Dan Hall: April 24, 1989. We’re in the Mansfield Library in the archives and we’re talking with Robert Wolf and Ron Barger today. We’ll be talking about the [Forest] Road and Trail Act of 1964.

Ron Barger: All right. I guess to begin, Bob, in looking back over a little bit of this, I see in the Forest Highways Act of ’58 there was considerable language that, in effect, said that the Forest Service will build roads and trails at least with appropriated funds. I don’t think there was any doubt that the Forest Service was authorized to build roads as required for management. So, I guess the first question I would have is what prompted particularly the National Forest Road and Trails Act of ’64?

Robert Wolf: Well, you do have to go back quite a ways. You have to go back to the mid-1920s. Until the 1930s the Bureau of Public Roads was in the Department of Agriculture. Carl Hayden, when he was a Congressman from Arizona, was always very proud of the fact that he was the guy that got the Bureau of Public Roads started, which was to get the farmer out of the mud. And that’s why it was in Agriculture. The Hayden-Cartwright Act was the beginning of a national road program. Before that, this was something done solely at the state and local level. We had what was called the ABC system: “A” roads were the primaries, like U.S. Highway One, “B” roads were the double numbered roads, and “C” roads were the urban roads in the cities. These were funded with 50 percent federal money and 50 percent local money, or state money.

Then we developed a system of forest roads and trails, forest highways, park roads, park roads and trails that were based upon the federal lands, and a park road and trails. And forest road and trails that were in the parks and national forests were 100 percent funded by the federal government. Parkways and forest highways were on the – to use the jargon – on the “ABC” system. They got a heavier dose of federal funding based upon the acres of federal land in that state, and it would vary with the amount of federal land, so Nevada got quite a bit more. But there was another part of the formula relating to population and postal miles (rural postal miles) [laughter] that affected this thing. It gets highly technical. But this system evolved and every two years the Public Works Committee would vote an authorization for a certain level of highways for federal funding – matching funds as it was called.
When Eisenhower became president there was a drive to have an interstate system, which was then a new 40,000-mile network – started out as 37,000, grew to 40,000 – became out interstate system. Then there was this big debate over bond issues versus pay-as-you-go funding. In that period I was on the staff of comptroller general and was loaned to the Public Works Committee and got to work on some of this. I was involved in the natural resource road funding side of things as well as some aspects of the “ABC” and the Interstate system. But the battle was a philosophical one over whether to raise the gas tax and what was called pay-as-you-go funding versus the bond issue. The bond issue was defeated. That was Eisenhower’s proposal, and interestingly, Senator Harry Byrd, a conservative from Virginia, would not buy the bond issue (pay-as-you-go).

Highways were viewed also as a public works stimulant. We’d had additional highway funding during the Depression as work relief projects, and a lot of the roads in the national forests were built that way, or expanded. Then during the war we had additional funding based upon getting out timber for defense purposes to build airplanes, even though we never built any with wooden wings. These old ideas kept cooking along. Before WWII, the Forest Service only produced something less than 2 percent of the wood consumed in the United States, so the demand for roads for timber production was small. Logging railroads had been a principal form of extraction. In the 1930s, the motor truck became a more reliable means of transportation. And we were starting to shift out of water logging, with splash dams and so forth, and railroad logging, into truck logging. And so the demand for roads was growing.

Then after the war, when the demand for national forest timber rose from less than 2 billion feet a year to 4 billion feet -- that was a doubling -- then to six and on up. But the mid-‘60s, it was up to 10 or 11 billion feet. The demand for roads rose. A lot of the national forest lands were intermingled with, or tied in, or adjacent to larger private timber holdings, which became more actively engaged in timber extraction. The Depression hurt everybody. Actually during the war, total timber production fell. It didn’t rise because housing starts were stopped. After the short burst of expansion for military bases, it fell off. But then the post-war housing boom had an impact. We had a change in the mill population in the United States. The South was largely cut out, in a lumber sense, and the West, particularly the Pacific Northwest, became a much more important part of the wood supply. A lot of mills sprung up that didn’t own any timber. And we were involved – and many people have ignored this aspect of it – in a battle over control of roads. Because if you could control the road, you could control the timber.

I had come out of New York state where I went to school and worked for a private company. The first thing I learned as a timber buyer was to get control of access. We went around and bought up key tracts, and then we “owned” everything in back of it. We had 15-year contracts and we’d promised to build a good road. What we really were doing was using your position of your land when we bought the timber cutting rights, because it gave us 15 years of control, because the contract said nobody else could transport anything over our road and over that land for that 15-year period. I must say that I was a little bit surprised at the naivété of particularly some of my associates in the Forest Service over this issue of road control. They just

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didn’t understand that that was a real fact of life. I was on the Ochoco and I was engaged in road design and road building (I used to claim I never built a road I didn’t like), and I then was offered a job with the Bureau of Land Management on the O and C lands and went over there. They were in the throes of implementing the BLM right-of-way regulations. And you remember public power wheeling was another issue, which meant that the power companies would have to let public power be transmitted over their lines if they came across public land. The Bureau of Land Management was applying the same thing on the O and C [Oregon and California Railroad] lands which were a checkerboard of private and O and C lands. They were putting in these right-of-way regulations. There were meeting after meeting of the O and C advisory board where this was debated and discussed with Ed Stamm of Crown-Zellerbach and Joe Nolan from Weyerhaueser and a couple of others ... Nils Hult from the Hult Lumber Company ... all arguing against the BLM adopting a policy which said that if you built a road that crosses federal lands and the federal government needs to get access to its timber over that route, you won’t get your right to build that road until you enter into a joint cost-share agreement for joint road construction that will serve the timber that will be tapped by that road system. I can remember some of the people like Crown-Zellerbach and Ed Stamm complaining, “Well, these other people might be bad people. They would do bad things to the road,” and wanting to charge a high road use fee to protect themselves. But it was really a battle over who controlled the timber.

The Forest Service position was that they didn’t want to have anything to do with using the 1895 act that would have permitted them to regulate access in the same way to get the access they needed. They were relying on the 1897 act and they were alleging ... they had an advisory opinion from Fred Mynatt, their general counsel, that said that a lumber company was an actual settler residing on the public land and he was entitled to a road as a statutory right. I’ll discuss that later. So they said, “No. They couldn’t require the same thing.” They were stuck with their 1897 act. Their solution to the situation was that if they gave a so-called statutory right of ingress to a company to build a road, they simply wouldn’t sell their timber until they got the kind of agreement they wanted. But the result was that there were literally hundreds of millions of board feet of national forest timber served by roads that were inaccessible because they couldn’t assure bidders equal access. It’s kind of laughable in a way today to hear them lambasting the so-called wilderness people; the timber people had more national forest timber tied up than the wilderness people ever could. But that was the framework in the ’50s, with an expanding demand for timber and a lot of that forced the Forest Service to do what Ed Cliff used to call “cutting off the face of a drainage.” You know from your experience that we did a lot of that. I was involved in some of that.

So as the ’50s unfolded, the other industry position was that the Forest Service and the BLM should not build the roads [because] the industry could do it better and cheaper. They fought increased authorizations for national forest roads and trails. They fought it vigorously. I know because I was working on the Hill, and I was involved with all of those inter-working battles.

RB: They were against development of Forest Service roads on Forest Service lands?
RW: They were for development of roads via timber sales, and timber sales only where the price of the timber was reduced they would build the road. They also took the position that a road should not be built to a higher standard than was required to remove that sale. That was what they called “prudent operator theory.” I coined the phrase that was the opposite of that; it was the “prudent land manager.” A prudent land manager would build the road that he needed to manage his land effectively over the long run. He wouldn’t permit anybody to come on his land and build a road that would just serve that one timber sale. I must say that Senator Murray and Senator Metcalf (who was then a Congressman) and Mike Mansfield and others agreed with the prudent landowner concept.

When I went up there [the Hill] and was working on this from ’56 on, every two years the Eisenhower administration would send up a request for a very small amount or nothing for forest roads and trails and the other roads. The Westerners – the Western Democrats particularly (though it wasn’t a partisan thing), Tom Kuchel (of California) was also a part of it – would go to work to raise the authorization. The timber industry was busy lobbying for it not to happen. I’m trying to think of which year it was. I think it was on the regular authorization for 1958 because we had another one I’ll tell you about. The regular authorization for ’58 ... the chairman of the House Public Works Road Subcommittee was George Fallon of Maryland. The ranking Republican was Russell Mack, a Congressman from Washington who was leading the fight against the authorization. The guy who was going to lead the push in the House to raise the authorization was John Blatnik from Minnesota. Dick Sullivan, the counsel for the House committee, had talked with Lee Metcalf and others about it. Metcalf had talked with Buckley, the chairman of the full committee, who was a Bronx Democrat of the old Tammany school from New York. There had been an agreement reached that Buckley would give all the proxies he had to John Blatnik. That’s quite a slap at a subcommittee chairman, given the seniority arrangements at that time. I’ll never forget when Russell Mack rolled off the votes he had against the increase and John Blatnik and the others that were with him voted. Then Blatnik started laying out the proxies and Blatnik had the votes. George Fallon looked like he had been hit in the face with a fish. Mack was just shook by this, how this happened. He never knew; he went to his grave not knowing. But the timber industry fought this battle regularly. I remember Dick McArdle before he passed away, he as the chief of the Forest Service, told me in all of his career in the Forest Service the timber industry never did him a favor. [laughter] Anyway, these were the issues of getting more roads built with direct appropriations.

The Forest service certainly wasn’t talking about the kind of road system that now exists. They were not opposed to having roads built as a part of timber sales, but there was an argument being made for advanced roading. At the same time, the Forest Service was reluctant to use its power of condemnation against the timber company. They used it against a non-timber owner, but they didn’t want to use it against the timber company. That’s the way things were. Without being positive or negative on it, that’s just a fact of life.
In 1958 we had a recession. One of the tools for fighting recessions was increased appropriations for public works. I was involved with the Senate Public Works Committee staff in devising what became the “D” Fund [laughter] to the Highway Act. That was simply an extra shot in the arm of money into the economy to build roads on the interstate system and the ABC system at a more rapid rate, because that would lift us out of a recession. Mike Mansfield asked me to devise a way to add some money for forest roads and trails, parks roads and trails, forest highways, et cetera – the whole public land sector. We put together an amendment, I think it was around $40 million, for those classes of roads spread sort of equally across. He got Gordon Allot, the ranking Republican from Colorado, and together, with some staff talking to various members, [he] put together all the Westerners on it save one, John Carroll of Colorado.

Carroll was a very active Democrat, very much interested in resuscitating the economy, but he thought it was too much money. When I told him what it was he said no. I said, well, I can’t change the amount. That’s been agreed to by the two Senators and several others, including Senator Hayden of Arizona, chairman of the Appropriations Committee. You’ll have to go over and talk to Senator Mansfield about that. So he took me over to the cloakroom with him. He called Mansfield off the floor, and he told Mansfield, “This is just too much money, Mike. It isn’t going to work.” Mansfield listened to him but didn’t say anything. He stood there with his pipe in his mouth. Carroll got more and more excited because Mansfield didn’t sound like he was persuaded. Finally, he said to Senator Mansfield, “Mike, you haven’t even introduced this amendment yet.” Mansfield, I’ll never forget, took his pipe out of his mouth, looked at Carroll and said, “John, that’s just why we’re going to get it.” [laughter] Carroll looked at Mansfield and said, “Put me on it.” [Laughter] Ten minutes later it was adopted by the Senate on a voice vote. That was one amendment that added funds for those kinds of roads [that] the timber industry had absolutely nothing to do with. It came up out of the blue. They didn’t even see it coming. But it wasn’t something that Mansfield was trying to do that was beyond them. It was recession oriented. The chief of the Forest Service didn’t know it was coming, nor did the director of the Park Service. But they were delighted [laughter] to see that additional money.

But the driving battle in that era was over the timber industry’s view that it should build the roads and the roads should be to a prudent operator’s requirements and only that. They spent more time meeting with Forest Service and flailing the Forest Service on over-building roads. It was just amazing! This was one of the burning issues of the era. You probably remember every time you turned around it was alleged that the Forest Service was overbuilding its roads. And perhaps some of them were overbuilt by any standard – road engineers have that tendency. There are questions of safety. Certainly all of them were overbuilt from the standpoint of that particular sale. That shouldn’t have been the criteria.

So by 1958 the Forest Service was moving ahead slowly, but not much. The Bureau of the Budget position had become that there isn’t any authorization needed – leave it to us, we’ll take care of it. Well, there wasn’t anyone in the Congress in the West who were Democrats who were going to let that idea stand. So, road authorizations – it was another battle every two years to run them up a little bit at a time. That’s what happened. But the Forest Service was still
bedeviled by their policy of “actual settler.” I had participated in the 1956 hearings on federal timber sale policy. One of the people who was involved at the staff level was Jim Lanagan, who had been an assistant solicitor of the Interior at one time, and knew public land law very well and then was counsel for the House Government Operations Committee. He knew these issues also, the public land issues. He and I were talking about the road issue and Lanagan believed that ... and he understood the right-of-way policy of the BLM ... believed that one of the things impeding more rational resource development in the national forests was their position on roads. We chatted about it. I forget whether it was he or I or who ... [but] the “actual settler” idea came up. It was decided to ask what was then called the Legislative Reference Service of the Library of Congress to research the “actual settler” issue, though Lanagan and I both knew the answer; he knew it as a lawyer. I knew it because I had some public land experience, that an “actual settler” residing was a particular kind of person. He was Dan Hall, a citizen or person who announced his intention to become a citizen, who had a homestead entry on which he was trying to do the other things necessary to get a patent. After he got the patent he was no longer an actual settler residing. He was a patentee. A lumber company wasn’t any such thing. The Library of Congress issue this little memorandum that said that, but nothing much was done about it because the judgment was, if you could get a bill passed by the Democratic Congress in that era, the president would veto it. So a pragmatic position was to do nothing.

When President Kennedy was elected, the question was whether to go ahead and try and get a legislative change or not. There were some meetings with the Forest service, in particular with Ed Crafts, and there was a great reluctance on the part of the Forest Service to pursue the subject. My best recollection is that it was Wayne Morse of Oregon, who was considered to be a fair constitutional lawyer, who proposed to his associates that the Attorney General ought to be asked to rule on this [and] that there was a basis for doing it. There was a subsequent meeting with Secretary Freeman at which it was discussed. Freeman had been an Attorney General of Minnesota. There are certain advantages and disadvantages in dealing with lawyers, but one of the advantages is that they very often know the law. Freeman knew that the Forest Service was opposed to it, but he agreed that if a letter were sent requesting that he’d ask the Attorney General for an opinion that he would do so. He said I want to bring – I’ll use his exact words – he said, “I want to bring the Forest Service into the Department of Agriculture and it’s a difficult job.” [laughter] Because he felt that the Forest Service viewed that it was housed there but not part of it.

Anyway, I was one of the people that helped in the drafting in the letter. The final touches on it – while it was gone over by other people than the Senators. The final touches on it were put on by Wayne Morse because he had been a dean of a law school and was a pretty knowledgeable lawyer, and his administrative assistant, Bill Berg, was an outstanding lawyer. The letter was put together. It was signed by Senators from Montana, Frank Church from Idaho, [and] Washington, which would be Magnuson and Jackson, Neuberger and Morse [from Oregon], Kuchel and Engle [from California], as I recall, and a couple of others. It went to Freeman who then had his general counsel’s office transmit a letter to the attorney general, which was written in the negative, [laughter] saying that we don’t have to do this, do we?

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But it went over there and the Attorney General studied the matter. Some people in the Forest Service (and I never knew who) immediately told the forest products industry that this was underway. But this was something that was expected. The forest products industry people got together and they got Senator McClellan to send a letter to Attorney General Kennedy. Attorney General Kennedy, as Robert Kennedy, had worked for John McClellan, and the view was that this might be persuasive. Their letter, which is a part of that record, is a highly legalistic argument of many pages. At any rate, it went over there. It was also accompanied by a threat that if the attorney general issued such a decision they would go to court to contest it. The Attorney General had Tom McKevitt on his staff of the lands division, Nichols Katzenbach, and I imagine a couple of other people were working on it. I went to a meeting with them, and Morse was selected to go down for the people on the Hill to talk to the Attorney General about whether the Attorney General should go ahead and issue his decision, because his legal research had confirmed what we already knew – an “actual settler” wasn’t what the Forest Service said it was. The further weakness of the Forest Service decision was that the decision they were relying on from Fred Mynatt had never been signed by Fred. It was an unsigned memorandum.

[End of Tape 1, Side A]
RW: In the discussion on the merits of [the question], the Attorney General finally said that he was quite persuaded on the legal grounds (his staff had persuaded him, he didn’t claim to be an authority on it, but he said his staff was solid on this) that the Forest Service was on the wrong footing. He was confident that if a suit was brought against the government, the government would lose should it want to take the “actual settler” position. It had won a case in Minnesota involving the Boundary Waters canoe area, where if it had used that argument, it would have had a great problem. Also, the Lands Division was very unhappy about this unsigned opinion lurking underneath, because the Forest Service in other areas needed to have access to its lands. If it took this position there were all sorts of people in this world who were “actual settlers” that weren’t actual settlers at all.

But I was in the meeting and finally Attorney General Kennedy turned to me and said, “Well, Bob, what do you think?” (I had known him when he worked on the Hill because I worked up there) And he said, “Bob, what do you think of this?” And I said, “Well, as you know, I’m not a lawyer, so I can’t give you any legal advice, but I do know this: the Department of Interior has quite similar regulations based on a 1895 law – reciprocity of access when needed.” I said, “I know for a fact that the timber industry told the Secretary of Interior that if he signed those regulations they would sue him in court. Ten years has elapsed, no suit has been filed. I can’t assure you that that won’t happen on the national forest, but I’m just telling you what the record is. I consider it an empty threat. I also understand that when the regulations were before the secretary of the Interior, that one person in the timber industry said it was a communistic plot and that made the Secretary so mad that he signed it.” [laughter] “I don’t know that for a fact but,” I said, “I do know that there has been no suit filed. I think it is an empty threat.” Bobby Kennedy turned to Nick Katzenbach. He said, “Nick, let it be done.” [laughter] With that we left.

Shortly thereafter, the Attorney General issued a decision of February 1, 1962. That overturned this “actual settler” thing and it enhanced the Forest Service’s ability to work out cooperative road agreements with joint financing and joint use and so forth. The forest products industry was anxious, particularly the landowning segment, to have that curbed. So the Forest Service in 1964 finally put together what they hoped would be a charter for road building. There was nothing in the laws – even though they made allowances for timber purchasers for road construction – there was nothing in the laws that dealt with it specifically. So, they wanted a broad authority that said we could build roads using any of these tools. The timber industry sought to curb the attorney general’s opinion, and they went to work pretty hard on it.

There was a fellow from Montana on the Public Works Committee by the name of Lee Metcalf, and Lee Metcalf didn’t agree with that. [laughter] So he was going to make sure that that didn’t happen. The chairman of the Public Works Committee at the time, Jennings Randolph, and I were well-acquainted, good friends. The timber industry decided to finance a trip to Oregon by Richard Royce, who was on the staff of the Public Works Committee of the Senate, to educate
him, and Richard Royce made a cardinal mistake. The first thing I learned when I went to work in the Senate was the advice and instruction that Senator Murray gave me. He said, “Bob, at various times I’m going to send you out to do things. Never go into a member’s state without telling him what you’re doing.” Richard Royce went into Oregon without telling Senator Morse what he was doing. And I must say that was a bad mistake because he came back and made statements about the forest road and trail program in Oregon that were completely at odds with Senator Morse’s views. Even if Morse had been wrong, it wouldn’t have mattered. But even worse, Royce was wrong. One of the few times I ever saw Morse genuinely willing to take somebody’s head off, not just strategically. I was in his office when he was on the phone with Jennings Randolph and told him [Randolph] what he thought of having a member of his staff out in the state of Oregon in the company of the timber industry, undercutting him and not having his feet on ground, and not knowing what the hell he was talking about. He said, “I know what this road issue is; I know what it’s all about. It’s about who gets the timber, and I want the timber to be publicly available. Your man has gone out there and done this, and you’re going to have him retract every word of it.” Randolph almost fired Royce, and Morse told him, “Don’t fire him. I hope he’s learned a lesson. I just want to make sure that you know and others know that this isn’t the way it is.”

Well, that helped a great deal to make sure the timber industry position didn’t prevail, because Jennings Randolph and Morse were well acquainted, and Randolph didn’t think that Morse was wrong and he had Lee Metcalf arguing the same position. It is sort of odd when you look at the National Forest Management Act arguments that came along later, that Randolph almost was going off in a position the timber industry would have liked. But later they viewed him as their mortal enemy.

Anyway, the ‘64 act simply provided a broad authority to the Forest Service to build roads with a variety of means. I’m not sure it was necessary for them to have that authority. But it’s sort of like the Multiple Use Act; the people in the Forest Service – Ed Crafts and others – needed to have somebody to tell them that green was green and white was white. There were other issues, though, that they didn’t deal with, like the use of the 1897 act on the kind of timber that was being cut, which led to the Monongahela Decision. So maybe they needed the 1897 authority. But my view always was that on that issue – the broad authority of Use and Occupancy Regulation that the secretary got in the 1897 act – allowed him to decide how roads should be built, and the standards to which they should be built. But the industry argued [at that time] in favor of the prudent operator. What Metcalf did was to provide sort of a balancing on that. The Forest service would build the roads to the standards necessary in their judgment, and if they wanted a higher standard road, they would add the money necessary. That’s where that came from.

I must say though, as I look back on it, that I never understood the industry position – the roots of it. The Forest Service reduced the price of timber by the estimated cost of the road. The road was packaged in the timber sale. My only concern as a potential bidder on a sale would be what my competition was going to do in terms of the premium I was going to have to bid for the sale.
In all this argument about whether the allowance was big enough was sort of beside the point. I’d have to face up to you as a bidder across the table. We both knew we had to build 4.5 miles of road through this kind of terrain. Our engineers had looked at it. Our timber cruisers had looked at the timber and, in my judgment, I could afford to pay $48 a thousand and not a cent more. When the bidding got up to $48, if you were still going, you got it. Now, if I thought I wanted to try to break your back and buy it and lose some money, I’d keep on bidding. But it seemed to me that the whole road argument by the industry was on an irrational basis. I’m sure there are industry people that would argue with this. I’m not defending road engineers, saying that you always design a road right; it’s subjective. It’s easy for me to say, “Well, if we build a narrower road, less this and that, it would be all right.” But it’s hard you know. You almost have to go out on each road and look at it. It’s hard to make a general rule, and then say you know what it is. So that’s some of that road background and the way I saw it unfolding.

RB: Did the amount of road built under purchaser credit increase after the ’64 act? Did that have anything to do with increasing the amount of road?

RW: No, I don’t think that increased it. What increased it was the increased timber sale program. Well, there was a continued reluctance on the part of the Office of Management and Budget. They saw timber-purchaser roads as an off budget funding – it didn’t show up on the budget – therefore, they didn’t want the Forest Service to have money. They weren’t doing it because of the timber industry; they were doing it in order to make the budget look smaller than it was. Because if you took it out of timber, it didn’t show up in the budget. In the ’74 Resource Planning Act, you may recall, there was language in there that put the forest roads and trails on budget... the purchaser credit roads on budget. That was in the era... the wave of that period was to get everything on budget. That was part of the Budget Control and Impoundment Act of 1974’s approach across the government. Two of the people working on that act were close friends of mine – staff people – one was Dr. Laurence Woodworth who was chief of staff of the Joint Committee of Internal Revenue Taxation. And the other, more importantly to the subject, was Gene Wilhelm, who had been a budget officer for the Department of Agriculture in his early career and then had been the staff director of the subcommittee that handled Forest Service budgets in the House Appropriations Committee. [He] knew the road and trail issue inside and out and was an “on budget” man. I’m going to avoid using pejorative terms – you’re either an “on budget” man or an “off budget” person. Wilhelm believed that everything that the federal government spent should be on budget. As a guy who worked around on the Hill, you kind of knew people. This Budget Impoundment Control Act was going forward.

My best recollection is that when I was working on the RPA bill, Gene Wilhelm and I had a cup of coffee one day, and he said, “You know forest roads ought to be on budget.” [laughter] I said, “Well, why don’t you do it in the Budget Impoundment Control Act?” He said, “Well, we’re not dealing with details there.” He said, “But you’re working on one with the Senate Agriculture Committee – that resource act you’re working on.” “Yes,” I said. “Roads ought to be on budget.” I said, “Well, you’ve got a good idea there, Gene, I would agree. I happen to be an ‘on

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“budget’ man. I think that everything should be on budget.” So I talked to Senator Talmadge about it and we devised some language that did it and put it in the bill.

We knew that would draw some attention. The Forest Service said, “Don’t do that.” And we got to conference on the bill – incidentally that happened to be the last closed conference before the Sunshine Era took place. The House was objecting to the road language we had in there; it was on who built the roads. Senator Talmadge said, “Well, why don’t we try this?” And he had this substitute language that he proposed. The chairman of the House Committee protested he didn’t want any language the Senate drafted on budget actions. He said, “I don’t want any of this ... you people over in the Senate, you don’t care about how you spend money.” Talmadge said, “Well, I disagree with you on that, but this language was drafted over in the House by the boys that are working on your Budget Impoundment Control Act. It wasn’t drafted here in the Senate.” He asked me to explain who did it and I did. These were key, significant staff people in the House [laughter]. When the House Committee members discovered who it was they couldn’t argue that it was Senate language, and so they accepted it. It went in the act and then I guess it was around.

The Forest Service never liked it. They didn’t like trails and roads being counted on the budget. I believe it was in 1980, they persuaded Senator McClure to move to take it off budget. I remember Congressman McDade, the ranking Republican, and Congressman Yates, the ranking Democrat, talking with me about it. They said there was enough stuff that they wanted put in the Interior and related agencies appropriations that they were going to agree to it. So it didn’t come off budget because they didn’t want it on budget, but it was part of a negotiating package as to what you did on some other parts of the bill. But they said they were still going to require the Forest Service to display it as though it were on budget. So as you look at the current budget you’d see purchaser credit there. But that is a kind of a thumbnail sketch of the evolution of these issues. The remarkable thing to me as you look at it now is [that] the conservation groups are arguing about roads as a general thing, and the Forest Service, with the timber industry, continues to push for building more and more roads. I get the feeling it has sort of become an irrational, emotional issue, rather than a hard-nosed examination of where we need more roads and why.

Oral history is a good time to confess. I used to think that advance roading was financially sound and that we ought to build roads in advance; they would always be good investments.

RB: By advanced roading, that would all be hard money roading?

RW: I didn’t care which way. But I figured, no ...

RB: It would be tied to specific sales?

RW: No.
RB: So then it couldn’t be purchaser credit?

RW: Well, it might be purchaser credit, but I felt, as a matter of concept, that advance roading was good land management. It would be more likely that you would get it with hard money than you would out of a timber sale because you couldn’t … well, you could make a timber sale area real big – only cut the timber on part of it. You make the contract area big and have a huge road built out of it. You’re just eating up your timber assets. But I thought it would be a good investment. I am not now convinced that I was right. In fact, I’m moving to the other side of it. I think that we probably have over-built some of these roads in terms of total mileage, and we were not looking at the hard economics of forest management. There are probably less acres that could be managed more intensively with less roads and lower costs and, therefore, more satisfactorily than I used to think was the case.

RB: Than extensive management … more efficiently, yes.

RW: So, I guess if you’re going to get religion, it doesn’t hurt to come late in life. It’s better if it comes early. [laughter] It may be I don’t have religion, maybe I just think I have. But I do think as I look back … and I’ve studied some of this in relation to some of this timber sale accounting system … we have some funny things now. We’ve got two, three, four, 500-year amortization periods for roads when 20 to 25 years is the real life of a road. The Forest Service, I think, is using the longer period to make the books look better in terms of timber sales. But for instance, in Region One, 11 of the 12 forests, even under that benign system, lost money. So why not use a more realistic time frame and accounting system and look at it more realistically in terms of the road system?

If the Forest Service were faced tomorrow with the New Zealand model, where the New Zealand government has turned around and said, “We’re going to run the forest as a corporation,” the current numbers they’re putting out in TSPIRS would just haunt them. Because if they had David Stockman, director of the Office of Management and the Budget, saying to Dale Robertson, “You say you made $690 million in fiscal ’88. I want you to make $800 million in 1990.” Robertson would have to say, “There is no way that I can do it. In fact, I didn’t really make $690 million.” That’s the position that the New Zealand Forest service got itself into. It had accountings that were not accurate. When the New Zealand government said we’re going to expect a 10 percent return on investment, it turns out that a 10 percent growth rate isn’t even there. The money side that they were portraying had problems. And now the New Zealand government is going to the second phase: instead of corporatization, to privatization. They said we’re going to sell off a big chunk of these lands.

I happened to be in New Zealand when this was occurring. Dave White of the University of West Virginia had been there just before on a sabbatical. Dave and I had been getting stuff from Andy Kirkland and Peter Berg of the New Zealand Forest Corporation. They are in a real swivet. What we had seen was the total dissolution of the New Zealand Forest Service, which was modeled identically to ours. I’m not prepared to say that it’s all bad, but it doesn’t look very
good. [laughter] I think that’s one of the things we face. Again – this roads issue – I think the Forest Service has some problems in the real world. You can get people that can pretend it’s flying, but in the real world, they know it doesn’t fly.

RB: Yes, roads, as you well know, are a burning issue and have been in this part of the country, particularly where there are various groups dedicated to maintaining roadless areas in whatever fashion they can – either as wilderness “candidate” areas or in any other way that they can, by simply blocking sales through injunctions or what have you.

RW: Yes, but you see the Forest Service has a different dilemma that it hasn’t recognized. It’s got a 361,000-mile road system, with roughly 90,000 miles closed, and the balance in use with a high annual maintenance cost. It has to rebuild about two miles of road for every new mile it builds each year. These are solid figures out of the budget. It wants to build more roads, and so it’s got a fiscal bear by the tail. I think that it needs to have a hard-nosed evaluation, because if you’re rebuilding two miles of road for every mile you’re building and you send a budget to Congress to cut your road maintenance funds, you are simply adding to your future dilemma. You’ve got a series of short-term decisions that you are making that have tremendously adverse long-term consequences.

The maintenance of the plan, as a resource manager, I think is a vital one. The Forest Service has long suffered in buildings, facilities, [and] roads, from inadequate maintenance. It has been put off and put off – deferred and submerged. The day of reckoning just means that the costs become higher and then it becomes more costly. Given the rising budget deficits, even if we were to figure out miraculously how to balance the federal budget, which we’re not going to do, with rising deficits and a rising amount of the national income going to pay off the national debt and maintain our payments, the pressure on programs gets tighter and tighter. The easy solution is we’ll cut back research, state and private forestry, watershed management, recreation, and so forth, but we’re also cutting back on maintenance. I’ve gone over the budget for the upcoming year. Road maintenance took a severe cut and timber sales are maintained. It’s absolutely upside down. Therefore, I think that internally (just standing back as resource managers) there has to be some re-gearing of things or else the Forest Service is going to wonder, why are our problems getting worse? Don’t look outside, don’t point at the wilderness crowd or the timber industry, the livestock people. You don’t have to go out the door. That, I think, is where the problems are.

RB: Well, yes, I can relate to that.

RW: Roads, we just keep wanting to build more, but we’ve got to maintain what we’ve got. We’ve got to look and see what are the more rational ways of using the existing system. I think we have all the roads we need to take care of recreational and public use. And so we wonder, as resource managers, why can’t we convince the Wilderness Society and others that more roads are going to provide more recreation? They’re not.

Robert Wolf Interview, OH 227-017, 018, Archives and Special Collections, Mansfield Library, University of Montana-Missoula.
RB: They’re not.

RW: When we close off these logging roads, unless you make a real formidable barrier, you’ve got some guy shooting the lock off. You’ve got four-wheel drives traveling up roads, leaving them a mess. The roads are not a free good.

RB: What it comes down to is that the only real justification within the current program to build a road is to access timber.

RW: That’s what it’s really about.

RB: You hear about multiple use roads, but really it comes down to [accessing] timber.

RW: Between 1985 and 1988, the number of miles of road maintained for what are called high clearance vehicles, which is a euphemism for a logging truck, has risen by 31,000 miles. The number of miles of road maintained for passenger car vehicles has dropped by 15,000 miles. The Forest Service now maintains 2.1 miles of road for high clearance vehicles for every mile it maintains for passenger vehicles. With that kind of equation, it shouldn’t surprise resource managers that the public that is concerned about road building know that there are less roads open for their use, and that these roads are really for enhanced timber production. Then when you look at the other figure that 66 percent of the road building is reconstruction of existing roads, the mathematics of it convinces me that we are not proceeding in the most sensible way on this road issue. And I’m a guy who thinks roads are good. What would it be like if I thought they were terrible? [laughter]

RB: In terms of comparison, the ‘64 act talks about national forests, specifically, how does the BLM approach a similar problem?

RW: Essentially the same way. See, the BLM really has very little timber land. It has 2 million acres in western Oregon. Some of the public domain in western Oregon associated with the BLM land is incorporated into it for management purposes [and is] treated essentially the same – [and] a few acres in northern California, a few acres here and there. It has no national impact. The O and C lands produce about a billion board feet on saw-log basis a year, and that’s about where they stand. They are vitally important in that zone, that 18-county zone.
RW: I don't think that -- I don't want to deal with these things anecdotally here. I think the BLM, for instance, may have a smaller timbershed out of which the timber is coming and therefore a lesser standard road may be adequate. The Forest Service may be dealing with a larger geographic area over which more log trucks are going to come for a longer period of time and therefore the area needs to be serviced by a larger, more substantial road. But it may well be that the BLM and some of the states have lesser standards on their roads and they're not as environmentally sound. I don't know. But I think the cold, hard fact is that if I am a timber buyer, after I have bid on the timber, if I can get the Forest Service (or any landowner who I have agreed to build a road for) to back down some on what he wants, I'm going to save money. And I'm going to approach that issue in that manner. That's one of the problems, I think, in this system, in the way we sell timber, in which you have a road contract where the road allowance is an estimate. The cost of the road is an estimate. There's no way of knowing what it costs that timber company to build that road. It isn't bid on separately. It isn't as though you're giving a high bid on the timber and a low bid on the road and you're adding them together and trying to decide what is the best bid. I'm not advocating that we do that; that would have its problems too. In a real sense, what every bidder is doing is he's adding up the total picture and trying to decide out of it what he thinks he can bid on the timber and then looking at his competitors and trying to decide what they're going to do and how badly he wants the timber. You know, it's not a neat scale. It's a jumble of things. Very likely no bidder can tell you why he winds up bidding what he bid. He comes into that, whether it's a sealed bid or an auction, and then makes his decision based on a lot of externalities. But the system is not designed to illuminate for us what the road costs really are.

RB: We seem to see more of a trend (I don't have the figures to back me up), but in talking to people in the timber industry around Western Montana, I see many loggers who, at one time, had the capability to build roads and log timber -- getting out of one or the other -- and I can think of several that I know now who got out of logging and they're basically road construction people now and several who went the other way. I seem to see fewer timber companies that do both now. So that leaves most of the timber purchasers in the position of asking the Forest Service to build the road and it's contracted separately. Do you see that as a situation that has been brought about particularly by the adverse reaction on the road construction?

RW: No. I remember, years ago, a fellow by the name of Yale Weinstein with the New Mexico Timber Company. I was talking to him about their operation down there. And when I was in his office a fellow who had been hauling logs for him [came in]. The fellow had gone broke and was no longer going to haul logs and he told somebody to “get another gyppo.” And I said, “What happened?” He [Weinstein] said, “We were paying him so much a thousand to haul logs and he couldn't make it. From his standpoint, you see, if he [Weinstein] could hire the guy to haul logs at that rate, he didn't care whether the guy made money or lost money. And companies go back and forth between contracting out, because they think it's cheaper, and doing it themselves because they think it's not only cheaper but the results are better from their
standpoint. Some people are totally money-oriented: “What’s the cheapest way I can get it?” And others say, “Well, maybe I’ll get a better log if they’re backed by my employees,” [compared to contract loggers]. So, you get this movement back and forth as to which way is the best way to do it. I don’t know that there is a best way. Again, it depends upon your motives and your objectives. When the 1976 National Forest Management Act was going through, one of the pieces of language that I helped get in the act was that section that permits the Forest Service to build a road if a timber purchaser says to the Forest Service that he doesn’t want to build it.

I guess there are a few things in law in this country where I had some thoughts on it that weren’t somebody else’s idea. I had observed over the years that the timber industry and the Forest Service spent hours arguing over roads and road standards. It seemed to me that (and I guess I owe this in a way to Travis Tyrell, who’s now retired, who was with the BLM) when he used to have people come in and complain about a timber sale, he would say, “Well, let’s go out on the ground and look at it.” That had a good effect because you get these people out on the ground and some of their paper concerns would evaporate. It seemed to me that the arguments that went on with the Federal Timber Purchasers Committee and in the Forest Service -- [meeting in] closed sessions, debating all these terrible things that were being done -- would be resolved if I, as a forest supervisor, could look you in the eye when you complained about the road allowance. [I could] say, “All right, if you don’t think the allowance is enough, we’ll build it.” We’ll give you the allowance; we’ll raise the price by the allowance and we’ll build it. Then you might say, “Well, now, wait. Don’t get too excited. I’ll go ahead and build it.” [chuckle] At the same time, if this happened too often, I would be able to turn to my forest engineer and say, “You guys are not doing a good job of road design and road cost estimating, because we’re getting back a lot of these roads that we’re building and we’re losing our shirt on it because they cost us more than your allowance.” Ninety-five times out of 100, I want your allowance to be on the mark and I don’t want you to be missing it that badly. So it seemed to me it was going to have external and internal benefits. I drafted this language and I talked with Frank Church about it as well as with Senators Humphrey and Talmadge and Lee Metcalf beforehand. Church was the guy who proposed it.

Max Peterson was then the programs and legislation guy and he’s a road engineer. He’s probably a better one than I’ve ever been. I did it with an Abney (?) and a hand level and stuff. Max objected to it. I was there when he told Frank Church, “We’re going to get stuck with building some of these roads.” Church said, “Well, that’s the point.” [laughter] If your estimate is bad, you should be stuck.” He said, “As Bob has explained this to me, it has two purposes: one is to stop the industry from harassing you over road costs when your estimates are pretty good and the other is to deal with the real problems where your estimate is lousy and you shouldn’t have stuck the guy with that road.” If a fellow is bidding on your timber and he knows you’ve got a lousy road estimate and he can have you build it, he’ll probably bid the timber up, appropriately, because he can give you that lousy road job.

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To be honest with you, and I don't want to be unkind to Max Peterson because he's a great guy, Max didn't quite see it that way. Then he (Church) said, “Well (I think we had $20,000 in there), could we make it $20,000 a contract?” Max said, “Could we make it $20,000 a mile?” Frank said, “No.” He said, “I don't want the little guys to be stuck with this, the way you'd do it the little guys would be stuck then with bad estimates. Not when there's a major road and the likelihood of a major operator doing it. No, let's make it a $20,000 contract.” So he didn't get anywhere there. And then finally Max said, “Well, could you strike Alaska?” Well, I thought to myself, “Well, if the Forest Service would like to have their headaches continue in Alaska, the hell with them,” and I turned to Frank Church and said, “Let’s take Alaska out.” And that’s why it’s written the way it is.

RB: Alaska is out?

RW: Alaska is out. Yes, it is. Now, as the Forest Service has applied this, I think they mis-applied the provision, really. I have to confess, I found some things in law where, [if] the Forest Service doesn't invent the idea [and] they don't like it, they don't apply it very effectively either. That may be a bias on my part or it may be a bureaucratic failing. I viewed that provision of the law as a conflict resolution device, and one that would help engineers realize that their reputation was on the line. I'm not saying engineers never make mistakes; I don't want them to walk on water. I just want them to do their level best to make sure they've done a good estimate of the likely road costs. At the same time, if roads came back and the Forest Service could build them, using their engineers, it would make sure that their engineers were getting the on-the-job experience in road building that is essential to being a good engineer.

Just a few days ago, I saw a statement by the current director of the Federal Highway Administration pointing out that one of the problems confronting us is a lack of good road engineers. A lot of people trained in engineering did not want to build roads and have not found road building to be what they wanted to do and we were facing a shortage. So my view is that also this would provide the Forest Service with people who understood building that class of road -- not the superhighway. And that was, again, one of the other complaints you got out of industry: they'd say, “Well, these forest engineers think they're building a superhighway.” It's all right to say that about an engineer; but is it true? I didn't think that most of the engineers who work for the Forest Service thought they were building a superhighway, but I thought it would have the added benefit of being a good training device. It would keep engineers current with the state of the art, so that's how that provision happened to get into law, and I'll have to confess I had something to do with it. As I said at the outset, I was the guy who started out believing I'd never build a road that wasn't a good thing.

RB: There's some language in that Road and Trails Act of 1964 that talks about allowing the secretary to grant easements. Was that a major issue at that time?

RW: The timber industry viewed it as a major issue. Again, it goes back to the question of road ownership. The Forest Service is permitted to grant permanent or temporary easements for a
specified period or otherwise for road rights of way. There are certain situations where the Forest Service may want to grant an easement to a person across national forest land where there's no need to have the federal government involved in that road. I think it’s a sound approach. It's permissive. It's under such regulations as the secretary may prescribe. It didn't provide any statutory demand. It permitted me to get a road, which gave me a lock and gave me control of public forest or rangeland that I shouldn't have. It's permissive.

But certainly, yes. The Forest Service should have that flexibility. I've always believed that laws should be written with the maximum flexibility to the administering agency, not because I think they're perfect, but because I don't think you can foresee all the circumstances. To me this language says, “He [the Secretary] is authorized under regulations he may prescribe, subject to the provisions of this act, to grant permanent or temporary easements for specified periods or otherwise for roads right-of-way.” What could be more flexible? A forest supervisor may make a bad decision. I can't control that. But we expect that he's going to decide, when he issues a permanent easement to someone without requiring reciprocal use, that he's got a good reason for it. The timber industry thought they wanted it and there may be some situations where the only timber that's going to come over that road is private timber. Fine. The Forest Service shouldn't be in a position of land locking the landowner, and it shouldn't be in a position of having to have something to do with a road that it doesn't want to maintain and it doesn't want to use. So that's what it's all about. Then the other final thing in that area is what has now turned out to be the “wooden dollar bid” for the “deficit sale road.” [chuckles] Did you want to raise that question?

RB: Yeah. I would like some comments from you.

RW: Again, this is one of the peculiar things of this residual value appraisal system and it came out of the Worrell Report and the Forest Service reaction to it. The Forest Service is the only entity that I know of which prices its product in a manner that permits it to get less after bidding than before. I think it's a totally irrational system to have a so-called deficit sale with an ineffective road credit. You and I as landowners would not, if we put our timber up for sale at $25 a thousand, would not say to someone who then offered us $40 a thousand (and we told him he had to build a mile of road). [Then he] would have to pay us only $25 a thousand and in the process we would have to pay taxes to the local government as though we'd gotten $40 a thousand when we only got $25.

Dr. John Beuter (who's now with Mason, Bruce & Girard), when he did a study of this for something that was done for the Appropriations Committee, he went into the “wooden dollar” bid situation. As a forest economist it just about threw him off his feet. But the Forest Service not only persists in this, it defends it. I don't think that it was ever intended. I don't think that Congress understood that this was what was happening. You can transfer unused effective purchaser credit from one timber sale to another and that's fine. The idea of timber purchaser credit may be all right. But then this further ramification of ineffective credit and wooden dollar bids is just plain zany. My experience at looking at the so-called deficit sales where the Forest

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Service makes the appraisal and says that it had to adjust the price to meet its minimum price schedules, which are artificial minimums, and there is not going to be effective road credit. So if the purchaser buys the timber at the advertised price, [he] is going to have to build a road which will cost him, let's say, $50,000, and he's going to have to pay the advertised price for the timber. Then they go to some prospective purchasers and say, “This is a deficit sale. Therefore, under our policy, we're going to ask you, if we put it up, do you think you will bid on it?” A prospective purchaser says, I think I will bid on it.” He isn't required to by law or anything other than custom and his word. The Forest Service puts it up for bid. If it was bid at the advertised price (and let's say the total dollars to be paid is $50,000) the Forest Service would get $50,000 and as soon as the guy built the road, they'd start paying for the timber. If it's bid up in a wooden dollar bid, it can be bid up to an amount slightly above the ineffective road credit. Now the Forest Service gets the initial $50,000 and that's all and has to make its county payments based on the increased bid. It doesn't add up. It's irrational.

RB: Yes, it is.

RW: As far as I'm concerned, this leads to all sorts of problems that should be avoided. If the sale is truly a deficit sale, and we get them where they're really bid up in real dollars above the ineffective credit. This means you're dealing with an erroneous appraisal, or else there are externalities that are doing this. Dave Jackson, here at the University of Montana, has recently done some analytical work on this, which I think is going to turn out to be fascinating -- not on deficit sales but on the whole bidding and pricing system.

When you have one bidder, the popular thing to say is that there may be collusion. When you have a huge overbid them it's speculation. The work that Jackson has been doing (and some other analysts) has been trying to more effectively examine what the elements are that cause people to bid what they bid for timber and to examine the aspects of the pricing to determine whether the sale was properly priced to begin with. There's considerable evidence that these deficit sales are under priced. Not that Jackson has found that but that others have. And common sense would sort of tell you when these things are bid, even above that ineffective road credit, that the sale was under priced. So I think the Forest Service, again, has created a dilemma for itself once it went into the deficit sale approach to things.

The timber pricing system has never started out on the willing buyer/willing seller basis. From the day that Interior began to manage the reserves in 1898 and Gifford Pinchot walked across the street and helped them figure out how to sell timber, timber pricing has always been done on the basis of the federal government's estimate of the value of the timber to a converter, and not on what the federal government should get as a land manager managing the forest for the long run.

Until we look at that side of it, which would change the asking price, we're going to continue to have these kinds of problems. If my costs of producing timber on the Custer are, let's say, $100 a thousand and that timber is only worth $25 to the mills there, they're not going to buy it. If
my costs of producing timber on the Ochoco are $100 a thousand and it's worth $150, there'll be no problem selling it. I might say that under TSPIRS it happens that the Ochoco is the forest that has the best cash flow of any in the United States, and I'm proud of that because I worked there.

RB: Is the transaction evidence approach going to help that to some extent if that, at least, gets away from setting a base price as a residuality of some kind of a base over which you won't go. At least the transaction evidence approach estimates a price that you would expect to get 95 times out of 100 if you put that same sale into effect.

RW: Well, it'll tell you that. We need to get more work done in the research community by economists who will write plain English. I don't mind them using all their sophisticated techniques but I want them to explain their results in plain English. I think that transaction evidence simply would tell me what I might get if I were a Toyota dealer for the trucks I have, or what I might get for a loaf of bread if I were over at Safeway. What I need to know as a bread manufacturer or a truck producer is what is it costing me to get that thing on the market. Knowing what you're willing to pay may be of some help to me but if I don't know what it costs me to produce it, knowing that you're willing to pay $7,000 for this model pickup, if it's costing me $9,000 to make the darned thing, if I keep on doing it, I'm going to be in trouble. So transaction evidence isn't really going to solve the problem. In fact, the way in which we sell our timber in terms of public timber -- there are so many contractual requirements that are land management things that the purchaser must do -- that we are not going to be able with the transaction evidence approach to knock those out so they're invisible.

I'm going to have to pay the Forest Service let's say $5 a thousand board feet for slash disposal. I'm going to have to pay them $5 a thousand for road maintenance. I'm also going to have to spend a certain amount of money to pile the slash the way they want it so that they can dispose of it. I'm going to have to spend a certain amount of money on the roads as I use them. I'm going to have to do some erosion control work. All those things I'm going to have to take into account. Now when the timber sale officer comes out there, let's say on erosion control work, and says, "Now you have to do this and this and this and the contract shows it." And I say, "Well, you know that's going to cost me $28,000 to do that." He has to be in the position defensively to say, "Yes, if you look at the 2400-17 appraisal form, you see we allow you $32,000, plus 15 percent profit and risk. So I'm not asking you to do more than those appraisers put in there, I'm asking you to conform to the contract, besides which you had all this information to begin with, and it was up to you to look at it in your own interest and determine that this was what was going to be required. We didn't develop this language in the contract after you bid on it. It was there beforehand. You were told to examine the sale, to look at the proposed contract, look at all that stuff, bid with your eyes open and this was an important part. You know the importance we attach to erosion control."

So transaction evidence isn't going to get us out of that. In fact, again, the Forest Service will build its own trap if it thinks that transaction evidence will permit it not to display that to its
purchasers, because they'll be back beating them over the head. So I would say what the Forest Service needs to do is to look more rigorously at what it costs it to make a sale, and also look at what kind of things it's asking the potential buyers of the timber sale to do.

The emphasis, I think, ought to be on the fact that ever since the beginning of time the Forest Service has talked about the willing buyer/willing seller approach to selling timber and it has never put itself in the shoes of the willing seller, saying that if it were selling this timber, this is what it would require as a land manager. In the timber appraisals are all sorts of asset consumptions that are part of the land management process, some of them where it gets money from the purchasers, and the timber converted to real dollars, some of its timber converted to work that has to be done where it doesn't know—

[End of Interview]