there is no viable appeal left" or something like that.

There will no doubt be other changes. I'll ask Brian to add you to the next list so you'll get it right away. Thanks for your help!

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:27-OCT-1995 14:38:00.00

ATT BODYPART TYPE:H

ATT CREATOR: Brian J. Johnson

ATT SUBJECT: My redraft of USDA draft

ATT TO: Kris Balderston ( BALDERSTON\_K )

ATT TO: Shelley N. Fidler ( FIDLER\_S )

ATT TO: Dinah Bear ( BEAR\_D )

ATT TO: Kathleen A. McGinty ( MCGINTY\_K )

TEXT:

PRINTER FONT 12\_POINT\_ROMAN

DRAFT STATEMENT

ON THE NINTH CIRCUIT COURT OF APPEALS DECISION TO FORCE  
ADDITIONAL SALES OF OLD GROWTH TIMBER

I am very concerned about the Republican rush to reignite the timber wars of the Pacific Northwest, and I am deeply disappointed in the court's decision to force us to release these sales of healthy ancient timber.

I had expressed my concerns about the environmental consequences of the logging legislation, but I received repeated assurances from Congress that we could implement the statute in an environmentally

□  
-responsible way. We strongly believed that these sales of ancient timber were not covered by that legislation.

I am sorry that the courts found differently. We fought this case to the bitter end and now the Justice Department has advised me that we cannot appeal. Therefore, we have no choice but to comply with the court's decision. The court's decision forces us to release timber that may lead to irreparable environmental injury to chinook salmon, the northern spotted owl and other endangered or threatened wildlife.

Consequently, I call on the timber industry to work voluntarily to mitigate this harm or to restrict cutting to those areas less likely to harm salmon and other species. They tell the Forest Service they want to do the right thing. Now, they should do the right thing.

[ These same battles were fought in the years before my Northwest Forest Plan. We were able to maintain a balance between timber sales and a healthy environment. We ushered in a new era of sustainable, stable and predictable timber supply. As a result, management of our public lands in the Northwest moved out of the courts and back into the hands of public lands managers where it belongs. ]

[ In signing the 1995 Rescission Act and in subsequent directives to my cabinet, I pledged to uphold existing environmental laws and standards except when forced to do otherwise. We will continue to do that and challenge those who interpret differently the language in that law. ]

As displayed through their actions and rhetoric, it is clear that congressional Republicans are more interested in appeasing special interests than listening to scientists warning of

environmental damage -- or to a public demanding environmental protection.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Ray Martinez ( MARTINEZ\_R ) (WHO)

CREATION DATE/TIME:27-OCT-1995 16:15:38.55

SUBJECT: Draft language

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:27-OCT-1995 16:34:44.19

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:27-OCT-1995 15:17:00.00

ATT BODYPART TYPE:H

ATT CREATOR: Brian J. Johnson

ATT SUBJECT: slight redraft

ATT TO: Kris Balderston ( BALDERSTON\_K )

ATT TO: Ray Martinez ( MARTINEZ\_R )

ATT TO: Shelley N. Fidler ( FIDLER\_S )

TEXT:

PRINTER FONT 12\_POINT\_ROMAN

DRAFT STATEMENT

ON THE NINTH CIRCUIT COURT OF APPEALS DECISION TO FORCE  
ADDITIONAL SALES OF OLD GROWTH TIMBER

I am very concerned about the rush by special interests and their [Republican] friends in Congress to reignite the timber wars of the Pacific Northwest, and I am deeply disappointed in the court's decision to force us to release these sales of healthy ancient timber.

I had expressed my concerns about the environmental consequences of the logging legislation, but I received repeated assurances from Congress that we could implement the statute in an environmentally

-responsible way. We strongly believed that these sales of ancient timber were not covered by that legislation.

I am sorry that the courts found differently. We fought this case to the bitter end and now the Justice Department has advised me that there is no viable appeal. Therefore, we have no choice but to comply with the court's decision. The court's decision forces us to release timber that may lead to grave environmental injury to chinook salmon and other wildlife, damage our rivers and streams, and hurt sport and commercial fishers.

Consequently, I call on the timber industry to work voluntarily to mitigate this harm or to restrict cutting to those areas less likely to harm salmon and other species. They tell the Forest Service they want to do the right thing. Now, they should do the right thing.

[ These same battles were fought in the years before my

Northwest Forest Plan. We were able to maintain a balance between timber sales and a healthy environment. We ushered in a new era of sustainable, stable and predictable timber supply. As a result, management of our public lands in the Northwest moved out of the courts and back into the hands of public lands managers where it belongs. ]

[ In signing the 1995 Rescission Act and in subsequent directives to my cabinet, I pledged to uphold existing environmental laws and standards except when forced to do otherwise. We will continue to do that and challenge those who interpret differently the language in that law. ]

As displayed through their actions and rhetoric, it is clear that many congressional Republicans are more interested in appeasing special interests than listening to scientists warning of environmental damage -- or to a public demanding environmental protection.

===== END ATTACHMENT 1 =====

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Todd Stern to Elena Kagan. Subject: Dinner (1 page)	10/27/1995	Personal Misfile

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System (Email)  
WHO ([Kagan])  
OA/Box Number: 500000

### FOLDER TITLE:

[10/18/1995 - 11/7/1995]

2009-1006-F  
ke711

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Brian J. Johnson ( JOHNSON\_BJ ) (CEQ)

CREATION DATE/TIME:27-OCT-1995 19:18:33.58

SUBJECT: Revised draft - timber statement

TO: John C. Angell ( ANGELL\_J ) (WHO)

READ:27-OCT-1995 19:28:47.76

TO: Martha Foley ( FOLEY\_M ) (WHO)

READ:27-OCT-1995 20:36:24.40

TO: Kris Balderston ( BALDERSTON\_K ) (WHO)

READ:27-OCT-1995 19:20:08.30

TO: T J Glauthier ( GLAUTHIER\_T ) (OMB)

READ:28-OCT-1995 14:10:23.72

TO: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)

READ:28-OCT-1995 10:05:18.17

TO: Shelley N. Fidler ( FIDLER\_S ) (CEQ)

READ:27-OCT-1995 19:37:46.91

TO: Kathleen A. McGinty ( MCGINTY\_K ) (CEQ)

READ:27-OCT-1995 19:22:07.45

TO: Marcia L. Hale ( HALE\_M ) Autoforward to: R. Lawton Jordan

READ:27-OCT-1995 19:24:13.35

TO: R. Lawton Jordan III ( JORDAN\_RL ) (WHO)

READ:27-OCT-1995 19:24:13.35

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:28-OCT-1995 10:44:05.38

TO: Virginia M. Terzano ( TERZANO\_V ) (WHO)

READ:NOT READ

TEXT:

PRINTER FONT 12\_POINT\_ROMAN

Folks,

The Chief of Staff's decision is a statement by the President, tomorrow.

This reflects changes by Martha, Barry, Shelley, Mr. Panetta. Last, VP Press requests the final be sent to VPOTUS as soon as it's done. He's got an address to Society of Environmental Journalists tomorrow.

Brian

DRAFT STATEMENT ON THE NINTH CIRCUIT COURT OF APPEALS DECISION TO FORCE ADDITIONAL SALES OF OLD GROWTH TIMBER

I am deeply disappointed in the court's decision to force us to release these sales of healthy ancient timber.

I strongly believe that this expansion of ancient timber sales was not authorized by the rescission legislation. Our understanding of the amount of volume to be released was significantly different from the interpretation upheld this week

by the courts.

I will pursue a legislative remedy to overturn this decision.

At this time, we have no choice but to comply with the court's decision. The court's decision forces us to release timber that may lead to grave environmental injury to chinook salmon and other wildlife, and damage our rivers and streams. This could jeopardize the livelihoods of tens of thousands of people who depend on the Pacific Northwest's vibrant commercial and sport fisheries.

I will ask each national forest supervisor to meet with the companies awarded contracts to seek mutually agreeable changes to mitigate any harm to salmon and other species and water quality.

I have begun a consultation with the Secretaries of the Interior and Agriculture as well as the professionals in the Forest Service and the Bureau of Land Management, the Governors of the affected states, and local elected representatives to see what options we may have to preserve forest and fishing jobs in the Pacific Northwest while also protecting the environment.

In signing the 1995 Rescission Act and in subsequent directives to my cabinet, I pledged to uphold existing environmental laws and standards except when forced to do otherwise. We will continue to do that and challenge those who interpret differently the language in that law.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME:28-OCT-1995 17:23:39.09

SUBJECT: POTUS Statement on timber

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:30-OCT-1995 08:53:37.58

TO: Mark A. Weatherly ( WEATHERLY\_M ) (OMB)

READ:28-OCT-1995 22:23:23.16

TO: Ruth D. Saunders ( SAUNDERS\_R ) (OMB)

READ:29-OCT-1995 16:10:31.75

TO: Kris Balderston ( BALDERSTON\_K ) (WHO)

READ:30-OCT-1995 10:16:04.60

TO: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)

READ:30-OCT-1995 10:08:12.28

TEXT:

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:28-OCT-1995 14:53:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Brian J. Johnson

ATT SUBJECT: timber statement

ATT TO: Kathleen A. McGinty ( MCGINTY\_K )

ATT TO: Shelley N. Fidler ( FIDLER\_S )

ATT TO: Kathleen A. McGinty ( MCGINTY\_K )

ATT TO: FAX (62710,Jane) ( TLXA1MAIL\_\F:62710\C:Jane

ATT TO: Bradley M. Campbell ( CAMPBELL\_BM )

ATT TO: Peter G. Umhofer ( UMHOFFER\_P )

ATT TO: Keith E. Laughlin ( LAUGHLIN\_K )

ATT TO: David B. Sandalow ( SANDALOW\_D )

ATT TO: Beth A. Viola ( VIOLA\_B )

ATT TO: Wesley P. Warren ( WARREN\_W )

ATT TO: Dinah Bear ( BEAR\_D )

ATT TO: Elisabeth Blaug ( BLAUG\_E )

ATT TO: Ray Clark ( CLARK\_R )

ATT TO: Michelle Denton ( DENTON\_M )

ATT TO: Carolyn Mosley ( MOSLEY\_C )  
 ATT TO: Thomas C. Jensen ( JENSEN\_T )  
 ATT TO: Wendell M. Stills ( STILLS\_W )  
 ATT TO: Stephen R. Seidel ( SEIDEL\_S )  
 ATT TO: Robert C. Vandermark ( VANDERMARK\_R )

TEXT:

===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====

ATT CREATION TIME/DATE:28-OCT-1995 14:52:00.00

ATT BODYPART TYPE:A

ATT CREATOR: Brian J. Johnson

TEXT:

PRINTER FONT 12\_POINT\_COURIER  
 THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

October 28, 1995

STATEMENT BY THE PRESIDENT  
 ON THE NINTH CIRCUIT COURT OF APPEALS DECISION TO FORCE  
 ADDITIONAL SALES OF OLD GROWTH TIMBER

I am deeply disappointed in the court's decision to force the Forest Service and the Bureau of Land Management to release these sales of healthy ancient timber.

My Administration's agreement with the Congress on this issue was significantly different from the interpretation upheld this week by the courts. We agreed that the Administration would not have to violate our standards and guidelines for our Forest Plan and for forest management in general, but only speed up sales that met those standards. We do not believe that this extreme expansion of ancient timber sales was authorized by the 1995 Rescission Act.

My Administration will actively pursue a legislative remedy to correct this extreme result.

At this time, however, there is no choice but to comply with the court's decision. The decision forces the release of timber that may lead to grave environmental injury to chinook salmon and other wildlife, and damage our rivers and streams. This could jeopardize the livelihoods of thousands of people who depend on the Pacific Northwest's vibrant commercial and sport fisheries.

I have directed the Secretaries of Agriculture and the Interior to work with the companies awarded contracts to seek changes to mitigate any harm to salmon and other species and water quality.

In signing the rescission legislation and in subsequent directives to my cabinet, I pledged to uphold existing environmental laws and standards. I will continue to fight for

those laws and standards.

-30-

===== END ATTACHMENT 2 =====

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Christopher Cerf to Elena Kagan. Subject: Dinner (1 page)	10/30/1995	Personal Misfile

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System (Email)  
WHO ([Kagan])  
OA/Box Number: 500000

### FOLDER TITLE:

[10/18/1995 - 11/7/1995]

2009-1006-F  
ke711

### RESTRICTION CODES

#### Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

#### Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins ( HASKINS\_M ) (OMB)

CREATION DATE/TIME:30-OCT-1995 10:41:39.03

SUBJECT: Additional Comments to DOJ Welfare Reform Conferee Letter

TO: Kenneth S. Apfel ( APFEL\_K ) (OMB)  
READ:30-OCT-1995 11:43:29.30

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:30-OCT-1995 10:43:48.67

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ:30-OCT-1995 10:42:00.13

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ:30-OCT-1995 11:06:19.29

CC: James C. Murr ( MURR\_J ) (OMB)  
READ:30-OCT-1995 10:59:34.35

CC: Janet R. Forsgren ( FORSGREN\_J ) (OMB)  
READ:30-OCT-1995 10:47:07.05

CC: Barry White ( WHITE\_B ) (OMB)  
READ:30-OCT-1995 10:48:13.86

CC: Keith J. Fontenot ( FONTENOT\_K ) (OMB)  
READ:30-OCT-1995 18:14:58.19

CC: Christine B. Ellertson ( ELLERTSON\_C ) (OMB)  
READ:30-OCT-1995 15:14:39.24

CC: Stacy L. Dean ( DEAN\_S ) (OMB)  
READ:30-OCT-1995 11:35:59.38

CC: Jack A. Smalligan ( SMALLIGAN\_J ) (OMB)  
READ: 1-NOV-1995 09:33:18.17

CC: Melissa Y. Cook ( COOK\_MY ) (OMB)  
READ:30-OCT-1995 11:25:38.89

CC: Ingrid M. Schroeder ( SCHROEDER\_I ) (OMB)  
READ:30-OCT-1995 10:41:52.37

TEXT:

HHS, SSA, and OMB's Income Maintenance Division have proposed additional changes to DOJ's welfare reform conferee letter that I need you to review. I am faxing you a cover memo and a copy of the marked up draft. Please call me (5-3923) if you have any questions.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins ( HASKINS\_M ) (OMB)

CREATION DATE/TIME:30-OCT-1995 17:27:07.96

SUBJECT: DOJ Insert to the DOJ Welfare Conferee Letter

TO: Kenneth S. Apfel ( APFEL\_K ) (OMB)

READ:30-OCT-1995 17:33:29.63

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:30-OCT-1995 17:36:36.35

TO: Bruce N. Reed ( REED\_B ) (WHO)

READ:31-OCT-1995 09:40:43.52

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)

READ:30-OCT-1995 17:29:22.61

CC: James C. Murr ( MURR\_J ) (OMB)

READ:30-OCT-1995 17:45:09.49

CC: Barry White ( WHITE\_B ) (OMB)

READ:30-OCT-1995 17:41:37.67

CC: Janet R. Forsgren ( FORSGREN\_J ) (OMB)

READ:30-OCT-1995 18:07:27.10

CC: Keith J. Fontenot ( FONTENOT\_K ) (OMB)

READ:30-OCT-1995 17:52:09.44

CC: Stacy L. Dean ( DEAN\_S ) (OMB)

READ:30-OCT-1995 17:29:37.81

CC: Christine B. Ellertson ( ELLERTSON\_C ) (OMB)

READ:30-OCT-1995 17:37:58.93

TEXT:

DOJ proposes to insert the following paragraph into its welfare reform conferee letter.

p. 9, after the first paragraph...

"In addition, any final legislation should include an exemption, which is included in the House bill, for legal permanent residents who are unable to naturalize because of their physical or mental disabilities. An exception should also be made for legal permanent residents who are over 75 years of age and who have lived in the United States for five years."

Please comment.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Stephen R. Neuwirth ( NEUWIRTH\_S ) (WHO)

CREATION DATE/TIME:30-OCT-1995 17:56:59.12

SUBJECT: hud/nation of islam

TO: James Castello ( CASTELLO\_J ) (WHO)

READ:30-OCT-1995 17:58:33.43

TO: Christopher D. Cerf ( CERF\_C ) (WHO)

READ:30-OCT-1995 17:57:29.53

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:30-OCT-1995 18:08:10.23

TO: Cheryl D. Mills ( MILLS\_C ) (WHO)

READ:30-OCT-1995 18:00:04.50

TO: Marvin Krislov ( KRISLOV\_M ) (WHO)

READ:30-OCT-1995 18:31:43.24

TO: Kathleen M. Whalen ( WHALEN\_K ) (WHO)

READ:30-OCT-1995 18:12:55.11

TEXT:

Ab has advised me that earlier this year, someone in the office worked with him on a matter concerning HUD's relationship with the Nation of Islam. If you worked on that matter, could you let me know ASAP? The President has received a letter on this subject. Thanks!

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Kris Balderston ( BALDERSTON\_K ) (WHO)

CREATION DATE/TIME:30-OCT-1995 19:15:05.85

SUBJECT: Timber mtg tues 9,30 am

TO: Marcia L. Hale ( HALE\_M ) Autoforward to: R. Lawton Jordan  
READ:30-OCT-1995 19:33:35.40

TO: Sheila D. Turner ( TURNER\_S ) (WHO)  
READ:31-OCT-1995 08:37:20.97

TO: Kathryn Higgins ( HIGGINS\_K ) (WHO)  
READ:30-OCT-1995 19:15:38.98

TO: T J Glauthier ( GLAUTHIER\_T ) (OMB)  
READ:31-OCT-1995 07:50:08.37

TO: Ray Martinez ( MARTINEZ\_R ) (WHO)  
READ:30-OCT-1995 20:05:05.15

TO: Shelley N. Fidler ( FIDLER\_S ) (CEQ)  
READ:31-OCT-1995 09:17:18.34

TO: Kathleen A. McGinty ( MCGINTY\_K ) (CEQ)  
READ:30-OCT-1995 20:04:23.13

TO: Martha Foley ( FOLEY\_M ) (WHO)  
READ:30-OCT-1995 19:20:03.20

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:31-OCT-1995 08:49:50.29

TO: Barbara C. Chow ( CHOW\_B ) (WHO)  
READ:31-OCT-1995 08:47:07.87

TEXT:

The small Timber mtg that we were supposed to do on Monday evening will be held on Tuesday morn at 9.30 am in OEOB 248. Plse join us.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: John O. Sutton ( SUTTON\_J ) (WHO)

CREATION DATE/TIME:31-OCT-1995 11:28:02.55

SUBJECT: Timber meeting Today

TO: R. Lawton Jordan III ( JORDAN\_RL ) (WHO)  
READ:31-OCT-1995 12:14:35.70

TO: Alice E. Shuffield ( SHUFFIELD\_A ) (OMB)  
READ:31-OCT-1995 11:58:52.21

TO: Kris Balderston ( BALDERSTON\_K ) (WHO)  
READ:31-OCT-1995 11:36:46.56

TO: Sheila D. Turner ( TURNER\_S ) (WHO)  
READ:31-OCT-1995 13:40:19.64

TO: Robert C. Vandermark ( VANDERMARK\_R ) (CEQ)  
READ:31-OCT-1995 11:29:40.00

TO: Ray Martinez ( MARTINEZ\_R ) (WHO)  
READ:31-OCT-1995 11:37:22.49

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ:31-OCT-1995 11:50:10.41

TO: Thomas C. Jensen ( JENSEN\_T ) (CEQ)  
READ:31-OCT-1995 12:38:15.17

TO: Martha Foley ( FOLEY\_M ) (WHO)  
READ:31-OCT-1995 11:28:19.55

TEXT:

Harold Ickes will be having a timber meeting TODAY (Tuesday) at 3:30 pm in Room 180. Attendance is MANDATORY. Please clear your schedules to be there.

Attendees:

Ickes  
Gorelick  
Babbitt  
Glickman  
T.J. Glauthier  
Martha Foley  
Kitty  
Tom Jensen  
Katie McGinty + staff  
Kagan  
Marcia Hale  
Ray Martinez

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Mark J. Schwartz ( SCHWARTZ\_M ) (OMB)

CREATION DATE/TIME:31-OCT-1995 16:16:29.54

SUBJECT: An apparition?

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ:31-OCT-1995 18:40:29.91

TEXT:

Being Halloween and all...I was sitting in Room 248 of the OEOB at 11 o'clock today. I looked out the door and I saw a semi-familiar face talking. I have been struggling all day to place the face...and the light bulb just went off.

We worked together briefly on Justice Ginsburg's nomination on the Senate Judiciary Committee in 1993. I was working for Joe Biden at the time in the nominations unit. I assume you have given up teaching at Chicago and are here to keep the country safe from Newt Gingrich. Welcome.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME:31-OCT-1995 19:14:40.11

SUBJECT: Partial Birth SAP

TO: George Stephanopoulos ( STEPHANOPO\_G ) Autoforward to: Laura Capp  
READ:31-OCT-1995 19:15:27.07

TO: Nancy-Ann E. Min ( MIN\_N ) (OMB)  
READ:31-OCT-1995 19:21:33.65

TO: Martha Foley ( FOLEY\_M ) (WHO)  
READ:31-OCT-1995 20:23:10.19

TO: James Castello ( CASTELLO\_J ) (WHO)  
READ:31-OCT-1995 19:15:48.02

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 1-NOV-1995 08:45:16.07

CC: Laura Capps ( CAPPS\_L ) (WHO)  
READ:31-OCT-1995 19:15:27.07

CC: Deborah L. Fine ( FINE\_D ) (OPD)  
READ:31-OCT-1995 19:18:30.47

TEXT:

I shared my concern with George that the SAP could backfire in the women's community if based solely on the health exception. He said a reworked version that mentions both the erosion of Roe and the health exception might be OK.

I don't know if the SAP has gone yet, but here would be my edit.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE:31-OCT-1995 19:05:00.00

ATT BODYPART TYPE:A

ATT CREATOR: Jeremy D. Benami

TEXT:

The Administration strongly opposes HR 1833. This legislation undermines the constitutional standard established in Roe v. Wade and specifically fails to provide any exception to protect the health of the mother. The President believes that abortion should be safe, legal and rare. He has long opposed late-term abortions except when they are necessary to protect the life or health of the mother, consistent with the Supreme Court's decision in Roe.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

CREATION DATE/TIME: 1-NOV-1995 09:34:17.39

SUBJECT: MEETING NOTICE

TO: Alice E. Shuffield ( SHUFFIELD\_A ) (OMB)

READ: 1-NOV-1995 09:37:09.24

TO: FAX (9-720-5437, Greg Frazier) ( TLXA1MAIL\_\F:9-720-5437\C: Greg FraierREA

TO: FAX (9-720-4732, Jim Lyons) ( TLXA1MAIL\_\F:9-720-4732\C: Jim LyonsREAD:

TO: FAX (9-208-6956, Ann Shields) ( TLXA1MAIL\_\F:9-208-6956\C: Ann ShieldsREA

TO: FAX (9-208-4684, George Frampton) ( TLXA1MAIL\_\F:9-208-4684\C: George Frampto

TO: FAX (9-208-3144, Bob Armstrong) ( TLXA1MAIL\_\F:9-208-3144\C: Bob ArmstrongR

TO: FAX (9-514-0557, Lois Schiffer) ( TLXA1MAIL\_\F:9-514-0557\C: Lois SchifferR

TO: FAX (9-482-6318, Doug Hall) ( TLXA1MAIL\_\F:9-482-6318\C: Doug HallREAD:

TO: FAX (9-260-0500, Steve Herman) ( TLXA1MAIL\_\F:9-260-0500\C: Steve HermanRE

TO: Kathleen A. McGinty ( MCGINTY\_K ) (CEQ)

READ: 1-NOV-1995 11:59:56.49

TO: Shelley N. Fidler ( FIDLER\_S ) (CEQ)

READ: 1-NOV-1995 09:30:47.24

TO: T J Glauthier ( GLAUTHIER\_T ) (OMB)

READ: 1-NOV-1995 12:59:51.37

TO: Ron Cogswell ( COGSWELL\_R ) (OMB)

READ: 1-NOV-1995 09:47:23.45

TO: Mark A. Weatherly ( WEATHERLY\_M ) (OMB)

READ: 1-NOV-1995 09:52:26.58

TO: Christine L. Nolin ( NOLIN\_CL ) (OMB)

READ: 1-NOV-1995 09:30:53.67

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 1-NOV-1995 10:48:33.06

TO: Martha Foley ( FOLEY\_M ) (WHO)

READ: 1-NOV-1995 14:58:14.44

TO: Kris Balderston ( BALDERSTON\_K ) (WHO)

READ: 1-NOV-1995 10:14:22.48

TO: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)

READ: 1-NOV-1995 13:56:34.27

TO: Dinah Bear ( BEAR\_D ) (CEQ)

READ: 1-NOV-1995 09:38:58.08

TO: Remote Addressee ( TLXA1MAIL\_\F:97205437\C:Anne KennedyREAD:

TO: FAX (92084684,Don Barry) ( TLXA1MAIL\_\F:92084684\C:Don Barry)  
 READ:NOT READ

TO: FAX (94821041,Bob Ziobro) ( TLXA1MAIL\_\F:94821041\C:Bob Ziobro )  
 READ:NOT READ

TO: Remote Addressee ( TLXA1MAIL\_\F:97204732\C:Mark Gaede )  
 READ:NOT READ

TO: Remote Addressee ( TLXA1MAIL\_\F:92085242\C:Nancy Hayes\ )  
 READ:NOT READ

TO: FAX (92191792,Kris Clark) ( TLXA1MAIL\_\F:92191792\C:Kris Clark )  
 READ:NOT READ

TO: FAX (96902730,Mike Gippert) ( TLXA1MAIL\_\F:96902730\C:Mike GippertREAD:

TO: FAX (92085584,John Leshy) ( TLXA1MAIL\_\F:92085584\C:John Leshy )  
 READ:NOT READ

TO: FAX (95144240,Jim Kilbourne) ( TLXA1MAIL\_\F:95144240\C:Jim KilbourneREAD

TO: Remote Addressee ( TLXA1MAIL\_\F:95140557\C:Peter CoppelmanRE

TO: Thomas C. Jensen ( JENSEN\_T ) (CEQ)  
 READ: 1-NOV-1995 09:34:49.48

TO: Ruth D. Saunders ( SAUNDERS\_R ) (OMB)  
 READ: 1-NOV-1995 09:30:55.14

TO: Remote Addressee ( TLXA1MAIL\_\F:915033266254\C:Tom TuchmanRE

TO: FAX (92083877,Bob Baum) ( TLXA1MAIL\_\F:92083877\C:Bob BaumREAD:NOT

## TEXT:

The EOP/Agency timber working group will meet tomorrow, Thursday, November 2, 1995, at 2:00 p.m. in the CEQ Conference Room (722 Jackson Place). Please be prepared for a long meeting, probably in excess of two hours.

The agenda will include:

1. Pursuit of NFRC v. Glickman appeal - Chair
2. Standard of review applicable to salvage sales - Agencies
3. Temporal scope of salvage provisions (aka "Anne Peterson's issue") - Justice
4. 318/Hogan sale buy-out standard and valuation - Justice
5. Other business - Chair

Please call me or Dinah if you'd like to add other items or wish to distribute materials to the group ahead of time.

Thanks for your cooperation.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: John O. Sutton ( SUTTON\_J ) (WHO)

CREATION DATE/TIME: 1-NOV-1995 10:49:09.67

SUBJECT: Timber meeting

TO: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)  
READ: 1-NOV-1995 21:03:07.34

TO: Sheila D. Turner ( TURNER\_S ) (WHO)  
READ: 1-NOV-1995 11:19:53.14

TO: Kris Balderston ( BALDERSTON\_K ) (WHO)  
READ: 1-NOV-1995 11:06:50.32

TO: R. Lawton Jordan III ( JORDAN\_RL ) (WHO)  
READ: 1-NOV-1995 11:50:00.80

TO: Alice E. Shuffield ( SHUFFIELD\_A ) (OMB)  
READ: 1-NOV-1995 10:49:42.18

TO: Robert C. Vandermark ( VANDERMARK\_R ) (CEQ)  
READ: 1-NOV-1995 10:52:59.61

TO: Ray Martinez ( MARTINEZ\_R ) (WHO)  
READ: 1-NOV-1995 10:52:26.96

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 1-NOV-1995 11:07:35.03

TO: Thomas C. Jensen ( JENSEN\_T ) (CEQ)  
READ: 1-NOV-1995 11:41:11.84

TO: Martha Foley ( FOLEY\_M ) (WHO)  
READ: 1-NOV-1995 15:00:14.51

TEXT:

Harold Ickes will be having another timber meeting TODAY at 3pm in room 476. Please plan on attending  
If you have any questions, please call Jennifer O'Connor at 6-6350.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins ( HASKINS\_M ) (OMB)

CREATION DATE/TIME: 1-NOV-1995 11:06:33.27

SUBJECT: DOJ Welfare Reform Conferee Letter

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 1-NOV-1995 11:08:14.30

CC: Kenneth S. Apfel ( APFEL\_K ) (OMB)

READ: 1-NOV-1995 11:15:58.93

CC: Bruce N. Reed ( REED\_B ) (WHO)

READ: 1-NOV-1995 11:24:41.10

CC: James C. Murr ( MURR\_J ) (OMB)

READ: 1-NOV-1995 12:53:49.68

CC: Janet R. Forsgren ( FORSGREN\_J ) (OMB)

READ: 1-NOV-1995 11:37:10.07

CC: Barry White ( WHITE\_B ) (OMB)

READ: 1-NOV-1995 13:29:27.59

CC: Keith J. Fontenot ( FONTENOT\_K ) (OMB)

READ: 1-NOV-1995 13:52:35.98

TEXT:

Yesterday, we passed back OMB's comments on the DOJ welfare reform conferee letter. I understand that you may be receiving a call from Richard Schriffin (sp) to go over some of DOJ's concerns. I will fax you a copy of our passback.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: James A. Brown ( BROWN\_JA ) (OMB)

CREATION DATE/TIME: 1-NOV-1995 11:14:03.62

SUBJECT: language for Amtrak SAP on Board

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 1-NOV-1995 13:45:50.78

TEXT:

We are informed by DOT that the following compromise language has been agreed to in the course of DOT (Leiber's) discussions with your office and DOJ:

"Delete the provision which would replace the current Amtrak Board of Directors with a new Board. The current Board has proved capable fo directing Amtrak during these sensitive times. (The Administration, however, supports removing existing restrictions on the President's authority to appoint future members of Amtrak's Board and requiring that such appoitnees be confirmed by the Senate.)"

If this language is acceptable to you, we will plug it into the SAP (it is likely that the Amtrak bill will be on the floor next week.)

Thanks for your help.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Marna E. Madsen ( MADSEN\_M ) (WHO)

CREATION DATE/TIME: 1-NOV-1995 12:45:11.25

SUBJECT: REMINDER: Parking Pass

TO: Jennifer D. Dudley ( DUDLEY\_J ) (WHO)  
READ: 2-NOV-1995 08:41:26.07

TO: David Fein ( FEIN\_D ) (WHO)  
READ: 1-NOV-1995 16:46:07.34

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 1-NOV-1995 13:46:02.00

TO: Dawn Chirwa ( CHIRWA\_D ) (WHO)  
READ: 1-NOV-1995 14:35:14.97

TEXT:

This is a reminder that you have not picked up your new parking pass validation. Please stop by Room 136 sometime today.  
[Special note to Dawn: I know you are now in NEOB, but remind me: Did you give me your plastic thing from the Ellipse parking?]

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)

CREATION DATE/TIME: 2-NOV-1995 07:06:18.51

SUBJECT: Timber

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 2-NOV-1995 08:52:15.90

TEXT:

Hi -- did you sort out when we can do the Garamendi proposal meeting? Please let me know.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Christopher D. Cerf ( CERF\_C ) (WHO)

CREATION DATE/TIME: 2-NOV-1995 08:26:43.29

SUBJECT: RE: lunch tomorrow

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 2-NOV-1995 08:55:01.84

CC: Stephen R. Neuwirth ( NEUWIRTH\_S ) (WHO)  
READ: 2-NOV-1995 09:30:23.20

TEXT:  
Next tues looks fine.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Martha Foley ( FOLEY\_M ) (WHO)

CREATION DATE/TIME: 2-NOV-1995 08:44:02.50

SUBJECT: RE: fyi on timber

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 2-NOV-1995 09:31:21.25

TEXT:

Yes, I did pick up word of this. Can you keep me posted on anything you pick up on his reaction and/or any decision he makes? Did you catch the mention at yesterday's meeting that the timber industry is arguing the same construct on the Option 9 language in the rescission bill as they did (successfully) on 318? I will take a look at the legislative history on this, but if you also have a chance and have any thoughts it would be worth talking.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins ( HASKINS\_M ) (OMB)

CREATION DATE/TIME: 2-NOV-1995 13:01:02.18

SUBJECT: DOJ's Redraft of its Conferee Letter

TO: Kenneth S. Apfel ( APFEL\_K ) (OMB)  
READ: 2-NOV-1995 13:25:21.40

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ: 2-NOV-1995 15:28:12.17

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 2-NOV-1995 13:21:01.00

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ: 2-NOV-1995 13:17:51.09

CC: Barry White ( WHITE\_B ) (OMB)  
READ: NOT READ

CC: Keith J. Fontenot ( FONTENOT\_K ) (OMB)  
READ: 2-NOV-1995 13:50:07.50

CC: Stacy L. Dean ( DEAN\_S ) (OMB)  
READ: 2-NOV-1995 13:10:30.52

CC: Christine B. Ellertson ( ELLERTSON\_C ) (OMB)  
READ: 2-NOV-1995 13:54:24.73

CC: James C. Murr ( MURR\_J ) (OMB)  
READ: 2-NOV-1995 13:37:05.54

CC: Janet R. Forsgren ( FORSGREN\_J ) (OMB)  
READ: 2-NOV-1995 13:03:59.94

TEXT:

I am faxing you DOJ's redraft of its welfare reform conferee letter. Note that DOJ has recrafted the letter's child support enforcement section. DOJ did not delete mention of the "Califano v. Jobst" paragraph--it's been footnoted. DOJ also failed to delete the "caste system" sentence.

If you plan to comment on the DOJ letter, please coordinate your response. I would appreciate your comments by 3:30 PM TODAY. Thanks!

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Martha Foley ( FOLEY\_M ) (WHO)

CREATION DATE/TIME: 2-NOV-1995 13:24:15.54

SUBJECT: Do you get these notices? I can't go but am asking for

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 2-NOV-1995 13:25:29.51

TO: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)

READ: 2-NOV-1995 15:11:59.34

TEXT:

a report from Tom. You may want to invite yourselves if you receive this in time...

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 1-NOV-1995 08:24:00.00

ATT CREATOR: Thomas C. Jensen

ATT SUBJECT: MEETING NOTICE

ATT TO: Alice E. Shuffield ( SHUFFIELD\_A )

ATT TO: FAX (9-720-5437, Greg Frazier) ( TLXA1MAIL\_\F:9-720-5437\C: Greg Fraie

ATT TO: FAX (9-720-4732, Jim Lyons) ( TLXA1MAIL\_\F:9-720-4732\C: Jim Lyons

ATT TO: FAX (9-208-6956, Ann Shields) ( TLXA1MAIL\_\F:9-208-6956\C: Ann Shield

ATT TO: FAX (9-208-4684, George Frampton) ( TLXA1MAIL\_\F:9-208-4684\C: George Fra

ATT TO: FAX (9-208-3144, Bob Armstrong) ( TLXA1MAIL\_\F:9-208-3144\C: Bob Armstr

ATT TO: FAX (9-514-0557, Lois Schiffer) ( TLXA1MAIL\_\F:9-514-0557\C: Lois Schif

ATT TO: FAX (9-482-6318, Doug Hall) ( TLXA1MAIL\_\F:9-482-6318\C: Doug Hall

ATT TO: FAX (9-260-0500, Steve Herman) ( TLXA1MAIL\_\F:9-260-0500\C: Steve Herm

ATT TO: Kathleen A. McGinty ( MCGINTY\_K )

ATT TO: Shelley N. Fidler ( FIDLER\_S )

ATT TO: T J Glauthier ( GLAUTHIER\_T )

ATT TO: Ron Cogswell ( COGSWELL\_R )

ATT TO: Mark A. Weatherly ( WEATHERLY\_M )

ATT TO: Christine L. Nolin ( NOLIN\_CL )

ATT TO: Elena Kagan ( KAGAN\_E )

ATT TO: Martha Foley ( FOLEY\_M )

ATT TO: Kris Balderston ( BALDERSTON\_K )

ATT TO: Jennifer M. O'Connor ( OCONNOR\_J )

ATT TO: Dinah Bear ( BEAR\_D )

ATT TO: Remote Addressee ( TLXA1MAIL\_\F:97205437\C:Anne Kennedy

ATT TO: FAX (92084684, Don Barry) ( TLXA1MAIL\_\F:92084684\C:Don Barry

ATT TO: FAX (94821041, Bob Ziobro) ( TLXA1MAIL\_\F:94821041\C:Bob Ziobro

ATT TO: Remote Addressee ( TLXA1MAIL\_\F:97204732\C:Mark Gaede

ATT TO: Remote Addressee ( TLXA1MAIL\_\F:92085242\C:Nancy Hayes  
ATT TO: FAX (92191792,Kris Clark) ( TLXA1MAIL\_\F:92191792\C:Kris Clark  
ATT TO: FAX (96902730,Mike Gippert) ( TLXA1MAIL\_\F:96902730\C:Mike Gippert  
ATT TO: FAX (92085584,John Leshy) ( TLXA1MAIL\_\F:92085584\C:John Leshy  
ATT TO: FAX (95144240,Jim Kilbourne) ( TLXA1MAIL\_\F:95144240\C:Jim Kilbourne  
ATT TO: Remote Addressee ( TLXA1MAIL\_\F:95140557\C:Peter Coppelm  
ATT TO: Thomas C. Jensen ( JENSEN\_T )

ATT TO: Ruth D. Saunders ( SAUNDERS\_R )

ATT TO: Remote Addressee ( TLXA1MAIL\_\F:915033266254\C:Tom Tuchm  
ATT TO: FAX (92083877,Bob Baum) ( TLXA1MAIL\_\F:92083877\C:Bob Baum

TEXT:

The EOP/Agency timber working group will meet tomorrow, Thursday, November 2, 1995, at 2:00 p.m. in the CEQ Conference Room (722 Jackson Place). Please be prepared for a long meeting, probably in excess of two hours.

The agenda will include:

1. Pursuit of NFRC v. Glickman appeal - Chair
2. Standard of review applicable to salvage sales - Agencies
3. Temporal scope of salvage provisions (aka "Anne Peterson's issue") - Justice
4. 318/Hogan sale buy-out standard and valuation - Justice
5. Other business - Chair

Please call me or Dinah if you'd like to add other items or wish to distribute materials to the group ahead of time.

Thanks for your cooperation.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Melinda D. Haskins ( HASKINS\_M ) (OMB)

CREATION DATE/TIME: 2-NOV-1995 15:33:12.59

SUBJECT: HHS' Comments to DOJ Welfare Reform Conferee Letter.

TO: Kenneth S. Apfel ( APFEL\_K ) (OMB)  
READ: 2-NOV-1995 15:37:36.06

TO: Bruce N. Reed ( REED\_B ) (WHO)  
READ: 2-NOV-1995 15:52:49.08

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 2-NOV-1995 17:17:56.19

TO: Stephen C. Warnath ( WARNATH\_S ) (OPD)  
READ: 2-NOV-1995 16:22:50.21

TO: Barry White ( WHITE\_B ) (OMB)  
READ: 2-NOV-1995 17:27:28.30

TO: Keith J. Fontenot ( FONTENOT\_K ) (OMB)  
READ: 2-NOV-1995 17:32:58.57

TO: Stacy L. Dean ( DEAN\_S ) (OMB)  
READ: 2-NOV-1995 18:10:42.93

TO: Christine B. Ellertson ( ELLERTSON\_C ) (OMB)  
READ: 2-NOV-1995 15:37:15.46

CC: James C. Murr ( MURR\_J ) (OMB)  
READ: 2-NOV-1995 15:47:57.00

CC: Janet R. Forsgren ( FORSGREN\_J ) (OMB)  
READ: 2-NOV-1995 15:33:50.86

TEXT:

HHS wants the following changes made to the CSE section of the DOJ welfare reform conferees letter.

p. 6, first paragraph of "Comments Related to Child Support Enforcement" section:

a) SECOND SENTENCE: Delete " While neither the House nor the Senate bills take full advantage of the range of legislative enforcement options that have been considered during the 104th Congress,"

b) LAST SENTENCE: Delete. ("From the standpoint of child support enforcement, we prefer the Senate bill.")

Please comment.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

CREATION DATE/TIME: 3-NOV-1995 09:50:12.53

SUBJECT: Draft Garamendi Option memo

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
 READ: 3-NOV-1995 09:54:42.19

TO: Dinah Bear ( BEAR\_D ) (CEQ)  
 READ: 3-NOV-1995 10:55:12.27

TO: T J Glauthier ( GLAUTHIER\_T ) (OMB)  
 READ: 3-NOV-1995 11:55:41.26

TO: Christine L. Nolin ( NOLIN\_CL ) (OMB)  
 READ: 3-NOV-1995 09:52:48.57

CC: Kathleen A. McGinty ( MCGINTY\_K ) (CEQ)  
 READ: 3-NOV-1995 14:45:05.44

TEXT:

PRINTER FONT 12\_POINT\_ROMAN  
 EXECUTIVE OFFICE OF THE PRESIDENT  
 COUNCIL ON ENVIRONMENTAL QUALITY

\d

MEMORANDUM FOR HAROLD ICKES  
 FROM: KATIE MCGINTY

RE: DRAFT ?GARAMENDI? PROPOSAL MEMO

Introduction

The proposal raised by John Garamendi at Wednesday?s timber meeting amounts to the idea that timber marked or planned for sale pursuant to the Forest Plan could be substituted for timber released under section 2001(k) of the rescissions act. Such substitution could occur under several different circumstances, but would generally be used to avoid logging of environmentally sensitive timber. This memo discusses the policy and legal implications of the proposal.

Background

Section 2001(k) of the rescissions act has required, or may in the future be found to require release of old

□

-growth, green

timber in the following categories:

1. 318 sales released under their original terms and conditions, rather than in modified, environmentally responsible forms;

2. Non

□

-318 (or ?Hogan?) sales, which exceed the geographic or temporal scope of the ?pure? 318 sales; and

3. 318 and non

□

-318 sales where listed bird species are ?known to be nesting.?

The agencies are working now to determine with precision which timber sales, or portions of sales, released or subject to release under 2001(k) present significant environmental concerns.

The Administration has discussed two means to prevent logging of areas with environmental concerns, both of which assume that the beneficiaries of sales released under 2001(k) would have to be compensated in some way, either with money or timber, or both. [The Administration is also working to seek voluntary, uncompensated harvest modifications or forbearance by beneficiaries of 2001(k).]

#### Substitute Volume

The amount of timber available to be used in substitution for environmentally problematic 2001(k) sales is unclear, as are the terms under which it would be provided. The discussion so far has tuned on the question whether timber sales planned for release under the Northwest Forest Plan are "available" as substitute volume.

The Bureau of Land Management has stated that it has some as yet unspecified volume of old

□

-growth timber not accounted for under the Forest Plan available for substitution. In contrast, the Forest Service has maintained that it has no timber available for substitution, because all volume under its jurisdiction is accounted for in Forest Plan sales.

Whether to use Forest Plan timber as substitute volume for problematic 2001(k) sales is both a policy and legal issue.

#### Policy Concerns

The first concern is one of distributional economics. Timber sales under 2001(k) and the Forest Plan apparently benefit somewhat different groups of timber and related economic interests. Allowing beneficiaries of 2001(k) to draw volume from Forest Plan sales may displace, at least in the short term, other companies and interests who expected to benefit from the plan. The second concern is largely practical. Preparation of Forest Plan sales for this fiscal year has consumed virtually all available Forest Service and BLM personnel resources. The sales have been designed (documented, marked, and so on) to meet plan standards and guidelines. They are not configured as trade items for undesirable 2001(k) sales. Volumes, species, location, and other important features of Forest Plan sales do not necessarily match what would be needed for substitution.

The Forest Service and BLM both have expressed concern that the administrative effort required to go back and reconfigure Forest Plan sales would impede their ability to meet Forest Plan sale volume targets for this and subsequent fiscal years. In other words, the land management agencies believe that, because of limited administrative resources, there might be a net reduction in volume offered under the Forest Plan this fiscal year if they are asked to create "substitute" sales.

Legal Concerns (Preliminary; pending Department of Justice review):

#### Statutory Authorities

Section 2001(k)(3) of the Rescissions Act states that:

"If for any reason a sale cannot be released and completed under the terms of this subsection within 45 days after the date of the enactment of this Act, the Secretary concerned shall

provide the purchaser an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract and shall not count against current allowable sale quantities." Section 2001(d) states that:

"Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary concerned shall expeditiously prepare, offer, and award timber sale contracts on 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", signed by the Secretary of the Interior and the Secretary of Agriculture on April 13, 1994. The Secretary concerned may conduct timber sales un this subsection notwithstanding any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this section."

#### Legislative History

There appears to be no legislative history relevant to the issue of whether the timber sales referred to in Section 2001(d) can be used as replacement timber under Section 2001(k). Analysis and opinions offered by proponents of the bill after it became law (for example, the July 27th letter from six members of Congress and the August 7th memo from Mark Rey to Senate Energy and Natural Resources Committee) also fail to address this issue.

#### Authorities for Offering Sales Under President's Forest Plan (Option 9):

The Record of Decision (ROD) cited in Section 2001(d) supports the adoption of standards and guidelines for management of habitat for late successional and old growth forest related species for a number of national forests and Bureau of Land Management units in Oregon and Washington. The ROD amends various Forest Service and BLM planning documents with which timber sales offered in these areas must conform. However, while anticipating timber sales in particular areas of those federal lands, the ROD neither authorizes nor compels any particular timber sales:

#### Arguments in Support of Using Sales Under the Forest Plan as Replacement Timber:

Whatever policy concerns may exist in regards to using Forest Plan or "Option 9" sales as replacement timber, no legal barriers to implementing this scheme appear to exist. Nothing in the language of the Rescission Act or the legislative history limit the land management agencies' legal ability to use these sales as replacement timber, providing that they meet the statutory requirements of: 1) equal volume, 2) "like kind and value"; 3) adhere to the terms of the original contract, and 4) do not count against current ASQ.

The requirements in Section 2001(d) to expedite the preparation, offering and award of the timber sale contracts within the President's Forest Plan are not inherently inconsistent with their use as replacement timber under Section 2001(k) (3). Indeed, one could argue that there is a logical symmetry in using sales which Congress wants expedited to meet another requirement to provide replacement timber. At any rate, in the absence of any articulated prohibition, the land management agencies are legally free to substitute any timber sales on their lands for

Section 2001(k) sales so long as they meet the four criteria outlined above.

Legal Arguments Against Using Sales under the Forest Plan as Replacement Timber:

Whatever policy concerns may suggest the desirability of substituting one set of timber sales for another, the fact remains that two sets of timber sales are required to be released under Section 2001 of the Rescission Act. Congress intended the holder of the Section 2001(k) sales to be entitled to their sale contracts under original terms and contracts; it also intended for the Forest Plan contracts to be expeditiously released. Broadly speaking, there are two possible factual results from an interpretation which allows Forest Plan contracts to be substituted for Section 2001(k) sales: first, if the holder of a Section 2001(k) sale would happen to be the purchaser of a Forest Plan sale, that purchaser would benefit from only one timber sale instead of two sales. Second, in the more probable instance that the purchasers are different (or in the case of future Forest Plan sales, unknown), there would be one less purchaser of timber in the areas covered by this statute. Congress intended for there to be two separate sets of timber sales, not one. A contrary reading makes Section 2001(d) meaningless in those instances in which individual timber sales are used as substitutes for timber under Section 2001(k), and thus runs against the rule of construing statutes to give them independent meaning.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

CREATION DATE/TIME: 3-NOV-1995 09:51:21.25

SUBJECT: Garamendi memo

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 3-NOV-1995 11:22:38.32

TO: Christine L. Nolin ( NOLIN\_CL ) (OMB)  
READ: 3-NOV-1995 10:10:33.70

TO: Dinah Bear ( BEAR\_D ) (CEQ)  
READ: 3-NOV-1995 10:55:20.06

TEXT:

I just sent you by another message a draft of the Garamendi plan memo. I'll keep editing it, but would appreciate your comments ASAP.

Thanks.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

CREATION DATE/TIME: 3-NOV-1995 11:44:02.81

SUBJECT: FYI - Another Garamendi twist

TO: Dinah Bear ( BEAR\_D ) (CEQ)  
READ: 3-NOV-1995 11:50:47.95

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 3-NOV-1995 13:58:15.84

TEXT:

===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 3-NOV-1995 11:32:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Christine L. Nolin

ATT SUBJECT: draft memo

ATT TO: Thomas C. Jensen ( JENSEN\_T )

ATT CC: Ruth D. Saunders ( SAUNDERS\_R )

TEXT:

I've heard the Garamendi proposal explained slightly differently, ie. that 318 sales would be cut and Forest Plan sales withheld to compensate.

I assume you've framed the question as Forest plan replacement timber because of 2001(1) and because withholding FP timber to compensate wouldn't really compensate.

True? Or is what I've heard of the proposal wrong?

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Ronald E. Jones ( JONES\_RE ) (OMB)

CREATION DATE/TIME: 6-NOV-1995 10:04:08.81

SUBJECT: National Gambling Commission Bill

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 6-NOV-1995 10:29:11.98

TO: Michael T. Schmidt ( SCHMIDT\_MT ) (OPD)

READ: 6-NOV-1995 11:34:56.87

TO: James C. Murr ( MURR\_J ) (OMB)

READ: 6-NOV-1995 10:19:44.96

TO: James J. Jukes ( JUKES\_J ) (OMB)

READ: 6-NOV-1995 10:09:43.92

TO: Bruce D. Beard ( BEARD\_B ) (OMB)

READ: 6-NOV-1995 10:44:11.37

TEXT:

Justice tells me the House judiciary has scheduled a markup of HR 497 (Wolf's gambling commission bill) for tomorrow. They are preparing a letter to send. The letter is expected to be very similar to the memo they forwarded last month -- the do not object to the study but do have problems with Sec. 5(b), which authorizes the Commission to obtain information from any Federal agency. DOJ believes the authority is too broad and could jeopardize ongoing investigations.

They are aware of the President's letter and have been told their letter should cross reference that letter.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

CREATION DATE/TIME: 6-NOV-1995 11:53:39.81

SUBJECT: Dwyer opinion excerpts

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 6-NOV-1995 12:26:44.79

TO: Martha Foley ( FOLEY\_M ) (WHO)  
READ: 6-NOV-1995 14:24:59.27

TO: Christine L. Nolin ( NOLIN\_CL ) (OMB)  
READ: 8-NOV-1995 08:53:28.07

TO: Ruth D. Saunders ( SAUNDERS\_R ) (OMB)  
READ: 6-NOV-1995 12:18:12.75

TEXT:

===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 4-NOV-1995 15:51:00.00

ATT BODYPART TYPE:B

ATT CREATOR: Dinah Bear

ATT SUBJECT: Judge Dwyer

ATT TO: Kathleen A. McGinty ( MCGINTY\_K )

ATT CC: Thomas C. Jensen ( JENSEN\_T )

ATT CC: Shelley N. Fidler ( FIDLER\_S )

TEXT:

Judge Dwyer issued his order on Friday regarding the 4 sales under injunction and the 2 withdrawn sales. You will recall that plaintiffs (Seattle Audubon) asked that Dwyer rule that the sales did not come under the timber rider; intervenors (Washington Contract Loggers Assoc.) asked that he transfer the matter to Judge Hogan.

Dwyer did neither. Instead, in a short opinion which recounts the history of the spotted owl controversy, development of the Forest Plan, and passage of the timber rider, he stayed Audubon's motions until Judge Hogan finished with all related matters in the District Court and denied the loggers' motion to transfer. He also ruled that any party could renote the motion on one week's notice. In other words, he acknowledged the procedural complexities of the situation but RETAINED JURISDICTION over these cases.

Justice also sent over a portion of the transcript from the arguments in this case, which as soon as one of our copier machines is fixed, I will forward to you. There are a couple of interesting points:

o Rutzick makes it eminently clear that in his view, Section (d) of the timber rider (mandating expeditious release of the sales offered under option 9) "does not direct the implementation

of Option 9." His interpretation is that Congress was extremely careful and precise in NOT directing or endorsing option 9; rather, Congress simply directed the land management agencies to expeditiously release timber sales in the area covered by the Record of Decision for Option 9, regardless of whether the sales comply with option 9 standards or not. Having made that point, Judge Dwyer then asks:

DWYER: "If they did not follow the plan that was approved, what standards would they use?"

RUTZICK: "Our judgment is that Congress did not prescribe them the standards."

DWYER: "So they could just order sales anywhere they wanted to, the National Forest Management Act notwithstanding?"

RUTZICK: "That's our interpretation of what Congress has done. They directed sales to be prepared expeditiously, notwithstanding any other law."

DWYER: "And in the process, all environmental laws and all wildlife protection laws could be ignored?"

RUTZICK: "Yes."

DWYER: "Would it not take a more explicit statement by Congress to do that?"

RUTZICK: "I don't think you can get more explicit than notwithstanding any other law."

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Thomas C. Jensen ( JENSEN\_T ) (CEQ)

CREATION DATE/TIME: 7-NOV-1995 10:18:39.74

SUBJECT: DOJ Talking Points

TO: Martha Foley ( FOLEY\_M ) (WHO)  
READ: 7-NOV-1995 10:42:16.38

TO: T J Glauthier ( GLAUTHIER\_T ) (OMB)  
READ: 7-NOV-1995 12:52:00.21

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 7-NOV-1995 10:31:35.80

TO: Jennifer M. O'Connor ( OCONNOR\_J ) (WHO)  
READ: 7-NOV-1995 11:12:03.93

CC: Kathleen A. McGinty ( MCGINTY\_K ) (CEQ)  
READ: 7-NOV-1995 12:37:40.93

CC: Dinah Bear ( BEAR\_D ) (CEQ)  
READ: 7-NOV-1995 10:21:29.35

TEXT:

I will fax to your offices shortly a copy of Justice's proposed talking points prepared for Lois Schiffer to use in connection with the hearing today before Judge Hogan.  
I'd be happy to relate your comments back to Justice, if you wish.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Ronald E. Jones ( JONES\_RE ) (OMB)

CREATION DATE/TIME: 7-NOV-1995 11:31:45.65

SUBJECT: DOJ Letter on National Gambling Commission is being ...

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 7-NOV-1995 11:51:32.39

TO: Michael T. Schmidt ( SCHMIDT\_MT ) (OPD)  
READ: 7-NOV-1995 11:38:07.38

TO: Bruce D. Beard ( BEARD\_B ) (OMB)  
READ: 7-NOV-1995 11:35:43.53

TO: Richard H. Kodl ( KODL\_R ) (OMB)  
READ: 7-NOV-1995 11:33:19.04

TEXT:  
circulated now. Comments due by 5:00 today.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME: 7-NOV-1995 13:30:53.28

SUBJECT: CEQ talking points

TO: Elena Kagan ( KAGAN\_E ) (WHO)

READ: 7-NOV-1995 14:00:26.69

TEXT:

this was Brian Johnson's draft last night (our communications person). I suggested [protect] instead of [determine] in whatever bullet that is and there might be a few other minor changes. I'm not exactly sure who this was sent to last night - Brian just said he was putting it up and through his usual clearance process. Sorry I didn't zap them over to you - I was still trying to figure out the disconnect between DOJ and us.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 6-NOV-1995 19:06:00.00

ATT BODYPART TYPE:H

ATT CREATOR: Brian J. Johnson

ATT SUBJECT: talking points -- please call me

ATT TO: Dinah Bear ( BEAR\_D )

TEXT:

PRINTER FONT 12\_POINT\_ROMAN

November 6, 1995

DRAFT TALKING POINTS FOR DOJ

o The Clinton Administration takes great pride in having restored the balance between economic activity and environmental protection in the forests of the Pacific Northwest through the President's forest plan.

o The President directed the Secretaries of Agriculture and Interior to implement the provisions of the recently passed rescission law in an environmentally sound manner to protect those gains.

WIN The judge's decision today means that we will, indeed, be able to use good science to [determine] [protect] the habitat of threatened or endangered bird species.

LOSE Obviously, we are disappointed, but we feel that our case is strong and the law is on our side. It is silent on the question of when birds are "known to be nesting." We believe, therefore, that the determination regarding nesting is properly made by agency scientists. Further, it is our belief that releasing the sales at issue would seriously jeopardize the continued existence of marbled murrelets, impede our ability to provide regulatory flexibility under the Endangered Species Act, and exacerbate the renewal of conflicts over the use of these ancient forests. We will appeal the Judge's decision.

o We remain seriously concerned, however, about the impact of Judge Hogan's earlier decision interpreting this provision to apply to many more sales than we had contemplated when discussing this matter with the Congress. We do not believe that this extreme expansion of ancient timber sales was authorized by the 1995 Rescission Act. Therefore, as the President has said, we will actively pursue a legislative remedy to correct this extreme result.

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jeremy D. Benami ( BENAMI\_J ) (WHO)

CREATION DATE/TIME: 7-NOV-1995 17:05:56.58

SUBJECT: status of abortion bill

TO: Carol H. Rasco ( RASCO\_C ) (WHO)  
READ: 7-NOV-1995 20:09:33.03

TO: Deborah L. Fine ( FINE\_D ) (OPD)  
READ: 7-NOV-1995 17:06:42.47

TO: Nancy-Ann E. Min ( MIN\_N ) (OMB)  
READ: 7-NOV-1995 17:19:07.45

TO: James Castello ( CASTELLO\_J ) (WHO)  
READ: 7-NOV-1995 17:06:15.55

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 7-NOV-1995 17:07:03.51

TO: Barbara D. Woolley ( WOOLLEY\_B ) (WHO)  
READ: 8-NOV-1995 09:35:48.33

TO: Martha Foley ( FOLEY\_M ) (WHO)  
READ: 7-NOV-1995 18:41:23.95

TO: George Stephanopoulos ( STEPHANOPO\_G ) Autoforward to: Laura Capp  
READ: 7-NOV-1995 17:33:12.40

TEXT:

Tracey tells me that the latest odds are that the motion to go to Committee may well pass. We have 6-7 R's on the motion. Vote will not come till tomorrow.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME: 7-NOV-1995 20:16:46.15

SUBJECT: today's "knownh to be nesting" arguments

TO: Kathleen A. McGinty ( MCGINTY\_K ) (CEQ)  
READ: 8-NOV-1995 08:46:51.97

TO: T J Glauthier ( GLAUTHIER\_T ) (OMB)  
READ: 8-NOV-1995 08:27:02.34

TO: Thomas C. Jensen ( JENSEN\_T ) (CEQ)  
READ: 8-NOV-1995 09:05:26.11

TO: Elena Kagan ( KAGAN\_E ) (WHO)  
READ: 8-NOV-1995 08:45:42.30

TO: Shelley N. Fidler ( FIDLER\_S ) (CEQ)  
READ: 8-NOV-1995 09:03:02.15

TO: Ruth D. Saunders ( SAUNDERS\_R ) (OMB)  
READ: 8-NOV-1995 12:17:52.81

TEXT:

Reports from Eugene, Oregon, re today's arguments in front of Judge Hogan:

- o he didn't rule today; indicated that he will rule next week;
- o our attorneys did a terrific job;
- o but Hogan is clearly predisposed against the government;
- o he also ordered additional briefing on the issue of the enjoined sales that are before him;
- o unclear about the specifics on this one, but apparently enviro plaintiffs filed something in Hogan's court today seeking information regarding the methods we're using to identify the pre-FY 91 sales