

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

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NATURAL RESOURCES DEFENSE )  
COUNCIL, SOUTHEAST ALASKA )  
CONSERVATION COUNCIL, SIERRA )  
CLUB, THE WILDERNESS SOCIETY, )  
and CENTER FOR BIOLOGICAL )  
DIVERSITY, )  
Plaintiffs, )  
v. )  
UNITED STATES FOREST SERVICE; )  
UNITED STATES DEPARTMENT OF )  
AGRICULTURE; MARK REY, in his )  
official capacity as Under )  
Secretary of Agriculture; )  
DENNIS E. BSCHOR, in his )  
official capacity as Alaska )  
Regional Forester; and )  
FORREST COLE, in his official )  
capacity as Forest Supervisor )  
for the Tongass National )  
Forest, )  
Defendants. )  
\_\_\_\_\_)

Case No. J04-104 CV (JKS)

DEPOSITION OF FORREST COLE  
Pages 1 through 145, Inclusive  
Taken: Wednesday, May 18, 2005  
Place: Juneau, Alaska

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## 1     A P P E A R A N C E S:

2

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15

16

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19

20

          Also present:                 Joe Mehrkens

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BE IT REMEMBERED that, pursuant to Notice of Deposition, and beginning on Wednesday, the 18th day of May, 2005, commencing at the hour of 10:00 a.m. thereof, in the Frontier Suites Airport Hotel, Suite 2412, located at 9400 Glacier Highway, Juneau, Alaska, before me, LYNDA BATCHELOR BARKER, Registered Diplomat Reporter and Notary Public in and for the State of Alaska, personally appeared:

FORREST COLE

called as a witness by the Plaintiffs, who was thereafter examined and interrogated as hereinafter set forth.

1

WEDNESDAY, MAY 18, 2005

2

JUNEAU, ALASKA

3

10:00 A.M.

4

(Exhibit 1 duly marked)

5

THE REPORTER: I'll now swear you

6

in. Would you raise your right hand for me,

7

please?

8

(Oath administered)

9

THE WITNESS: I do.

10

11

FORREST COLE

12

13

having been first duly sworn by the court reporter to

14

tell the truth, the whole truth, and nothing but the

15

truth, testified as follows:

16

17

EXAMINATION

18

19

BY MR. LAWRENCE

20

Q. Mr. Cole, my name is Nathaniel

21

Lawrence. People call me Neil. I'm going to

22

depose you today. I should warn you in advance

23

that I have a tendency to think of you sometimes as

24

Mr. Forrest instead of Mr. Cole. I hope you'll

25

take that as a compliment if I make that mistake.

1           A.       I have been called worse.

2           Q.       Have you been deposed before?

3           A.       Yes, I have.

4           Q.       More than once?

5           A.       Probably four to five times.

6           Q.       So you know that Ms. Barker is going to  
7           be taking down everything you say verbatim, and you  
8           know that the only record of these proceedings is  
9           what we say here. So it is important for you to  
10          speak clearly. I may ask you from time to time to  
11          speak more clearly, or to make something clear, or  
12          if you have nodded your head instead of saying  
13          something out loud, I might ask you to verify that.

14          A.       I will. And I have a tendency to  
15          mumble, too. So don't hesitate.

16          Q.       Ms. Barker will let us know, I'm sure,  
17          if either one of us mumbles, and it does happen  
18          particularly as things wear on. So that will be  
19          fine.

20                    If I say something that you don't  
21          understand, be sure to let me know and ask me to  
22          clarify my question or my comments.

23          A.       I will.

24          Q.       And I may ask you to do the same if  
25          there is something you say that isn't completely

1 clear. Again, at times it may seem a little bit  
2 picayune, but we want to make sure that the writing  
3 accurately reflects what you are trying to say. So  
4 I may ask you to say things over again that seem  
5 fine to you, but I just wasn't quite convinced that  
6 it is going to come out where people will  
7 understand looking at the deposition.

8           If you say something and later on  
9 you decide that wasn't quite right, or you want to  
10 add to it, by all means stop us. Let us know.  
11 I'll give you an opportunity to correct what you  
12 are saying at that point, or add to what you are  
13 saying while it is fresh in your mind. I won't  
14 make you wait until later.

15           You did bring a couple of  
16 documents with you. If you want to refer to those  
17 documents at some point to help with you an answer,  
18 that's fine. If you do, I'm going to be asked they  
19 be marked as exhibits, and they'll be attached to  
20 the deposition so that anybody reading it later on  
21 will know what you looked at.

22           If you want to take a break at any  
23 point for any reason, just let us know. If I'm in  
24 the middle of a question, or you are in the middle  
25 of an answer, then let's just wrap that up. But

1 that's fine if you do take a break. Is that  
2 agreeable?

3 A. That works for me.

4 Q. Okay. Great. And I'm sure Mr. Landon  
5 has told you if you want to talk to him for any  
6 reason, that's fine with me as well. Just, again,  
7 if we are in the middle of an answer, I'd like to  
8 finish up the answer before we break. Okay? Is  
9 that okay?

10 A. Oh, yes. Sorry.

11 Q. Your current position is what with the  
12 Forest Service?

13 A. I'm currently Forest Supervisor for the  
14 Tongass National Forest.

15 Q. And before that position?

16 A. I was the Director of Forest Management  
17 for the Alaska region.

18 Q. Starting when?

19 A. Forest Supervisor in September of 2003.  
20 I was in the director's job for 11 months prior to  
21 that. Prior to that I was a forest management  
22 staff officer.

23 Q. You started as a forest management  
24 staff officer about when?

25 A. About 1989.

1 Q. Were you at the Tongass before that?

2 A. Yes.

3 Q. And what jobs or responsibilities did  
4 you have before that?

5 A. I moved to the Tongass in 1979. I was  
6 a forester for the Forest Service working on the  
7 Alaska Pulp Corporation long-term timber sale  
8 contract. I was a small sales forester on the  
9 Petersburg Ranger District working in timber  
10 management. I was the timber management assistant  
11 on the Juneau Ranger District. Later I became  
12 timber/lands/minerals staff for the district.

13 From that job I worked on the  
14 Tongass Land Management Plan, the planning team  
15 that was responsible for timber and subsistence.  
16 From that I moved to Petersburg when it was the  
17 Stikine area, and I was the forest management for  
18 timber staff for the Stikine area. Later we  
19 consolidated the forest, and I was the forest  
20 management staff officer for the entire forest.

21 Q. And that's what happened around 19 --

22 A. I think late 1989, early 1990.

23 Q. Okay. We are going to talk today about  
24 the way that a particular EIS, the EIS for the  
25 Woodpecker project, discusses the costs of

1 administering -- the administrative costs  
2 associated with a timber sale. I know you are very  
3 familiar with this, much more familiar than I am,  
4 and I want to ask you to tell me about the way  
5 that's done and how that method was developed.

6 I'm specifically talking about the  
7 four cost centers that the EIS says go into  
8 figuring up administrative costs: The analysis  
9 cost center, the sale prep cost center, the sale  
10 administration cost center, and the engineering  
11 support cost center.

12 As I understand it, the Tongass  
13 National Forest, during -- sometime during the  
14 '90s -- developed an average figure that they used  
15 for timber sales combining those four cost centers;  
16 is that correct?

17 A. That's correct.

18 Q. Can you tell me a little about how that  
19 process was developed?

20 A. Yes. I'm the one responsible for  
21 generating that number. And it was done through a  
22 host of information. The most reliable at the time  
23 was what is commonly referred to as TSPIRS. That's  
24 related to the Timber Sale Program Information and  
25 Reporting System.

1                   At that time all of the costs for  
2 timber sales was collected into a national  
3 database, and you could break it out by individual  
4 regions, even down to a forest level, and it would  
5 track planning, preparation, and administrative  
6 costs -- "administration" meaning timber sale  
7 administration. The engineering costs were not  
8 broken out similarly.

9                   And once you had each of those  
10 costs centers you could take the harvest, which  
11 this document also tracked, and you could divide  
12 harvest into the total costs and come up with unit  
13 costs per each of those cost fields.

14           Q.       Was the process used on the Tongass  
15 something that the Forest Service used on other  
16 national forests? Did you apply a method or a  
17 process that the Forest Service asked you to use  
18 there?

19           A.       Not to my knowledge, no. I generated  
20 those figures on the Stikine area for the sole  
21 purpose of being able to develop out-year budgets.  
22 When the other two areas, the Ketchikan and Chatham  
23 area, found how I was doing it, I helped  
24 individuals on both areas generate similar cost  
25 centers for unit costs. I don't believe -- I don't

1 have any knowledge of other forests doing it.

2 Q. This was about when, in years?

3 A. I would say early '90s; late '80s we  
4 got into to some degree, early '90s.

5 Q. When you developed this process for  
6 your own purposes on the Stikine, you wrote down  
7 what you were doing?

8 A. To some degree. And you have to  
9 remember at that time we had a different computer  
10 system, and I probably generated -- I believe they  
11 were always Aplex spreadsheets at the time. I  
12 didn't publish the information. I utilized it  
13 solely for my own purposes. The DG system went  
14 away, and I did not transform the spreadsheets from  
15 that system onto our current system, which is a  
16 different base. So most of that information, to my  
17 knowledge, is not available.

18 Q. Anyplace today that the -- that we  
19 might find what went into each one of those cost  
20 centers and where you looked for those numbers  
21 written down someplace?

22 A. I would say that there may be old  
23 documents of the TSPIRS documents. It was  
24 generated yearly. It was very controversial every  
25 year it was presented. I don't have any of those

1 documents personally.

2 In terms of how we utilized those  
3 documents or that number later, I do have some  
4 examples that we have today.

5 Q. That you brought with you today?

6 A. Uh-huh. But then again, the system  
7 that those show up in we no longer use as well.  
8 And that was called the BFES, Budget and Financial  
9 Execution System -- or Budget Formulation and  
10 Execution System.

11 We use that nationally to generate  
12 national budgets. We could break them down by  
13 region down to the unit, and you had to have a unit  
14 cost for timber sales as well as a unit cost for  
15 trail construction, and we utilized those numbers,  
16 the timber numbers, in BFES when it was  
17 operational.

18 Q. So when you developed this for the  
19 Stikine, some other districts of the Tongass would  
20 have been producing similar numbers; is that  
21 probably correct, to your knowledge?

22 A. When I produced it for the Stikine, I  
23 believe I was the first one to utilize that  
24 information on the scale that I was using.

25 I worked closely with the timber

1 staff, who is retired out of the Ketchikan area;  
2 and I worked closely with the timber staff on the  
3 Chatham area, who has since retired, and showed  
4 them what I was doing and helped them formulate  
5 some more numbers.

6 Q. Can you give me take their names?

7 A. Gene Eide, who was the timber staff on  
8 the Ketchikan. And I'm trying to think of the  
9 individual on the Chatham area. His name is  
10 available. It doesn't come to mind.

11 Q. If that occurs to you later, just tell  
12 us and we can put it in. Let me make a note here.

13 And before you became timber staff  
14 for the whole forest, they were using this process  
15 on their districts; is that right?

16 A. On their areas, yes.

17 Q. On their areas. Okay. You don't  
18 have -- or do you have any idea about where we  
19 might find anything that you sent to them that  
20 explained what the contents of the different cost  
21 centers were, and where you were getting that  
22 information, or why you chose it?

23 A. I would have to say that the  
24 information at that point in time was, again,  
25 during the DG system. There may be old documents,

1 but I have never come across them.

2 Q. You have never seen them? That's  
3 understandable.

4 Can you walk me through each one  
5 of those cost centers, and tell me what was  
6 included in it, to the best of your memory, and why  
7 you included those things?

8 A. Yes, I can.

9 Q. Thank you.

10 A. Originally when the long-term sales  
11 were going on -- and the way we used to do budgets,  
12 it was relatively consistent across the forest, and  
13 the numbers were very reliable. We would set up  
14 project work plans with a job code for timber sale  
15 preparation on the long-term contract for the  
16 Stikine area. When we used that job code or  
17 management code for time sheets, that expenditure  
18 would be reported to the national database.

19 Those numbers would go into the  
20 TSPIRS, Timber Sale Program Information and  
21 Reporting system.

22 Q. Can I interrupt here for just a second?

23 A. Uh-huh.

24 Q. Thank you. The time sheets would have  
25 been for Forest Service personnel, and they were

1 reported nationwide back to Washington, D.C.? They  
2 were collected as part of the TSPIRS data; is that  
3 correct?

4 A. The time sheets would go to our central  
5 finance company, and the TSPIRS program would  
6 collect information out of that system and  
7 basically summarize it.

8 Q. Do you have any idea what the name of  
9 that company was?

10 A. Well, it is the same --

11 Q. Today?

12 A. -- today, yes.

13 Q. Okay.

14 A. It's in New Orleans, I believe. But  
15 the program that generated that information was a  
16 national program. I have never seen it personally  
17 used. I have no idea what the program looks like.  
18 I would get a report at the end of the year, and it  
19 would display the numbers for the Stikine area.

20 Once all that information was  
21 collected and summarized -- and there is a host of  
22 centers where they collect the data from -- I would  
23 simply take the harvest information that showed up  
24 on it and divide it into the various cost centers,  
25 and if I felt the cost centers were -- needed

1 adjustments for whatever reason, I did it.

2 Q. Can you tell me what kinds of reasons  
3 would call for an adjustment of the numbers?

4 A. If a project had not gone through the  
5 entire process -- I'll give you an example. What I  
6 was interested in was in trying to find information  
7 on a very specific project going through the entire  
8 system. When we would have a forest plan change  
9 and a land allocation, and that project that we had  
10 spent money on never got through the harvest stage,  
11 or was never going to get a record of decision, I  
12 would try to break those numbers out, because that  
13 didn't give me a true picture of a project from  
14 start to finish. And that was pretty much  
15 subjective on my part.

16 Later on --

17 Q. Can I interrupt you again?

18 A. Sure.

19 Q. Just to be clear, you were making a  
20 subjective judgment about how much of those costs  
21 to factor into the long-term contract  
22 administration; is that right?

23 A. That's correct. And it was based on  
24 more than just my best guess. I knew what that  
25 cost center would be by going back to project work

1 plans, how much was planned to be spent on an  
2 individual project. And they could do that over  
3 time. So it was more than just a wild guess on my  
4 part. It was the best information I had at the  
5 time.

6 In the early years of the TSPIRS  
7 documents, there were not many changes. Once we  
8 got into a significant amount of projects not  
9 getting through the system -- and I can give you  
10 several examples -- or once we got into the forest  
11 plan moving portions of the forest out of the  
12 timber base and into other land allocations, the  
13 work done on moving those funds out or in became  
14 very much more complicated than the earlier years.

15 The earlier years, I used to take  
16 the numbers as they were presented, divide them by  
17 the harvest level, and assume they were close.

18 Q. You would take the numbers for -- that  
19 were -- the numbers for expenditures in a given  
20 fiscal year, I presume?

21 A. Yes.

22 Q. And you'd match those with the cut in  
23 that year under the particular project or under the  
24 long-term contract in general?

25 A. No. I would take the summary document

1 that -- at the end of the year and divide it by the  
2 entire harvest. And again this was a summary of  
3 all the expenditures in timber management by the  
4 various cost centers for the year divided by the  
5 overall harvest level.

6 Q. And so that included independent timber  
7 sales as well as sales under the long-term  
8 contracts?

9 A. That is correct.

10 Q. What would be a sample year that you  
11 did that? Would 1995 have been such a year you  
12 were doing that?

13 A. I say in my document, in the  
14 declaration, what years the TSPIRS document goes  
15 away. And TSPIRS -- again, I need to ask a  
16 question. Do you want me to explain each time, the  
17 long version, what TSPIRS is?

18 Q. No. We'd be here all day.

19 A. TSPIRS went away. The tracking  
20 mechanism towards the end of TSPIRS' life became  
21 less reliable than when I first got into it, and  
22 there are a host of reasons why. So I'm guessing  
23 early '90s is when I probably used the information  
24 the most.

25 Q. So just hypothetically, let's assume

1       that 1992 was one of the years that you did this --  
2       it sounds like it probably was. Just so I  
3       understand, at the end of that fiscal year, 1992,  
4       you would add up all of the costs in each of the  
5       cost centers, and then you would just compare that  
6       or divide that by the total volume that was logged  
7       in that year; is that correct?

8           A.       Wouldn't add up; it would be a summary  
9       of all expenditures by planning, preparation,  
10      administration. And I would utilize a combination  
11      of those three, add them up, sum total, and divide  
12      by total harvest, and use that for unit cost.

13          Q.       And if a sale was brought to the record  
14      of decision stage but it was never sold, you  
15      removed some of those costs, but not all of them,  
16      from the summary of all the cost centers?

17          A.       Sometimes, yes.

18          Q.       Sometimes yes, sometimes no, depending  
19      on your judgment about what?

20          A.       If the sale was representative -- I  
21      have to back up some.

22                    Initially I could generate a unit  
23      cost for each of those cost centers. And over the  
24      years of doing this, if the cost was consistent  
25      with previous years, I wouldn't change a thing.

1                   As TSPIRS went away -- and we had  
2 a lot of projects that were beginning to not make  
3 it all the way through the process -- without the  
4 TSPIRS information, I tried to generate what our  
5 planning, for example, costs were doing. The only  
6 way for me to do that was to go through our  
7 contracted costs for these projects, divide them by  
8 the record of decision volume, and compare that to  
9 what I was using when TSPIRS was active.

10                   If the cost centers were close, I  
11 didn't change them. If there was some wild  
12 swings -- which on some cases were very, very  
13 different than what the numbers were I was using --  
14 I would do more looking into whether I needed to  
15 back some of those figures out or not.

16                   But ultimately the foundation of  
17 the unit cost came from TSPIRS. TSPIRS goes away.  
18 I had to keep verifying whether that number was  
19 correct. An easy way to do it was to go to our  
20 contract NEPA costs and divide it by the total  
21 volume. If that number was close to what TSPIRS  
22 was generating, I wouldn't change a thing.

23                   Q.       Before TSPIRS went away, when you  
24 looked at the number at the end of the year, and it  
25 looked consistent, and you said you wouldn't change

1 a thing -- I want to make sure I understand. Does  
2 that mean that within the cost centers, there would  
3 have been included costs for sales that reached the  
4 decision stage but weren't sold, or were sold but  
5 not cut?

6 A. Could have been. An example would be  
7 as long as the long-term contracts were operating  
8 the way I felt they generally do, and the  
9 independent harvesters were harvesting at a level  
10 that was consistent, we could take the summary cut  
11 for the year or harvest for the year, divide it in  
12 the total, compare it to the previous years, and if  
13 it was consistent, so be it.

14 There were a couple of years  
15 during this time when Alaska Pulp Corporation  
16 didn't operate for whatever reason. We spent the  
17 same amount of money on planning. We spent the  
18 same amount of money on preparation. Our sale  
19 admin. costs were less because we didn't harvest as  
20 much.

21 In a given year like that, harvest  
22 levels would be way down. We spent the same amount  
23 of money, and it would appear on the surface that  
24 our unit cost doubled in cost. The reality of it  
25 was there was just less harvest. Didn't change

1 anything with planning costs. Didn't change  
2 anything with preparation costs. The only factor  
3 out there that changed was the harvest level.

4 So to modify any of the unit  
5 costs -- it was a conscious decision on my part to  
6 look at what was happening in any given year, and  
7 make a determination whether I should increase the  
8 cost centers, unit costs, or decrease them.

9 Q. And when you got through with that  
10 process, whether you changed it or didn't change  
11 it, you then reported that to whom?

12 A. I didn't report it to anybody. I used  
13 it for our next year's budget program.

14 Q. It was part of your budget  
15 justification --

16 A. That's correct.

17 Q. -- when you made a request? I see.

18 A. Let me explain a little more. About  
19 this time every year, we have a request for "What  
20 are you going to spend three years into the  
21 future?" It is pretty much a guess on anybody's  
22 part. Having this unit cost was the best  
23 information I had available to make that projection  
24 for the future.

25 Q. I think I understand. Can we just

1 focus on the individual cost centers for a minute?  
2 If we look at -- it has been some time since this  
3 was your responsibility. Do you remember what the  
4 numbers were that you produced for each one of  
5 those cost centers?

6 A. I do. This topic comes up quite often.

7 Q. Okay. So if we look at the costs, the  
8 average costs you used for analysis, say, that  
9 number was how much?

10 A. I believe I was \$41 a thousand.

11 Q. And that would have included what kinds  
12 of items? What did you look at to include under --  
13 to come up with the \$41 figure?

14 A. It's typically our gate 1 activities,  
15 gate 1 and gate 2. And those activities include  
16 the position statement, which identifies a sale or  
17 a project. There is a preliminary analysis, and  
18 makes -- puts a document in front of the decision  
19 maker whether to proceed on with expended money on  
20 NEPA or not. Once that decision is made, and we go  
21 into the NEPA, and go through an analysis, and it  
22 culminates generally at the record-of-decision  
23 level.

24 If we go to appeals and  
25 litigation, those cost centers are very difficult

1 to come up with.

2 So the planning cost center  
3 generally includes all gate 1, position statement,  
4 and all gate 2, environmental analysis, through  
5 record of decision or decision document.

6 Q. And again, just to be clear, the figure  
7 you came up with on average, the \$41 per thousand  
8 board feet for analysis costs, that was the normal  
9 figure that you used? That was per thousand board  
10 feet cut that year; is that correct?

11 A. No. That was for the average cost of  
12 producing a NEPA document per year. And if you go  
13 back to how I generated that number, it was  
14 utilized for -- with TSPIRS using harvest  
15 information over time. When harvest information  
16 from TSPIRS went away, I generated unit costs to  
17 produce the NEPA decisions. So harvest did not  
18 play a factor.

19 Q. In that cost center?

20 A. That's correct.

21 Q. And the cost center for sale prep, do  
22 you remember that figure?

23 A. I always have a hard time with this  
24 one. I believe it's \$23 a thousand.

25 Q. That's my understanding, too, if it's

1 any comfort to you.

2 A. I'd have to look. I always get that  
3 crosswise with the engineering report.

4 Q. And what items did you look at to  
5 include in that cost center?

6 A. Over time, it was modified from harvest  
7 into actual production to offer. The record of  
8 decision comes up with a decision on a project of,  
9 say, a hundred million feet. That project is laid  
10 out, and only 80 million feet is laid out.

11 Q. Can I interrupt you, Mr. Cole? I think  
12 I didn't ask my question clearly enough. I'm  
13 asking when you are looking at that sale prep cost  
14 center, what costs did you look at to include  
15 within that?

16 A. Following the same process as the other  
17 one -- this is the gate 3 process -- gate 3, gate  
18 4, and I believe gate 5. And that was the field  
19 preparation activities. This included all of the  
20 people that marked units, put paint on trees,  
21 located landings, the cost of wanigans, float  
22 houses, camps. It involved the costs for appraisal  
23 and cruising all the way to offer.

24 Once we got to the offer, that  
25 basically was the termination point for the cost

1 center involved.

2 Q. And when you calculated that that was  
3 on average normally \$23 per thousand board feet,  
4 that was per thousand board feet that was offered;  
5 is that correct?

6 A. Yes.

7 Q. And for sales administration, can you  
8 give me the same picture?

9 A. We used to keep track of individual  
10 timber sale contract sale administration  
11 activities. Those activities included award of the  
12 timber sale, on-the-ground sale administration, and  
13 it usually culminated at the point in time when the  
14 contract was closed.

15 Q. That doesn't have a gate number?

16 A. I think we used to attach gate 6 to it.  
17 Formally I do not believe it has one.

18 Q. Do you remember that figure?

19 A. I believe \$9 a thousand.

20 Q. That would have been \$9 per thousand  
21 feet that were offered or logged or some other --

22 A. Harvested.

23 Q. Harvested. That would have been the  
24 full volume, whether it was saw timber or utility?

25 A. That's correct.

1 Q. That was everything?

2 A. Total volume.

3 Q. And the figure for engineering support  
4 included what cost items?

5 A. It included all of the preparation  
6 activities on green timber sales relating to road  
7 location, engineering and design, generally  
8 occurring in the gate 3, 4, and 5 activities.

9 Q. The costs of supervising road  
10 construction and checking on, monitoring that would  
11 have been included in engineering support, or was  
12 that part of sale administration?

13 A. Under a green timber sale, they would  
14 have been included in both centers. Under a  
15 salvage timber sale, the timber dollars paid for  
16 it, rather than engineering dollars paying for it.

17 Q. How did that work when it was included  
18 in both cost centers?

19 A. Difficultly. We would take the project  
20 work plans; determine what was planned for the  
21 year. There was no real good summary document that  
22 would say -- break them out. So we would break  
23 them out ourselves by taking project work plans  
24 that showed planned activities, or preparation --  
25 meaning road location -- survey and design,

1 generate a cost for those, and then also generate a  
2 cost for the contract administration part of it,  
3 depending on who did it. Sometimes the timber sale  
4 administrator would do it. Sometimes a road  
5 engineer would do it.

6 Q. So you were looking at all of those  
7 costs?

8 A. That's correct.

9 Q. Road location, engineering, design, all  
10 of those costs in gates 3, 4, and 5 and dividing  
11 them up? You were making, again, some kind of  
12 subjective decision about what the fairest way to  
13 apportion those costs were between the two  
14 different cost centers; is that correct?

15 A. That's correct.

16 Q. And do you remember what the figure was  
17 for engineering support, the average figure that  
18 you looked at for consistency from one year to the  
19 next?

20 A. Overall I believe it was \$28 per  
21 thousand.

22 Q. It was \$28 per thousand board feet that  
23 were -- was it harvested, or was it some other --

24 A. On the sale administration activities,  
25 contract administration, it was harvested. On the

1 preparation activities, it was offered.

2 Q. And on the engineering support?

3 A. Both. Same. I mean, that's what I was  
4 describing.

5 Q. Depending on how it was -- all right.  
6 Maybe I can -- I'm pretty sure I didn't understand  
7 that.

8 A. Sale administration activities -- these  
9 are the timber dollars -- were based on the harvest  
10 for each individual contract. Engineering  
11 support -- if we broke the units out into  
12 preparation activities, road location, survey and  
13 design, it was based on offer, was the divisor.

14 On the contract administration of  
15 the roads, we used harvest as a divisor. Over time  
16 we collapsed all of those activities into one  
17 number, the \$28 per thousand, and added them as a  
18 part of each one of those cost centers.

19 Q. So initially the \$28 per thousand --  
20 the costs that produced that figure -- they were  
21 completely included under other categories, under  
22 sale prep and sale administration, is that --

23 A. That's correct.

24 Q. Okay. And then later at some point it  
25 became useful for you to break those out as a

1 separate category of engineering support?

2 A. When the TSPIRS document went away we  
3 broke them out separately.

4 Q. After you broke it out separately as  
5 \$28 per thousand board feet, what was it -- per  
6 thousand board feet of what? What was it of?

7 A. Contracted costs -- if a project went  
8 to contract, then it was the harvest level was the  
9 divisor.

10 Q. It was the actual logs on the ground?

11 A. That's correct.

12 Q. And if it didn't, what happened to  
13 those costs?

14 A. It was the offer, meaning the  
15 preparation offer volume.

16 Q. So either way, you took a look at those  
17 costs, but you tied them to whatever volume was  
18 furthest down the road?

19 A. That's correct.

20 Q. If it was offered but not cut, that's  
21 what you tied it to. If it was cut, then you tied  
22 it to --

23 A. That's correct. And why we did that is  
24 a record of decision would clear 100 million feet.  
25 We would lay it out, and there may be

1 80 million feet. When we finally got to a  
2 contract, there may be 60 million feet.

3 Q. That's pretty clear.

4 Let's look at the period before  
5 TSPIRS went away. The sale analysis cost center  
6 covered -- the sale analysis costs for a particular  
7 timber sale would have covered roughly what time  
8 period? Those costs must have turned up in some  
9 cases in multiple years. I'm wondering, for an  
10 individual project, how many years might some  
11 portion of the analysis costs have turned up in  
12 your calculations?

13 For sale X, on average, what would  
14 you say -- the sum of the analysis costs would have  
15 turned up in how many different years'  
16 calculations?

17 A. I could tell you or show you -- give  
18 you examples of projects where the analysis has  
19 been going on for 20 years.

20 Q. Okay.

21 A. Typically we would break it out into  
22 about four years. The gate 1 activities would be  
23 10 percent of the overall costs. These percentages  
24 are off the top of my head, and I won't attest that  
25 they are exact.

1 Q. I understand.

2 A. The second year we would use 20 to  
3 30 percent; third year, about 40 percent; and then  
4 the last year record of decision about 5 percent.  
5 That has to add up to 100 percent, obviously. But  
6 given these projects are multiyear, it was very  
7 difficult to come up with an individual project  
8 cost on a year-to-year basis.

9 But we had a formula set up. We  
10 used it for several years on our ten-year timber  
11 sale. There are embedded formulas in that plan  
12 that accounts for these individual percentages on a  
13 year-to-year basis.

14 When TSPIRS was around it didn't  
15 account for it. It was -- a project was being  
16 worked on multiyear. Whatever you spent on any  
17 given year was summarized at the end of the year.  
18 There was no estimate of what percent of the  
19 overall project costs that was. So it was very  
20 difficult to come up with these numbers.

21 Q. The costs for sale prep, were they  
22 typically spread over fewer years than the analysis  
23 costs?

24 A. On the long-term contracts, there were  
25 projects five years in duration. Typically there

1 was more than one year's worth of work. On the  
2 independent sales they were typically one year.

3 Q. So for long-term contract sales, the  
4 sale prep might have lasted for two years or three  
5 years, depending?

6 A. That's correct.

7 Q. And the administration, that must have  
8 been pretty variable?

9 A. Similarly.

10 Q. And it would have been similar to the  
11 prep costs; is that right?

12 A. Yes. Generally most timber sales of  
13 any size last for longer than a year.

14 Q. All right. For the sales to the  
15 independent operators, would they have typically  
16 lasted longer, the same, or shorter than the sales  
17 to the long-term contract operators?

18 A. Typically shorter. Our long terms  
19 generally lasted over a five-year period. Some of  
20 that volume was carried over into the next  
21 five-year period. Independent sales generally  
22 lasted three to five years, typically three years;  
23 so generally shorter.

24 Q. And the engineering support figures,  
25 they would have tracked -- they would have been

1 broken out over the same periods of time? If they  
2 were originally accounted under sales prep, they  
3 would have occurred in roughly the same number of  
4 years?

5 A. That's correct.

6 Q. After TSPIRS went away, you changed how  
7 you were figuring the cost centers. One of the  
8 changes was that you broke out engineering support  
9 separately. What other kinds of changes did you  
10 make?

11 A. I don't know if we changed much, but we  
12 changed our method of determining if those numbers  
13 that we were using the previous year were accurate.  
14 TSPIRS goes away. I use this as an example for  
15 planning. We established outside contractors to do  
16 some of our planning, so we had a set figure, once  
17 we awarded these contracts, on how much a NEPA  
18 document costs. Now, the cost of the contract was  
19 an external number, meaning it was only the cost of  
20 the contractor. Then we had internal costs as  
21 well.

22 I used to track some of our  
23 earlier NEPA contracts to determine if those costs  
24 were generally consistent with our \$41 per  
25 thousand. And typically they ranged from several

1 hundred dollars a thousand to as low as \$20 per  
2 thousand. Overall, though, the numbers were fairly  
3 consistent.

4 Q. With the \$41 per thousand?

5 A. That's correct.

6 Q. And at that time, were you looking only  
7 at contract costs, or were you also looking at --  
8 some of the analysis I take it was done by Forest  
9 Service staff. Were you tracking those data, or  
10 did you not really have a good way to do that?

11 A. We didn't have a good way to do it, but  
12 we used to take individual projects and monitor  
13 them through the life of their development. We  
14 took representative samples -- or I took  
15 representative samples -- and monitored the costs  
16 and followed them similarly as the contracts just  
17 to determine if the \$41 was consistent.

18 Q. So for some sales, I take it, some of  
19 the analysis work was done under contract and some  
20 by Forest Service personnel. Some were wholly  
21 contract and some were wholly Forest Service; is  
22 that correct?

23 A. That's correct, and then there are  
24 combinations of both.

25 Q. Right. I understand. For sales where

1 all of the work was done by Forest Service  
2 personnel, after TSPIRS went away, can you walk me  
3 through where you looked for the information about  
4 what the costs were?

5 A. For each individual project, we would  
6 set up a project work plan that would generate a  
7 management code. People working on that project  
8 would charge their time against that individual  
9 project. If supplies were purchased or whatever,  
10 printing contracts, we would be able to track it  
11 back to that number.

12 There is no one place where that  
13 is summarized. It was a methodical task to go  
14 through individual work plans, project work plans,  
15 contract costs, and basically put it together and  
16 divide it by the record of decision volume to  
17 generate that unit cost.

18 Q. Does that money you started with an  
19 idea of who was working on it, and you went and  
20 took a look at their records to see what they had  
21 charged against that project?

22 A. That's correct.

23 Q. Whether it was supplies that they  
24 requisitioned or time that they spent on it, you  
25 were looking at their records?

1           A.       That's correct.

2           Q.       And for mixed projects where some of  
3 the work was done by contract and some of the work  
4 was done by Forest Service personnel, did you go  
5 through that same process for the Forest Service  
6 personnel?

7           A.       We generally tried to avoid mixed ones.  
8 The interest was, is the internal production of  
9 these documents costing more than the external, for  
10 obvious reasons? Generally when you combined them  
11 all, they were relatively consistent with the \$41.  
12 Some projects were more expensive; some were less  
13 expensive.

14                       When you looked at individual  
15 projects, if we were doing a categorical exclusion,  
16 they were cheaper than a full-blown Environmental  
17 Impact Statement. Some of our environmental  
18 analysis documents, EAs, environmental assessments,  
19 were as costly as some of our EISs, depending on if  
20 they go to court, or if they got dropped out of the  
21 land base, or a host of reasons. So collectively,  
22 internal and external were generally consistent  
23 with the \$41.

24           Q.       That's pretty clear. Did you also  
25 contract -- you did also contract out sale prep

1 work, some of that; is that correct?

2 A. That's correct.

3 Q. And sale administration as well?

4 A. No.

5 Q. That was always done by Forest Service  
6 personnel?

7 A. That's correct.

8 Q. And how about the engineering support?

9 A. The preparation costs -- meaning the  
10 location, surveying, and design -- we have  
11 contracted that out. The contract administration  
12 was always done internally.

13 Q. Okay. You revised your cost centers  
14 when TSPIRS went away, and revised the way that you  
15 were checking to see if you were -- if your costs  
16 were consistent with what you expected and what you  
17 had used in your budget requests.

18 You must have started doing that  
19 in the late '90s; is that correct?

20 A. That's correct.

21 Q. So 1998, 1999, somewhere around there  
22 TSPIRS went away?

23 A. I can't remember the exact date, but we  
24 went through several budget formulation processes  
25 through that time. To give you an example, we used

1 to get one pot of money for timber sale activities.  
2 Then we got three pots of money: NEPA analysis,  
3 then we got preparation, and we had sale  
4 administration activity. Each of those was funded  
5 separately.

6 Then they were combined -- then we  
7 got into the out-year budget formulation. This  
8 gets back to NEPA's budget formulation and  
9 execution system. We had to recreate a unit cost  
10 for each of those activities. So we were forced  
11 into taking our lumped \$101, or whatever it was at  
12 the time, and basically breaking it out into  
13 individual unit costs.

14 Q. You must have loved BFES.

15 A. I don't like the budget at all.

16 Q. I understand. I don't particularly  
17 like my budget.

18 You continued to do those  
19 calculations for the cost centers for some years  
20 after TSPIRS went away, and you made these  
21 adjustments. Can you tell me roughly how many  
22 years you continued to do that?

23 A. I probably did it every year I was in  
24 the position of a -- the forest management staff  
25 officer on the forest.

1                   Now, whether I spent a day at it  
2                   or weeks at it was all dependent on what the needs  
3                   were. If we were breaking out the lumps and  
4                   putting them into individual pieces, it was very  
5                   time-consuming. If we were just monitoring our  
6                   costs from year to year, it was a relatively simple  
7                   project.

8                   Q.           And again, you were -- you moved on  
9                   from being the staff officer to the director about  
10                  19 --

11                  A.           I have been in this job about -- well,  
12                  since September of 2003. Prior to that, I was the  
13                  director of timber management for 11 months. So  
14                  whatever that equates to.

15                  Q.           Somewhere around 3 or 4 years; is that  
16                  right?

17                  A.           Ask your question again. I'm lost.

18                  Q.           Fair enough. I'm trying to do the math  
19                  myself to figure out how many years after TSPIRS  
20                  went away you continued to try to figure out cost  
21                  centers and check those costs, and it sounds to me  
22                  as if it was somewhere around 3 or 4 years, plus or  
23                  minus one. Have I got that probably right?

24                  A.           I would say that is probably right.

25                  Q.           Okay. And the reason you stopped doing

1 it is that you moved on to a different position; is  
2 that correct, basically?

3 A. That's correct.

4 Q. When you were the staff officer and  
5 were making those calculations or doing those  
6 checks, where would you have written down the  
7 results? Would they have been in your materials  
8 for your budget proposals?

9 A. Well, at the time, we used to -- I used  
10 to hate doing budgets so much, every year it  
11 evolved into trying to make it simpler. And the  
12 simplest place to do it was on a ten-year timber  
13 sale plan.

14 Every project used to have a  
15 hidden formula on it, every number that shows up on  
16 that plan. When individual numbers were put in  
17 there and they were broken out by gate 2  
18 activities, analysis, gate 3 activities,  
19 preparation, and gate 5, offer, every time a number  
20 was put on that, it would basically generate what  
21 the budget was for the year.

22 When we got to BFES, it was pretty  
23 much calculated for us when we put in what our  
24 offer was going to be for any given year. We would  
25 make projections on offer, sale administration,

1 volume coming out of records of decisions, but the  
2 unit costs were utilized in that to basically  
3 generate the number for you.

4 Q. And when it generated the number, you  
5 would have printed that out and put it in a file  
6 with your budget justification?

7 A. The BFES records exist. Every year  
8 prior to that there is documentation that shows  
9 what our annual budget was. I would go through  
10 this process to generate my best expectation for  
11 money for out-years, and whether we got that amount  
12 of money depended on what Congress appropriated, or  
13 what the regional forester decided to give the  
14 forest.

15 But the formulas to generate my  
16 number, I doubt seriously if they were written down  
17 in any place of significance.

18 Q. Now, you said -- let me make that clear  
19 at the outset. I was just wondering, when you went  
20 through them, your principal reason -- as I  
21 understand it, the principal reasons for  
22 calculating and continuing to calculate these costs  
23 centers were, first, to use them in your budget  
24 justifications, and second, to track whether or not  
25 contract costs were in line with what you thought

1       they would have been had the work been done by  
2       Forest Service personnel? Am I right about that?  
3       I may have missed something.

4           A.       I'll say yes on the first point.

5           Q.       Okay.

6           A.       The only reason these were originally  
7       established was to do out-year budgets. The  
8       tracking of contract costs was done to basically  
9       verify that our number was okay. And then the  
10       tracking of internal versus external materialized  
11       later to determine who was more cost efficient in  
12       getting a record of decision produced. It was  
13       never a driving factor of these unit costs.

14          Q.       I understand. What I was looking for  
15       when I was asking where this stuff might have been  
16       written down was whether you retained printouts of  
17       these cost centers and anything about how you --  
18       what the numbers were that went into making them  
19       up, when you prepared your budget proposal, your  
20       budget request?

21          A.       I'm sure over time they have been  
22       written down. We have been looking for those  
23       documents, and given that I have been in several  
24       jobs since, I don't pack every file that I have had  
25       in the previous job.

1 Q. Understood. So, so far you haven't  
2 found anything, is your answer?

3 A. We have our ten-year sale plan, which I  
4 have an example of today. We have BFES printouts  
5 being looked at as we speak.

6 Q. Okay. Great.

7 A. And we have some project work plans.

8 Q. You said that the numbers were put into  
9 the ten-year plan. Can you explain that a little  
10 bit -- how they were put in there, what they were  
11 used for?

12 A. When we had the DG, we used to have  
13 some pretty archaic spreadsheets. I was never very  
14 proficient in them during the DG days. As we got  
15 into the IBM and Excel spreadsheets you could embed  
16 formulas in each of the cells. In the embedded  
17 cells you can see where these formulas, these  
18 numbers, are utilized.

19 Q. So you would work with the spreadsheet  
20 program. You plug those numbers into it, the cost  
21 center numbers, and then for each timber sale they  
22 would generate an estimate, is that right, of what  
23 you expected the costs to be in out-years?

24 A. That is correct.

25 Q. Okay.

1           A.       And we used the same number for each  
2       sale, realizing that a small sale might be less  
3       costly and a big sale more costly.  Be we used the  
4       average cost.

5           Q.       You didn't try to adjust, say, your  
6       analysis number for -- as between a sale that was  
7       going to get an EIS and one that was going to go  
8       forward on a categorical exclusion basis?

9           A.       We tried all kinds of different  
10      approaches, but we basically went back to the  
11      average.

12          Q.       Understood.  When you moved on, you had  
13      invested an awful lot in this methodology, and  
14      other people had used it around the forest.  Did  
15      you then set up the person who stepped into your  
16      job to -- that would have been a person who was  
17      reporting to you, then, when you went on to be the  
18      director.  Did you set that person up, then, to try  
19      to use the same cost centers?

20          A.       No, which caused part of the problem.

21          Q.       Is there a simple answer to why you  
22      didn't?

23          A.       Yes.  The individual that was working  
24      for me at the time had basically inherited the  
25      numbers and worked with the numbers relatively

1 consistently. When I left, he basically was  
2 working on them.

3                   The new timber staff officer  
4 didn't get involved in the budget as much as I was.  
5 He basically took my numbers, working with the same  
6 staff I had, and we moved on. When the individual  
7 that was dealing with the budget for me moved on,  
8 his replacement spent quite a bit of time with his  
9 previous -- or his predecessor to understand what  
10 that spreadsheet did and what it didn't do in these  
11 numbers. And after about two years, he finally  
12 understood the value of average numbers.

13           Q.       So the numbers continued to be used and  
14 are still used today. There just wasn't any effort  
15 to try to adjust them or verify them or to change  
16 the approach?

17           A.       The monitoring has gotten much simpler.  
18 If we ask for money in the out-years, and we run  
19 out of money during the execution year, then we go  
20 back and ask for more money and hence try to change  
21 some of those unit costs.

22                   Since I moved out of the forest  
23 management position, given all the activities going  
24 on, our numbers seem to be fairly consistent, and  
25 we haven't run out of money yet. So general

1 monitoring would be the numbers are still okay.

2 Q. And the only adjustment of those  
3 numbers would be if, for a particular project, you  
4 were midstream and needed more money, then you  
5 would take a look at why that was? You might work  
6 up -- or the timber officer might work up data  
7 about that particular sale; have I understood that  
8 right?

9 A. Today?

10 Q. Yeah. Within the last year or two,  
11 sure.

12 A. I would say we would never generally  
13 make a case for an individual project needing more  
14 money based on its unit cost. Given everything  
15 that is going on, if we run out of money, we would  
16 make a program request, meaning we need more monies  
17 to get the entire program running, versus one  
18 individual project. But I would never make a case  
19 for the unit costs on this individual project are  
20 twice what they should have been.

21 Q. If you did make such request, you'd be  
22 looking at the actual costs for an individual  
23 project; is that right? Your request would include  
24 information about what it actually cost to  
25 administer the project, or what the analysis costs

1 actually came to?

2 A. We'd do it on unit cost basis. Let me  
3 give you an example. If we had a record of  
4 decision that was supposed to be signed this year,  
5 and some outside factor like a modified record of  
6 decision on the forest plan precluded us from  
7 getting that project out, that project would sit  
8 until it would either go away or, in some other  
9 circumstances, we would include it in the next  
10 year's cycle in putting the project out.

11 But to take a look at that  
12 individual project on a need for money to get this  
13 individual project out, I doubt if we'd make a case  
14 that way.

15 Q. I'm not sure I completely understand  
16 how you would justify a request for a supplemental  
17 budget funding in that situation.

18 A. I can't think of a really good example.  
19 Say this year we got until July, and we are finding  
20 ourselves running out of money on various districts  
21 for whatever reason. We would basically make a  
22 program adjustment request to the regional office  
23 and say whatever the reason was that we ran out of  
24 money -- lack of funds to begin with, or delays  
25 with producing NEPA decisions, or lawsuits, or

1       whatever else.  And we would basically use that as  
2       the justification for going after more money.

3           Q.       In the last -- say since the year 2000,  
4       do you remember how many, roughly, times there has  
5       had to be that kind of a request for supplemental  
6       funding?

7           A.       It is generally coming from the  
8       districts to the forest supervisor's office, versus  
9       the forest supervisor's office going to the region.  
10       On a district basis, they generally occur  
11       frequently, but we move funds from one district to  
12       another.

13                    In terms of the timber sale  
14       program, in making requests regional office  
15       relating only to timber, it is rarely done.

16           Q.       When you reallocate among districts  
17       there at the forest level, is that now your  
18       responsibility as forest supervisor?

19           A.       That's correct.

20           Q.       Are you reallocating just from one  
21       timber budget to another, or are you reallocating  
22       sometimes from other budget categories than  
23       timber-related ones?

24           A.       I don't have the authority to change  
25       the color of money.  It can only move within

1 various programs.

2 Q. So it has to be one district's timber  
3 money flowing to another district for some  
4 unexpected reason --

5 A. That is correct.

6 Q. -- rather than reallocating?

7 A. Yes.

8 Q. The region can reallocate funds; is  
9 that correct?

10 A. No.

11 Q. They can't either? It has got to be --  
12 okay.

13 So you say you rarely would go to  
14 the region for additional timber dollars. Has it  
15 happened, to your memory, in the last four or five  
16 years?

17 A. I'm sure we have done that in the last  
18 four or five years. To give you an example, under  
19 our recreation funds we go almost yearly. Under  
20 subsistence funds we go almost monthly -- and I'm  
21 being facetious -- but timber dollars are generally  
22 sufficient to get us through the year.

23 Q. This is very helpful. I think that it  
24 may make it easy for me to shorten up the  
25 deposition in some ways.

1                   We have been going at this for a  
2 little while. Why don't we take a short break now  
3 and I'll see if I can't adjust what I have planned  
4 here to integrate some of the information you have  
5 given us. It will probably take me about ten  
6 minutes, and that may streamline things for us.

7                   MR. LAWRENCE: Is that agreeable?

8                   MR. LANDON: That sounds good.

9 11:09 AM

10                   (Off record)

11 11:26 AM

12                   THE REPORTER: Back on record.

13 BY MR. LAWRENCE

14           Q.       Mr. Cole, I just want to clear up a  
15 little bit. I think I understand the development  
16 of the cost center data. Your declaration says  
17 that initially you totalled the costs, the  
18 administrative costs for timber sale production, at  
19 \$70 per thousand board feet, and then later came up  
20 with the \$101 figure.

21                   Was the \$70 per thousand board  
22 feet what you used until TSPIRS went away, or was  
23 the break point some other time?

24           A.       No. Actually, when I first came up  
25 here, our unit costs were in the neighborhood of

1 the \$20 per thousand. The timber staffs at the  
2 time used to be very religious, so to speak, about  
3 not going over that number.

4 When I became timber staff, those  
5 costs went up to \$70, and over time ended up at  
6 \$101. And it was mainly due to increased costs in  
7 the program with a host of factors.

8 Q. So am I right that at some point, you  
9 adjusted -- without changing what you were looking  
10 at, you adjusted the \$70 figure up to \$101 to  
11 reflect the reality of higher costs?

12 A. That's correct. The \$70 figure -- at  
13 the end of the year, we were in trouble. We didn't  
14 have sufficient money to produce the program.

15 Q. And you were talking to the regions?

16 A. Yes.

17 Q. Do you remember about when you made  
18 that change?

19 A. No.

20 Q. I know you are looking for  
21 documentation here, and I appreciate that and  
22 understand that. I just wonder if there is  
23 anyplace that -- any documents you might look at or  
24 anyplace you might look at that would help refresh  
25 your memory about when that change was made?

1 Anybody you could talk to who might refresh your  
2 memory?

3 A. I can't think of many. Again, like I  
4 said, we changed budget systems so many times and  
5 our computer system. I seriously doubt if any  
6 documents exist. And I can't think of any court  
7 case where documents of that nature were produced  
8 to be in the record. I'm not hopeful that much  
9 documentation exists.

10 Q. Okay. If I understand the time period  
11 over which you were responsible for these numbers,  
12 or started generating them, it seems to me that  
13 that change from \$70 to \$101 must have occurred  
14 sometime during the decade of the '90s; is that  
15 correct?

16 A. That would be my recollection, yes.

17 Q. And do you recall whether that change  
18 reflected a sudden jump in costs, or whether it was  
19 just a readjustment after a gradual and steady  
20 increase in costs?

21 A. My guess would be that it was the  
22 movement from the old forest plan to the new forest  
23 plan. We had a significant number of investments  
24 in land bases of the old plan that no longer allow  
25 timber harvest. The new plan has standards and

1 guides that are more costly to implement, and we  
2 have had a number of cases where AWRTA, as an  
3 example -- where a significant investment in NEPA  
4 was done, layout was performed, and no volume ever  
5 materialized. So a combination of all those  
6 factors has increased the costs significantly.

7 Q. But after it went to \$101, it didn't  
8 drop back down again in subsequent years; it stayed  
9 up around that \$101 figure?

10 A. No.

11 Q. No? No, it didn't change  
12 significantly?

13 A. I didn't change it.

14 Q. Okay. Fair enough. When you were  
15 checking the \$101 figure both before and after you  
16 went to contract work, what is your best memory of  
17 how far away from that you came up with a total in  
18 any given year?

19 A. If I understand the question right, you  
20 are asking me how far we varied from \$41 to some  
21 other number?

22 Q. You had -- you made the change to  
23 \$101 after some circumstances like the AWRTA case  
24 and the change in TLMP. And afterwards, for  
25 several years, you checked that \$101 figure and

1 decided whether or not you wanted to change it or  
2 not. Nothing happened that made you want to change  
3 the number or the way you were calculating it, but  
4 in individual years, as I understand your  
5 testimony, it didn't always hit \$101. It was  
6 somewhere around that number.

7                   And what I'm asking you now is:  
8 How far away from \$101 would you say, to your best  
9 memory or best guess, any given year might have  
10 been in terms of the total costs associated with  
11 timber sale management?

12           A.       I don't think I ever looked at any --  
13 I'll rephrase here.

14           Q.       Can I interrupt you here? I think I  
15 just asked you a very complicated question for a  
16 very simple idea, so let me rephrase.

17                   After you changed to \$101 per  
18 thousand board feet for administrative costs, what  
19 is your best memory or best guess about how far  
20 from that number any year turned out to be when you  
21 checked for consistency?

22           A.       On individual projects, it varied from  
23 \$20 for producing NEPA to as much as \$200 for  
24 producing NEPA documents.

25           Q.       I understand. It's the whole year that

1 I'm interested in when you were trying to decide  
2 whether to change your \$101 figure.

3 A. The first year roadless was  
4 implemented, when we had spent a significant amount  
5 of money on NEPA layout and didn't offer any wood  
6 for the given year, I would say our costs were  
7 probably well above the \$101. Do I have that exact  
8 number? I don't have it.

9 Q. I understand. Your declaration talked  
10 about, quote, informal evaluations after the 1999  
11 monitoring report. Would you like to see a copy of  
12 your declaration?

13 A. I have one. Where are you reading?

14 Q. Top of page 4. I'm sorry. The bottom  
15 of page 4. It's the third and fourth lines. You  
16 say, "Informal evaluations after the 1999  
17 monitoring report have not caused us to change the  
18 use of the \$101-per-thousand-board-foot figure."

19 You spent a considerable amount of  
20 time describing your process of checking the  
21 \$101 figure and trying to decide whether to change  
22 it. Is there anything you haven't described yet  
23 that was part of that, what you refer to here as  
24 informal evaluations, or have you described to us  
25 everything that was an informal evaluation?

1           A.       I have different people doing it now.  
2       An example would be I call the planning staff and  
3       have him check the last five years' worth of NEPA  
4       contracts for the sole purpose of seeing what  
5       external NEPA is costing.

6                        I talk to the engineering staff  
7       who has been on this forest as long as I have,  
8       almost, to ask him to do calculations for  
9       engineering support and determine if any necessary  
10      changes are needed.

11                      And the costs that I keep getting  
12      back are consistent with what we have had.

13           Q.       Okay. On the next page of your  
14      declaration, and down again at the bottom, you talk  
15      about the use of these budget allocation figures,  
16      and you describe for us their use in the ten-year  
17      timber sale schedule.

18                      Can you describe the other uses  
19      you now make of those figures besides the ten-year  
20      timber sale schedule and the budget requests that  
21      you have already described?

22           A.       Are you referencing item 7 -- or  
23      paragraph 7?

24           Q.       Paragraph 7, yes.

25           A.       And we touched on some of those.

1 Q. Okay. You don't need to repeat it all.

2 A. The BFES is one. When we allocate  
3 funds to the districts, we use it there. We have  
4 budget allocation teams for various programs that  
5 utilize it for determining how much money they are  
6 going to provide a district for producing whatever  
7 output they want to. If a district is not going to  
8 do any NEPA for the year, then we discount it by  
9 \$41 a thousand.

10 I have had a number of requests  
11 from congressional staff, from the under secretary,  
12 from the chief's office, to give estimates of  
13 budgets, costs, current year, out-year, and we  
14 utilize it there.

15 And we have used it in the NEPA  
16 documents, like Woodpecker, for weighing various  
17 alternatives.

18 Q. Okay.

19 A. I can't think of too many others.

20 Q. Are there contexts in which you use a  
21 different figure than the  
22 \$101-per-thousand-board-foot figure for sale  
23 administrative costs?

24 A. Generally not. When we are talking  
25 about Tongass figures, that's what I stick to on a

1 general basis. I can't think of anyplace where I  
2 have utilized other figures.

3 Q. Just to be clear, that's what you use,  
4 and you can't recall using any other figures since  
5 you have used the \$101 figure?

6 A. I don't believe so.

7 Q. Thank you. What would you say has  
8 happened in general to the costs of analysis for  
9 timber sales --

10 A. I can answer that --

11 Q. -- since the time that you moved to  
12 \$101 per thousand board feet? I know that my own  
13 costs in just going to the grocery store have  
14 increased. I'm asking you just in general whether  
15 you see some increase in those analysis costs over  
16 time, just not enough to make you revise the  
17 figure?

18 A. That's a very difficult question to  
19 answer. If I produce a NEPA document, I expect to  
20 do it with the \$41 figure, and that's through the  
21 record of decision. If it goes to court and I have  
22 to redo that decision, I use \$41 to redo it. So to  
23 produce this one project, you could add the two  
24 together and say it costs \$82, but ultimately, the  
25 average cost over time remains \$41. It's worked

1 for several years.

2 In terms of the analysis, an EIS  
3 covers a wide range of issues, and I don't think I  
4 could legitimatize, I guess, saying that one EIS is  
5 going to cost significantly more than another. The  
6 time period by which it takes to generate a ROD is  
7 basically what determines how much it costs to  
8 produce.

9 Q. I'm going to show you a piece of  
10 Exhibit 1 that is in front of you and ask you if it  
11 is something you agree with. That relates to this  
12 question of increasing costs.

13 At the bottom of page 3-282, there  
14 is a paragraph that starts, "The cost of preparing  
15 timber sales." Would you read it over and tell me  
16 first whether you generally agree with it or not.

17 A. (Examines document). I generally agree  
18 with it.

19 Q. It talks about costs steadily rising,  
20 and it attributes those increases in part to  
21 appeals and litigation that you talked about, but  
22 also to increased costs of environmental and GIS  
23 analysis, planning, and resource support. Would  
24 you say that is accurate?

25 A. Yes, I would.

1 Q. Would you say that that trend continues  
2 today?

3 A. The costs steadily increasing?

4 Q. Yes.

5 A. For NEPA analysis? I would say yes.

6 Q. Has there been a similar trend for the  
7 costs of sale preparation, or has that been  
8 different?

9 A. Actually, at the start of the '97  
10 implementation, '97 record of decision, I would say  
11 generally the costs of layout are going up.

12 Q. And continue to go up?

13 A. We learned how to do it more  
14 efficiently, so I would say no.

15 Q. Okay. So the per-unit-of-work cost has  
16 gone up, but you have managed to reduce the total  
17 amount of work that it takes to do layout --

18 A. Yes.

19 Q. -- and other aspects -- that's true for  
20 other aspects of sale prep as well; is that right?

21 A. Yes.

22 Q. And what about sale administration?  
23 Would you say the costs of sale administration have  
24 risen steadily over the past few years, as  
25 Exhibit 1 describes the analysis costs?

1           A.       Initially -- again, initially after the  
2 record of decision for the 1997 ROD came out, I'd  
3 say our unit costs for sale admin. were  
4 significantly higher. And over time we have, I  
5 guess, learned how to do it more efficiently and  
6 understand what the plan it, where to concentrate  
7 our efforts. So I would say that our general  
8 admin. costs are generally the same.

9           Q.       Okay. What about the costs of  
10 engineering support?

11          A.       I have not heard anybody say that there  
12 has been a significant change in the costs. In  
13 fact, I would say that we have come up with a  
14 system in place today, just recently, that will  
15 probably reduce that cost center to some degree.

16          Q.       There was a period, you said, after the  
17 roadless rule was adopted when your sale  
18 preparation was disrupted?

19          A.       Correct.

20          Q.       At that time, you were continuing with  
21 preparation of sales that didn't -- that were not  
22 in roadless areas and not grandfathered by the  
23 rule; is that correct?

24          A.       That's correct.

25          Q.       For that group of sales, would the

1 engineering support costs have come down, looking  
2 at them as a group, because there was less new road  
3 construction associated with them?

4 A. If I understand your question  
5 correctly, you are asking me did the engineering  
6 support costs for the roaded, land-based sales go  
7 down?

8 Q. That's close to what I'm asking you.  
9 I'm asking you, at that time, did overall costs of  
10 engineering support drop down because you were not  
11 proceeding with so many sales as you had planned in  
12 roadless areas?

13 A. I would say generally yes.

14 Q. Okay. I have another exhibit for you.

15 (Exhibit 2 duly marked)

16 BY MR. LAWRENCE

17 Q. There are some calculations here that I  
18 don't understand. Can I see the copy that I handed  
19 you?

20 A. (Handing).

21 MR. LAWRENCE: Bruce, can I see  
22 your copy?

23 MR. LANDON: (Handing).

24 MR. LAWRENCE: We have a copying  
25 error here. You have the only full copy of this

1 document, and I want to add your last page to the  
2 exhibit over there. None of the rest of us have a  
3 copy of this.

4 11:48 AM

5 (Off record)

6 11:53 AM

7 MR. LAWRENCE: Let's go back on  
8 record. We'll come back to this exhibit later.  
9 This is a little bit out of order, but we can deal  
10 with some other stuff here and not lose the time.

11 BY MR. LAWRENCE

12 Q. Mr. Cole, going back to your  
13 declaration, in the middle of page 6 you talk about  
14 how, under normal conditions, costs incurred in one  
15 year but not yet harvested might equal the costs  
16 previously incurred for volume that is being logged  
17 in this year. And then you say that past several  
18 years on the Tongass have been far from normal.  
19 And you recited -- just today in your deposition  
20 testimony you recited some of those factors that  
21 kept those recent years from being normal.

22 What I'm interested in is, in this  
23 way, in the sense that you are talking about normal  
24 years here where costs and volume kind of balanced  
25 out, even though they didn't necessarily come from

1 the same year, how far back would you have to go to  
2 find what you think of as a normal year? When did  
3 we last have a normal year in the Tongass in that  
4 way, in that meaning?

5 A. Well, it has been some time. Prior to  
6 '93 would probably be where I would start looking.

7 Q. Prior to '93?

8 A. Yes.

9 Q. Okay. And there was some jump -- well,  
10 prior to '93? That's fine. Thank you.

11 So we'd have to go back to a time  
12 when both of the long-term contracts were in effect  
13 and being implemented; is that correct?

14 A. That's correct. In fact, after  
15 thinking about this, probably prior to '91. 1991  
16 was when the first draft EIS came out for the  
17 forest plan. The expectation was to have a record  
18 of decision by 1992. The Tongass Timber Reform Act  
19 came out in early 1991. That set a whole lot of  
20 things in motion.

21 Q. So you have to go back before TTRA?

22 A. For a normal year.

23 Q. To define a normal year in that sense?

24 Here, you might want to clip that  
25 page on to make it complete. We'll come back to

1 this later. I just didn't want people to start  
2 losing sheets (indicating Exhibit 2).

3 From that time, 1991 to the  
4 present, how would you characterize the general  
5 trend in volume logged on the Tongass?

6 A. The general trend I would say has been  
7 down since '91.

8 Q. If we go back as far as the early  
9 1970s, what would you say the general trend has  
10 been?

11 A. 1970s to the present?

12 Q. No, let's pick -- let's say 1973 to the  
13 present.

14 A. The trend of timber harvest?

15 Q. Yes.

16 A. Down significantly.

17 Q. And what would you say about the demand  
18 for Tongass timber over that period of time? Has  
19 that been down, steady?

20 A. The 50-year contracts are gone that  
21 amounted to approximately 300 million board feet a  
22 year of demand, if you want to put that in that  
23 context. The transition since the long-term  
24 contracts have gone away has been difficult for the  
25 industry because of a lot of the components of that

1 industry are no longer around, and they are  
2 basically rebuilding them.

3 So demand has, just by loss of the  
4 long-term contracts, gone down. The rebuilding of  
5 the industry is continuing, so, overall, in terms  
6 of your question, demand is down over time.

7 Q. Okay. What would you say about the  
8 trend in demand just over the last -- the time  
9 since the last contract was canceled, or let's say  
10 over the last half-dozen years?

11 A. The last half-dozen years? That would  
12 put us out of the long-term contracts in their  
13 entirety. KPC was still operating, but that was  
14 through the settlement. So we essentially have the  
15 independent mills left. They had a substantial  
16 amount of volume under contract when the long-term  
17 contracts went away. We developed a new demand  
18 analysis that basically settled on around  
19 150 million board feet, and we have been living  
20 through that transition.

21 Q. How would you characterize the world  
22 market for softwood over that period of time, the  
23 last five or six years?

24 A. World demand?

25 Q. Yes.

1           A.       I would generally say we have not  
2 diminished any demands, consumer demands, for wood  
3 products overall.

4           Q.       What about the price that softwood  
5 brings in the world market over that period of  
6 time?

7           A.       I have no idea. Well, let me rephrase  
8 that. I have some idea. I follow the stock  
9 market, and I follow softwood prices, but I don't  
10 know what that is on a day-to-day basis.

11          Q.       And no particular trend that you are  
12 aware of in the last half dozen years?

13          A.       It depends --

14          Q.       Let me withdraw that because I'm not  
15 trying to trick you into anything here.

16                    I'm looking at a document that  
17 talks about a decline in -- this is a Tongass  
18 National Forest document -- it's actually signed by  
19 the Associate Chief -- and it talks about a decline  
20 in prices for softwood over several years between  
21 about 1999 and 2002.

22                    And I wanted to know whether that  
23 was your impression as well, but if you are -- if  
24 this is outside your area of expertise, if you  
25 really don't know, that's fine. We don't need to

1 pursue this at all.

2 A. When interest rates are up, demand is  
3 low for new housing starts in the U.S. When  
4 interest rates were down, there was quite a demand  
5 to where the U.S. wasn't producing it, so they were  
6 going outside the U.S. to get it. I guess I'm  
7 not -- I don't know what document you are looking  
8 at, but I would say that world demand for timber  
9 products is still high.

10 Q. Well, let's give you the document to  
11 look at, but please don't hesitate to say "I just  
12 don't know about this." I mean, that's  
13 understandable. This is not something I can  
14 address out of my own knowledge.

15 MR. LAWRENCE: Let's mark this  
16 Exhibit 3.

17 (Exhibit 3 duly marked)

18 BY MR. LAWRENCE

19 Q. So, don't try to read the whole thing.  
20 It is very small type. Just go to the second page  
21 there, 51166, and look at the last column. The  
22 last full paragraph starts, "Periodically, lumber  
23 markets may experience severe declines."

24 A. (Examines document).

25 Q. So what I'm interested in first is

1       whether you have an opinion about the accuracy of  
2       this statement, that since 1999, price indices for  
3       softwood have declined approximately 25 to 30  
4       percent.

5                       MR. LANDON:  Can I interrupt you  
6       for a moment?  I'm just wondering -- the judge has  
7       authorized limited discovery on the subject matter  
8       of his declaration.  I'm not seeing the  
9       relationship here.  So I'm going to object unless  
10      you can tell me how -- what the relationship is to  
11      the declaration.

12                      MR. LAWRENCE:  It's fine if you  
13      want an objection noted on the record.  That's okay  
14      with me.  But I'm going to ask him to answer it  
15      anyway, if he can, within his own competence.  And  
16      again, I want to be very clear that I'm not  
17      asking --

18                      MR. LANDON:  I'm going to instruct  
19      him not to answer if you can't give me a reason why  
20      this is within the scope of the limited discovery  
21      that you asked for in this case.

22                      Because the normal rule is that  
23      you don't get discovery in an APA case, and the  
24      judge said you could have discovery on the subject  
25      matter of his declaration.  But this is outside the

1 scope of the declaration, and I don't see any  
2 relationship to the subject matter of his  
3 declaration.

4 MR. LAWRENCE: Bruce, if this is  
5 irrelevant, you will get a chance to tell the judge  
6 that. If I'm being burdensome by going  
7 significantly outside the scope of the judge's  
8 order, then you can ask for a protective order.

9 But if you are not doing either of  
10 those things, then I would just like him to answer  
11 within his competence. And your objection is  
12 noted. I'm not -- I'm trying to multiply the  
13 proceedings here.

14 MR. LANDON: And do you have any  
15 explanation as to how this is related to the  
16 subject matter of the proceedings? Because I will  
17 direct him not to answer if that is the case.

18 MR. LAWRENCE: I think the  
19 relationship is pretty plain, where we are taking a  
20 look at costs and how that relates to volume, and  
21 trends in demand, and statements that he's made  
22 about what are normal and abnormal years, given a  
23 set of factors like market demand that affect how  
24 much volume the forest produces.

25 MR. LANDON: So that the

1 relationship is that if timber harvest is down,  
2 that there is a demand factor?

3 MR. LAWRENCE: I have told you  
4 what I'm going to tell you about this. Do you want  
5 to take some time to think about this? I'm not  
6 trying to hide the ball here, but I'm also not  
7 going to lay out a legal theory for you in the  
8 course of this deposition.

9 MR. LANDON: Well, before we  
10 take -- it sounded to me like Forrest doesn't have  
11 expertise in this area, and we might as well not  
12 get into a fight if he doesn't have the expertise.

13 THE WITNESS: Do you want my  
14 opinion on this paragraph?

15 MR. LAWRENCE: Do you want to take  
16 a minute to talk? We'll take a break here while  
17 you discuss it.

18 12:07 PM

19 (Off record)

20 12:11 PM

21 MR. LANDON: I'm going to reserve  
22 my objection as to scope and relevancy. Mr. Cole  
23 will answer the question.

24 MR. LAWRENCE: Thank you,  
25 Mr. Landon.

1           A.       I need to rehear the question.

2                       MR. LAWRENCE: Do you want to read  
3 it back?

4                       THE REPORTER: "Question: So what  
5 I'm interested in first is whether you have an  
6 opinion about the accuracy of this statement, that  
7 since 1999, price indices for softwood have  
8 declined approximately 25 to 30 percent."

9           A.       Based on this paragraph that you have  
10 given me, I would say that it doesn't really have a  
11 basis for making a determination whether prices are  
12 up or down. This paragraph is based on a western  
13 wood -- Western softwood price indices that is  
14 maintained at the national level. The Alaska  
15 prices don't go into that. So their determination  
16 on Western is generally a feel that if the Western  
17 wood prices are down, Alaska prices may be down.

18                       Secondly, their comment about loss  
19 of jobs is premised on the fact that the pulp mills  
20 closed from '93 to '97 and not so much on Western  
21 softwood prices.

22                       And lastly, what they are  
23 describing here is the department's commitment to  
24 facilitate rejuvenation, so to speak, of the  
25 industry in Southeast.

1 All that said, regardless what  
2 happens to prices -- up, down, stabilization -- the  
3 price of wood on a monthly, annual, even a farther  
4 basis really didn't have any effect on what my unit  
5 costs on production of timber sales is.

6 Q. Okay.

7 A. Our timber sales are not connected.

8 Q. I don't want us to get distracted by  
9 this, so I don't want to belabor this. I just want  
10 to make sure I understand your response.

11 I asked you whether you agreed  
12 with the statement about softwood lumber prices  
13 generally declining, and your answer, as I  
14 understood it, was that whether correct or  
15 incorrect, that is not really relevant to prices or  
16 demand for the Tongass timber, and it is not really  
17 relevant to your calculation of what administrative  
18 costs are. Have I correctly understood you?

19 A. That's correct. If I understand this  
20 right, this was published in August of 2002. They  
21 very well could have been going down during that  
22 period. The information that we get through cost  
23 collection shows prices are stable or even  
24 increasing as early as last month.

25 Q. Thank you. Getting back to this

1 question of what is an abnormal year, did the  
2 changes in TLUMP in 1999, the revision of the TLUMP  
3 ROD, result in projects being dropped or  
4 significantly reworked?

5 A. Yes, on both.

6 Q. Can you remember the names of  
7 individual projects which were either dropped or  
8 significantly reworked?

9 A. I can't remember all of them, but I can  
10 give you examples of both.

11 Q. Examples would be great. Thank you.

12 A. Under the '79 forest plan, the Port  
13 Hooten/Cape Fanshaw area north of Petersburg was in  
14 the timber base. Under the 1997 forest plan, they  
15 were still in the timber base, with additional work  
16 needing to be done for standards and guides that  
17 didn't exist until the old forest plan. Under the  
18 '99 forest plan, half of the area that was being  
19 addressed or analyzed for the timber sale was no  
20 longer in the timber base.

21 The effect of that was relocation  
22 of the primary access road into the timber sale,  
23 reacquisition of permits for log transfer  
24 facilities, new biological opinions, and a host of  
25 others, not to mention the 1999 ROD also had new

1 standards and guides above and beyond what was in  
2 the '97 ROD, which also had to be addressed.

3 Another example would be the  
4 Douglas timber sale -- I believe it was called  
5 Douglas -- on the south end of Kupreanof Island.  
6 That sale had a substantial amount of work being  
7 conducted on it in the NEPA stage. Under the '79  
8 and '97 ROD, that entire area was taken out of the  
9 timber base shortly before a draft EIS was to be  
10 published.

11 In terms of projects that were  
12 modified, when the '99 record of decision came out,  
13 I believe it set criteria on what could go forward  
14 and what could not go forward without modification.  
15 The 200-year rotation requirement, and I believe a  
16 couple others, required us to go back and redo work  
17 that had already been previously done in NEPA  
18 documents that had records of decisions but were  
19 not offered yet.

20 Q. And what has happened subsequently to  
21 those projects, the Port Hooten/Cape Fanshaw  
22 project and the Douglas project?

23 A. Shortly at the 1999 ROD came out we  
24 were into roadless. Both of those projects  
25 basically got put on the shelf. When the roadless

1 was off, we had the court case for wilderness  
2 analysis, and both of those projects were again set  
3 on the shelf while we did wilderness analysis on  
4 the forest plan.

5                   And we were back into roadless for  
6 a short period of time. Now we are currently out  
7 of roadless. The Douglas timber sale is still  
8 sitting on the shelf with no further analysis. The  
9 Port Hooten/Cape Fanshaw sale is currently being  
10 looked at by the district whether to reinitiate  
11 activities on the projects.

12           Q.       The analysis that was done previously  
13 for it has not been subsequently been used, and  
14 there is no decision to go forward with it at this  
15 point?

16           A.       No.

17           Q.       After the '99 ROD was adopted and  
18 before it was struck down in court, as you have  
19 mentioned, the roadless rule was adopted. There  
20 was a transition rule for the roadless rule that  
21 allowed some of your roadless projects to go  
22 forward and some not to go forward.

23                   Other than the sales you have just  
24 mentioned that were affected by the '99 ROD, do you  
25 remember other sales which had had substantial work

1 done on them that were stopped by the roadless rule  
2 in 2001?

3 A. Any document we didn't have a decision  
4 on -- which I don't have all the names -- but any  
5 document we had no decision on were essentially  
6 stopped. And at the point in time when roadless  
7 came out, I believe 80 percent is a number that  
8 sticks in my mind of the NEPA documents that we  
9 were currently working on that were affected by the  
10 roadless decision.

11 So we went from a relatively large  
12 number of projects, whether they be in-house or on  
13 contract, and essentially had to make a  
14 determination whether to continue to pursue them or  
15 terminate them. And a number of them were  
16 terminated, and we essentially had to buy out  
17 contracts before they completed their projects.

18 Q. These would have been sale preparation  
19 or analysis contracts that you were buying out?

20 A. That's correct.

21 Q. Okay. I understand. Do you remember  
22 the grandfather clause in the roadless rule? Do  
23 you remember what it allowed you to go forward with  
24 and what it didn't allow you to go forward with?

25 A. I cannot quote it, but at the time we

1 had all the sales mapped out on what could go  
2 forward and whatnot.

3 Q. Do you remember, in very general terms,  
4 how much volume that you had in analysis was  
5 grandfathered in under the roadless rule and  
6 allowed to proceed?

7 A. No, I don't.

8 Q. Your declaration talks about  
9 administrative appeal delays in recent years. How  
10 long would you say a normal administrative appeal  
11 delays a project?

12 A. Depending on the time of year, it could  
13 be as short as 45 to 60 days. Depending on the  
14 time of year, if it had happens late in the season,  
15 it could be all winter and most of the spring until  
16 crews can get back out on the ground.

17 Q. Depending on the time of year, are  
18 there some appeals that don't delay the time it  
19 takes for crews to get on the ground because the  
20 appeal takes place outside the operating season?

21 A. Generally speaking, if we have an  
22 appeal, we can't implement the decision until after  
23 the decision is decided on appeal, and we  
24 consciously take a look at what projects are taking  
25 place and make a conscious decision whether to put

1 people on the ground pending appeal.

2 So sometimes the appeal will halt  
3 all activities on the ground. Other times it  
4 doesn't, depending on what activities are going to  
5 take place. So there is no one set answer to your  
6 question.

7 Q. It might or might not delay, or does it  
8 always delay but the time varies sometimes?

9 A. We don't implement the decision until  
10 the appeal is decided, so all the time it delays.

11 Q. If a sale was offered in October, when  
12 would you expect on-the-ground operations to  
13 commence, assuming that it was in fact bought?

14 A. Again, don't take this flippantly, but  
15 it depends on where the sale is. If it's on the  
16 south end of the forest, and there is a high demand  
17 for wood coming out of that sale -- and I can give  
18 you an example. If we have an open winter that  
19 project will be operated immediately.

20 If it's on the north end of the  
21 forest, generally in a spot where there is a lot of  
22 snow, it won't be operated until the snow melts.  
23 The operator will make a conscious decision, "Do I  
24 mobilize and freeze all my equipment in to where I  
25 can't get other options, or do I go ahead and just

1 stay out of it?"

2 So it's very geographically  
3 dependent.

4 Q. What is the longest you can remember in  
5 the last six years an operator delaying onset of  
6 operations after being identified as the successful  
7 high bidder for a timber sale?

8 A. In the last six years? I probably  
9 couldn't tell you in the last six years, but  
10 generally in the last two years we have had so few  
11 projects that are viable that almost without  
12 exception every sale is operated as soon as it's  
13 awarded. We have had some that were awarded during  
14 the wintertime when it was physically impossible.

15 In the last six years I would say  
16 that there are some. I don't have names, so it  
17 would be only speculation on my part. I don't  
18 know.

19 Q. Are there timber sales that are  
20 sometimes purchased but never operated?

21 A. There are probably some accounts of  
22 that, yes.

23 Q. Do you remember names of particular  
24 sales that have --

25 A. Orion North comes to mind. It was

1 purchased, awarded, litigated, depending on the  
2 decision of the Ninth Circuit, or soon it could --  
3 it has the potential of never being operated. A  
4 portion of the Fusion timber sale also in roadless.  
5 We worked out a settlement, took the north portion  
6 out of Fusion. It has potential never to the  
7 operated.

8 Q. Are there sales that are sometimes  
9 purchased but never operated at the purchaser's  
10 election rather than as a result of some court  
11 action?

12 A. We have a project that was purchased  
13 off the shelf when there was no other wood options  
14 available, Canal Hoya. That was purchased under a  
15 questionable market situation, meaning there  
16 weren't many other options. The expectation was  
17 that if the purchaser logged it, they would  
18 immediately spend more money logging it than the  
19 output. It was involved in roadless. It was  
20 involved in the '99 decision. It has been involved  
21 in the wilderness decision, analysis decision.  
22 Over time the purchaser found other opportunities,  
23 and we terminated the sale. So it was never  
24 operated.

25 Q. Are there other sales like that that

1 you can think of where there was -- where the  
2 operator elected not to go forward with the sale?

3 A. Generally it comes at a consequence,  
4 and the purchasers are generally pretty good about  
5 not purchasing a sale with the intention of not  
6 operating. There are other projects out there  
7 since I have been on the forest that have gone  
8 through that process with individual purchasers,  
9 but they are not generally the -- they are not the  
10 norm.

11 Q. Any idea what the longest time is that  
12 a timber sale has been halted by injunction over  
13 the last eight or nine years?

14 A. I couldn't venture a guess.

15 Q. Does any sale come to mind that was  
16 halted for a substantial period of time -- more  
17 than a year, say -- as a result of injunction?

18 A. Again, Orion North. Because of the  
19 injunction we ultimately terminated the sale, or  
20 are in process depending on what happens next.  
21 Generally if they sit on -- if litigation stops a  
22 sale, and a purchaser has funds associated with  
23 that sale, the public becomes liable. We generally  
24 try to get out of that liability and either  
25 terminate it by mutual agreement or other

1 mechanisms. So I don't have any idea.

2 MR. LAWRENCE: This might be a  
3 good place to take a break. I don't know whether  
4 you guys agree. I had some hope of actually  
5 wrapping up before lunch, but I know I have more  
6 than a half hour to go.

7 THE WITNESS: I would prefer to  
8 stay if we can get done because I'm trying to catch  
9 a plane here today.

10 MR. LAWRENCE: Which plane?

11 THE WITNESS: Well, I have been on  
12 a plane every day since last Tuesday.

13 MR. LAWRENCE: You are not sure  
14 which plane.

15 MR. LANDON: If you need a break  
16 to consult, that's fine, but I think, if possible,  
17 maybe if we can get done before lunch, that would  
18 be fine.

19 MR. LAWRENCE: Well, let's keep  
20 going. I'm not optimistic, but let's keep going  
21 for a little bit and see how far we get.

22 BY MR. LAWRENCE

23 Q. Let's go back to this Exhibit 2.  
24 That's this Woodpecker timber harvest position  
25 statement. At the end the last two pages are

1 Appendix B. Appendix B shows a financial  
2 efficiency analysis for two different sets of  
3 options to consider. In the position statement,  
4 one of them is option 1 -- the analysis is for  
5 options 1 and options 2. That's the first page of  
6 Appendix B, and the second is for option 3 and  
7 option 4.

8                   Would you take a minute to look at  
9 those? And if you want to get clarity on what they  
10 are talking about under options 1, 2, 3, and 4, I  
11 think those are described earlier in the document.  
12 The last page -- no, the second page of text in  
13 Appendix A describes the differences in logging  
14 estimates used in the four different options.

15           A.       (Examines document).

16           Q.       Let's go back to Appendix B. The first  
17 page includes under "Discounted Financial Costs"  
18 these familiar numbers for cost centers that you  
19 originally laid out for us as the numbers you  
20 derived, first on the Stikine and then for the  
21 whole forest. That's for options 1 and 2.

22                   On the next page, for options 3  
23 and 4, there are different numbers used. Can you  
24 walk us through how those different numbers would  
25 have been derived?

1           A.       No, I can't.

2           Q.       In your experience, is it unusual for a  
3 timber sale position statement to have different  
4 numbers for different options for those cost  
5 centers?

6           A.       No.

7           Q.       Have you prepared this sort of analysis  
8 when you were staff officer or the director for  
9 timber? Have you prepared this kind of analysis  
10 that showed different values for the cost centers  
11 for different options in a position statement for a  
12 future timber sale?

13          A.       When I used to prepare position  
14 statements, we didn't do a financial efficiency in  
15 a position statement.

16          Q.       At all? Okay. Do you know who would  
17 have prepared these?

18          A.       Uh-huh.

19          Q.       Who would that be?

20          A.       Cynthia Sever.

21          Q.       The first name on the cover?

22          A.       The one that says "prepared by."

23          Q.       Do you know why she would have prepared  
24 separate numbers for cost centers under options 3  
25 and 4?

1           A.       I can tell you that I had a phone call  
2 with Cynthia over all the numbers out there about  
3 what it costs to produce timber. And after that  
4 discussion, the \$41, \$23, \$9 -- those figures were  
5 utilized. Where she came up with the other  
6 numbers, I have no idea.

7           Q.       Okay. Again, we are jumping around  
8 here a little bit because of the problem with this  
9 exhibit. But just to wrap up a loose end here, can  
10 you name projects -- after the Tongass Forest went  
11 to some contract work for sale analysis and  
12 engineering support and so forth, can you name some  
13 individual projects that would have checked for  
14 their consistency with the  
15 \$101-per-thousand-board-foot figure?

16          A.       The first one that comes to mind is  
17 Polk Inlet. I believe South Lindenberg was one.  
18 Other names don't come to mind. We had a lot of  
19 options, but I can't think of any specific ones.

20          Q.       Where you yourself checked?

21          A.       Right.

22          Q.       Can you think of any such sales that  
23 anybody else checked for consistency? When I say  
24 "such sales," I mean sales where there was contract  
25 work done.

1           A.       I can't think of anybody else that  
2 would have been checking at that time.

3           Q.       Okay.

4           A.       And why I'm not coming up with more  
5 names is because I can't remember all the ones that  
6 were either contracted or done in house. We do  
7 maintain that information, and I can go back to it  
8 and tell you specifically which ones I did and  
9 didn't do. But sitting here, I don't recall.

10          Q.       Okay. So somewhere you have some  
11 records that will show which sales you checked for  
12 consistency after you went to the contract system?

13          A.       I may, but I would -- none come to  
14 mind.

15          Q.       You are not sure?

16          A.       Right.

17          Q.       Okay. Well, if you have them, will  
18 those documents turn up in the ongoing check that  
19 you are doing for the document production?

20          A.       I don't exactly know what all has been  
21 requested in the document production. I know there  
22 are folks working on it. If it's specified and  
23 those documents exist, they'll be produced.

24          Q.       I think I'll call a break for lunch,  
25 but I'll try to make it quick. We won't get

1 through this in the next 25 -- 20, 25 minutes.

2 A. I have a question. What is the  
3 possibility of being done before 4:00?

4 Q. Very good.

5 A. Before 3:00?

6 Q. Pretty good. Let's shoot for that.

7 12:39 PM

8 (Off record)

9 1:20 PM

10 MR. LAWRENCE: Welcome back. I  
11 have got something else to mark as Exhibit 4.

12 (Exhibit 4 duly marked)

13 BY MR. LAWRENCE

14 Q. Mr. Cole, can you take a look at the  
15 document that Ms. Barker just marked Exhibit 4?  
16 Looking at the second page, which is a chart  
17 entitled "Tongass Total Volume, Offer, Sold and  
18 Harvest," I want to know whether this looks  
19 generally accurate to you. I'm not asking you to  
20 vouch for any particular year.

21 A. (Examines document). Was this document  
22 attached to this document?

23 Q. Yes. Uh-huh.

24 A. I would say, generally speaking, it  
25 looks correct to me.

1 Q. Thank you.

2 MR. LAWRENCE: And I'm going to  
3 give you a document to mark as Exhibit 5.

4 (Exhibit 5 duly marked)

5 BY MR. LAWRENCE

6 Q. And I'm going to ask you to look on  
7 each page at the figures for sold and cut for saw  
8 timber and pulpwood and ask you the same question,  
9 which is: Do they seem generally accurate?

10 A. Well, considering this document is four  
11 years old, I have no way to tell if this is a draft  
12 or if this is a final or what. So I don't know how  
13 to answer your question.

14 Q. Well, I can tell you the source of the  
15 document, but you don't have any way to check it.  
16 Again, I'm not asking you to vouch for this, but if  
17 you just take a look at the totals for saw timber  
18 and pump wood, do they generally match your memory  
19 of the cut and sold lines over the four years  
20 fiscal '01 to fiscal '04?

21 A. This is supposed to --

22 Q. Each sheet is a separate fiscal year.  
23 The upper right-hand corner identifies each sheet:  
24 Fiscal '01, fiscal '02, fiscal '03, and '04.

25 A. So is this the year-end summary?

1           Q.       Yes. I can ask the question a  
2 different way if it might help you. I don't want  
3 us to get hung up on this at all. If you found  
4 these documents on the Region 10 Web site totals  
5 for cut and sold reports for those fiscal years,  
6 would you expect them to be accurate?

7           A.       Yes.

8           Q.       Thank you. Going back to your  
9 testimony this morning, I want to make sure that I  
10 am correct, that when you produced that \$101 figure  
11 for administrative costs per thousand board feet,  
12 that in any given year there were some sales or  
13 some parts of sales whose numbers were not included  
14 in that total. You made a case-by-case judgment in  
15 some cases to exclude some of those costs?

16          A.       Your question is did I exclude some?

17          Q.       Yes.

18          A.       Yes.

19          Q.       Okay. I just want to make sure we got  
20 that straight. Great. We are getting closer and  
21 closer to your plane. That saved a bunch of time.

22                   I want to return to Exhibit No. 1,  
23 page 3-505, which is the next-to-the-last page in  
24 that exhibit. It lists a series of what are  
25 described as timber management activities. There

1 are six of them. Starting with the first one and  
2 working down through each category one at a time,  
3 would you look at what is described here and point  
4 out items that would not have been included or  
5 would not have been completely included in the cost  
6 items that you looked at in developing your cost  
7 series.

8 A. Well, given what year I may have been  
9 looking at it, some of those could have been  
10 incorporated. Some may not have been. Generally  
11 speaking, forest level planning is not incorporated  
12 into timber funds. Inventory and monitoring at the  
13 forest level is not included. Road maintenance at  
14 times is not included. It depends on what the  
15 project is. Timber sales management includes  
16 silvicultural examinations, and in some cases that  
17 is true, an example being, depending on what the  
18 eventual end product of that project is,  
19 silvicultural exams may be charged against the  
20 timber sale. In other cases where it's not related  
21 to a timber sale, we still do silvicultural exams.

22 Sale preparation includes resource  
23 support -- that is included in harvest  
24 administration.

25 Q. I'm sorry. I just didn't hear you.

1           A.       Sale preparation, including resource  
2 support and harvest administration, is included.

3           Q.       Right.

4           A.       Some of our harvest administration,  
5 though, also includes special forest products and  
6 free use. It is not a great deal of money, but at  
7 times that is dropped out. Forest vegetation  
8 management -- is there a question?

9           Q.       Yes. No, I'm --

10          A.       Sorry.

11          Q.       I want to know about that.

12          A.       Forest vegetation management, timber  
13 stand improvement is not included in timber sale.  
14 The genetic resources program is not included. The  
15 nursery program is not included.

16                   GA, general administration --  
17 depending on what year it was either included or  
18 not. Generally speaking, I don't include it to  
19 come up with a bottom-line figure, but realizing  
20 that timber management does pay for utilities and  
21 lights and rent, we have included it. And I  
22 believe in the \$101 figure it is included.

23                   Timber road construction -- it  
24 depends, again, on what the output is. If it's a  
25 timber sale, timber road construction is included.

1 If it's recreation or some other need, it is not  
2 included.

3 Q. As I understand it, it seems to be --  
4 this item, timber road construction, seems to be  
5 limited to what it describes as roads for timber  
6 sale -- contracts for timber sale road building,  
7 so --

8 A. True.

9 Q. So it looks to me as though it's all  
10 timber sale related?

11 A. I looked over the timber and just saw  
12 road construction. If it's related to timber  
13 sales, yes, it is included.

14 Q. So what about the costs up in ecosystem  
15 planning, the first item, the costs of appeals and  
16 litigation?

17 A. If it's related to the forest plan, I  
18 didn't include it. If it's related to individual  
19 project appeals and litigation, I did. There have  
20 been years when we've been able to break it out.  
21 Other years we haven't been able to.

22 Q. So for some years this must have meant  
23 going -- did this mean in some years going back and  
24 revising the figures when litigation costs came  
25 around after the year in question?

1           A.       When I initially set up these figures,  
2       I spent a couple of years doing very intensive, I  
3       guess, analysis and making the decisions whether to  
4       include some cost centers and not others.  Once  
5       those numbers were established, I spent less time  
6       looking at every detail that went into the  
7       originals.  My interest was, generally, is the  
8       \$101 figure sufficient enough to cover our program?

9                        So in later years as our budget  
10      process changed, or method of accounting changed, I  
11      spent less and less time going into the exact  
12      details.

13          Q.        Okay.  Sticking with that first item,  
14      ecosystem planning inventory and monitoring, you  
15      say that planning, inventory, monitoring, and  
16      evaluation connected with the forest planning  
17      effort you did not include.  You did not allocate  
18      any of those costs to the timber sale program; is  
19      that right?

20          A.        Not if it was associated with the  
21      forest plan, correct.

22          Q.        But the forest plan -- having a forest  
23      plan is a requirement of having a timber sale  
24      program; is that right?

25          A.        That's correct.  The forest plan

1 doesn't produce any outputs, though.

2 Q. But a sale like the Woodpecker sale  
3 couldn't have been planned or go forward under  
4 current legal requirements without a valid forest  
5 plan; is that correct?

6 A. That's correct. The forest plan didn't  
7 require Woodpecker to occur, though.

8 Q. Understood. I was asking the reverse  
9 question.

10 Did you consider allocating some  
11 of those costs in the timber sale program because  
12 the forest planning process is essential for the  
13 timber sale program?

14 A. No, I didn't.

15 Q. Do you have any idea how forest plan  
16 costs -- including planning, assessment of  
17 resources, inventory, monitoring, the evaluation  
18 mentioned here -- how those compare to analysis  
19 costs for timber sales as a percentage of the  
20 forest's costs over a ten-year or 15-year planning  
21 cycle?

22 A. No, but that's a good question.  
23 Generally speaking, we are doing one plan every 15  
24 years, roughly. In terms of the '97 forest plan,  
25 where it took us 13 years to produce it and we only

1 produced one plan, I would say the unit costs were  
2 pretty high.

3 Q. I understand. Would you say that over  
4 that 13-year period, the Forest Service probably  
5 spent more on those aspects of forest planning than  
6 it did on similar aspects of the entire analysis  
7 process for timber sales, or --

8 A. No.

9 Q. You would say that the timber sale  
10 costs exceeded the forest plan costs?

11 A. There is one EIS in a forest plan, and  
12 I have a pretty good idea how much that costs. We  
13 do as many as 10 to 15 individual EISs a year in  
14 the timber sale program.

15 So if you are asking me if one  
16 year's timber management funds exceeded the forest  
17 plan, no. But in 13 years, do the forest plan  
18 numbers exceed the timber sale preparation costs,  
19 the answer is no.

20 Q. Over that entire 13-year planning  
21 horizon for the revised TLMP, would it be your  
22 guess that the timber sale analysis costs were five  
23 times as great as the total for the forest planning  
24 effort, or ten times as great, or 15 times as  
25 great?

1           A.       I have no idea.

2           Q.       No way of knowing --

3           A.       We can figure it out.

4           Q.       -- without looking at documents you  
5 don't have?

6           A.       Right.

7           Q.       Would it be safe to say that the total  
8 for timber sale analysis during that time was three  
9 times as great as --

10          A.       I don't know.

11          Q.       Fair enough. You say road maintenance  
12 costs were not included in the cost center at all,  
13 or were some of them included in the cost center  
14 for timber sales?

15          A.       Some were.

16          Q.       Some were? What kinds of road  
17 maintenance costs would be included in the cost  
18 center?

19          A.       If we put out a timber sale contract  
20 that had prehaul maintenance to be done by another  
21 party, meaning the roads had to be maintained prior  
22 to the timber sale going forward, and if we  
23 third-partied that work, that cost would be part of  
24 the timber sale program. If we expected that road  
25 maintenance to be done under the timber sale, there

1 is no way to ascertain how much it costs.

2 Q. Would that have been a cost to the  
3 Forest Service if it was done under the timber  
4 sale?

5 A. It wouldn't show up in our  
6 expenditures, no.

7 Q. So the road maintenance that the Forest  
8 Service is paying for is third-party maintenance?

9 A. We have no maintenance equipment for  
10 roads.

11 Q. Right.

12 A. We have small internal crews that do  
13 brushing and things like that.

14 Q. Sure.

15 A. Generally speaking, road maintenance is  
16 all done via contract.

17 Q. And the costs for road maintenance that  
18 would have turned up in your \$101 figure somewhere  
19 would have been those that were for third-party  
20 pre-haul maintenance. If there were any other  
21 maintenance costs associated with those roads,  
22 those would not have shown up; is that correct?

23 A. That's correct. I believe we completed  
24 about 1,800 miles of road maintenance that year.  
25 Not all of that 1,800 miles shows up in a timber

1 cost center.

2 Q. Would half of that have been pre-haul  
3 maintenance?

4 A. I don't know.

5 Q. You don't know?

6 A. I doubt it.

7 Q. Where would we look to find that out?

8 A. Well, you can go on FEDBIZOPS, and it's  
9 a relatively new program, and it displays all of  
10 our external contracts by name, by synopsis or  
11 whatever, and by eventual -- who was awarded the  
12 contract and how much they were paid. That's a  
13 relatively new program. It's probably the only  
14 place today you can go and find a summary of all of  
15 the contracts outside.

16 In previous years it would be  
17 basically going through all the files and making a  
18 determination on which are pre-haul, associated  
19 with timber sales, and which are not.

20 Q. This is available on line?

21 A. Yes.

22 Q. And it will show which are pre-haul  
23 maintenance and which are not?

24 A. It should describe them.

25 Q. It should include that information?

1       Okay.

2           A.       Now, do they all describe them in that  
3       manner? I would not know.

4           Q.       You are not vouching for the accuracy  
5       of any data in this; I'm sure of that. But other  
6       maintenance, even if it was maintenance of roads  
7       whose sole or primary purpose was as timber roads,  
8       would not have been included in your \$101 figure?

9           A.       Most of the roads on the Tongass were  
10       built for federal access or timber access reasons.  
11       If a sale is not in the immediate future, and the  
12       public is utilizing those roads because we kept  
13       them open, we use other funding sources to pay for  
14       the maintenance.

15          Q.       Do you sometimes have maintenance or  
16       repair that is performed at the end of a timber  
17       sale on these roads for purposes other than making  
18       them suitable for general public use?

19          A.       The pre-haul maintenance brings them to  
20       a usable standard that a logging truck can use. We  
21       try to provide those roads in a condition that we  
22       expect them to be left in. So pre-haul maintenance  
23       basically brings them up to a driveable standard.  
24       Through the course of the timber sale, the timber  
25       sale operator is responsible for road maintenance.

1 And at the close of that timber sale, he is  
2 responsible for putting it back in the condition it  
3 was when he got it.

4 Q. Keep it the way he got it? I  
5 understand. So any further maintenance on that  
6 road would either be associated with making it fit  
7 for general public use, or some subsequent timber  
8 sale, or is there some third category of  
9 maintenance?

10 A. No. He would be responsible -- the  
11 timber sale contractor would be responsible for  
12 restoring it to the degree it was when he received  
13 it.

14 Q. And once he's out of there, you might  
15 do maintenance on that road later --

16 A. That's correct.

17 Q. -- in order to make it safe for general  
18 public use, or you might do maintenance on it later  
19 as prep for some subsequent timber sale. That  
20 would be pre-haul maintenance that you would pay  
21 for?

22 A. That's correct.

23 Q. Is there some third category of road  
24 that might occur on that road after the operator is  
25 out of there and has turned it back over to you in

1 the shape that he got it?

2 A. We may convert it to pavement. The  
3 extreme is what has happened on Prince of Wales.  
4 Those roads were all built when timber sale access  
5 was used. They were maintained over time either  
6 with new timber sales or with other funds to  
7 maintain them for public use. Ultimately they got  
8 converted to forest highways with pavement on them.  
9 So if you are asking me for a third category, I'm  
10 not exactly following what your question is.

11 Q. I'm wondering if there is work that is  
12 done by the Forest Service and paid for by the  
13 Forest Service, for example, to retire a road or to  
14 take it out of use, or after it has been handed  
15 back to you by the timber sale operator, work that  
16 you do because the road is causing sediment  
17 problems or some other -- has some other kind of  
18 ongoing impact?

19 A. If our expectation is to keep that road  
20 open, and the purchaser brings it back to the way  
21 he received it, if after that point in time we  
22 don't have any other plans to use it, we have  
23 closed roads. Currently we are going through every  
24 district on the forest and doing access travel  
25 management plans to determine which roads we are

1 going to keep open and which ones we are going to  
2 close. When we decide which ones are going to be  
3 closed, we'll utilize timber sales contracts or  
4 service contracts or other funding sources to close  
5 those roads; whatever is the most efficient or most  
6 advantageous for us getting the work done.

7 Q. Would those costs turn up in this  
8 category here of road maintenance listed on this  
9 page 3-505?

10 A. Generally not.

11 Q. That's a separate issue of retiring  
12 roads?

13 A. Yes.

14 Q. Taking them out of service?

15 A. Correct.

16 Q. What about road maintenance for a road  
17 that is not being used by the general public, but  
18 that has experienced a slide or is otherwise  
19 causing some kind of sediment problem and having an  
20 impact on the environment?

21 A. If the road was built for a timber  
22 sale, and we terminated a contract, and at some  
23 subsequent time later a slide occurred, we would  
24 put roads dollars into that road to clear it. And  
25 if our intention was to keep it open, we wouldn't

1 include that in the timber sale cost.

2 Q. Do you sometimes repair roads without  
3 opening them?

4 A. I can't think of an example.

5 Q. Under the timber sales management  
6 category here you said that silvicultural  
7 examinations would not have been included in your  
8 cost center, and why was that?

9 A. We do silvicultural examinations for  
10 any vegetative management work we do on the ground.  
11 If it was tied to a timber sale, when TSPIRS was  
12 around, it was a cost included. Then we had costs,  
13 budget line items, that separated silvicultural  
14 exams, stand exams, prescriptions, that were not  
15 incorporated in the timber sale program.

16 Some of those costs would be  
17 legitimate to include in a timber sale program.  
18 Some of those costs are not. We do silvicultural  
19 prescriptions and silvicultural exams on the  
20 removal of timber around recreation areas or along  
21 road systems where it's open to the general public.  
22 We do silvicultural exams along fish streams for  
23 when we are doing fish enhancement work. Anytime  
24 there is a vegetation management on the ground, a  
25 prescription is required. The output at the end

1 generally would pay for the prescription  
2 silvicultural work.

3 Q. So if I understand you correctly, some  
4 silvicultural exams are associated with timber  
5 sales?

6 A. That's correct.

7 Q. And those costs would have been  
8 included or would not have been included in your  
9 cost centers?

10 A. I believe when we first started -- or  
11 when I first started doing TSPIRS, it was not  
12 included, and I did not include it.

13 Q. And later?

14 A. We get our budget allocation in what's  
15 called an NFTM budget line item. Silvicultural  
16 exams are included in that budget line item. So  
17 again, whatever the output would be at the end,  
18 would be the determination whether they are  
19 included or not.

20 Q. So today, or the last time that you  
21 were looking at the \$101 figure, you would have  
22 included some silvicultural exam costs if they were  
23 done in connection with a timber sale?

24 A. Correct.

25 Q. Just in terms of the money that these

1 things cost, what percentage would you say of the  
2 silvicultural exams is associated with timber  
3 sales, as opposed to other uses or activities?

4 A. Generally it is pretty small. It is a  
5 very light-intensity look at the vegetation. I  
6 don't have a number. It is not very much money.

7 Q. But you would be more inclined to do  
8 intensive silvicultural exams for other uses than  
9 timber sales; is that correct?

10 A. That's correct. If you are doing a  
11 clearcut, it doesn't take too many silvicultural  
12 exams to determine -- to do ENH management in  
13 clearcut. If you do partial cuts for whatever  
14 reason, and you expect to mark the trees prior to  
15 cutting, it doesn't require a great deal of  
16 silvicultural examination.

17 If you do a prescription that is  
18 based on a description by diameter, meaning every  
19 tree over 16 inches is going to be harvested, the  
20 intensity of exam has to go up because you want to  
21 ensure there is something left bigger than  
22 16 inches, so to speak.

23 Q. So you do an exam to determine how a  
24 prescription would affect the stand?

25 A. That's correct.

1 Q. And the more selective the  
2 prescription, the more work you might need to do to  
3 figure out what is correct in the instance?

4 A. That's correct.

5 Q. Under forest vegetation management, you  
6 said that your cost centers did not include, if I  
7 understood you correctly, timber stand  
8 improvements, the genetic resources program, and  
9 the nursery program. It would have included  
10 reforestation, where you did active reforestation;  
11 is that correct?

12 A. No.

13 Q. It would not have included any, but  
14 that is a rarity; is that correct?

15 A. Very rare.

16 Q. So no part of the forest vegetation  
17 management description here on page 3-505 would  
18 have been included in the cost centers?

19 A. No.

20 Q. How much of this category is related to  
21 activities on the forest other than timber sale  
22 program?

23 A. We do approximately 1,000 to  
24 2,000 acres of thinning yearly. Last year I  
25 believe we were up to 8,000 -- was the year we had

1       incorporations to increase that. We know the unit  
2       costs for individual acre thinning. I'm not sure  
3       if I'm answering your question.

4           Q.       Yes, you are. The timber stand  
5       improvements like thinning, would they ever be done  
6       in first-growth timber, or would they always be  
7       done in second-growth?

8           A.       In second-growth.

9           Q.       So they would always follow after some  
10      kind of logging; is that correct?

11          A.       Uh-huh. Yes.

12          Q.       And the genetic resources program and  
13      the nursery program, do they have aspects that are  
14      unrelated to the timber sale?

15          A.       We used to have a nursery in  
16      Petersburg. We no longer have that, so we don't  
17      have that cost center. And any of the genetics  
18      work, if we want to collect seeds to enhance some  
19      species or some genetically superior tree, we send  
20      those seeds off to others and contract that work.  
21      It would be for reforestation activities, or some  
22      other special activity, and our reforestation work  
23      is minimal.

24          Q.       So that cost overall would be quite  
25      minimal? That is not something that is a

1 significant cost item for the forest on an annual  
2 basis?

3 A. Not genetics or nursery. Yes.

4 Q. Right. Thank you.

5 This general administration cost,  
6 you said in some years you included it. What do  
7 you understand that to include? Does that include  
8 some of the items you mentioned that the timber  
9 sale program contributes to paying, like utilities  
10 and rent and --

11 A. It includes my salary. It includes  
12 rent on buildings. It includes our acquisition  
13 management folks. It includes a wide variety of  
14 cost centers that exist with or without a timber  
15 program.

16 Q. Janitorial services, things like that;  
17 is that correct?

18 A. Yes.

19 Q. So some of those costs go towards  
20 supporting staff or staff time that is working on  
21 the timber sale program, and some of it doesn't; is  
22 that right?

23 A. The reception at the front desk, some  
24 of her time goes towards the timber sale program.  
25 And then in the \$101 figure that cost center is

1 included.

2 Q. A percentage of the receptionist's time  
3 is included?

4 A. Yes. Our overhead costs, general  
5 administration are called cost pools today. They  
6 are incorporated into the \$101 figure.

7 Q. They are called cost pools?

8 A. Yes.

9 Q. And how do you determine what to  
10 include in the cost centers from those cost pools?

11 A. We don't. It's a Washington office  
12 direction on what will be included in that. Over  
13 time that has changed from whether my time is  
14 included or not included. Today there is no  
15 authority, availability for us to modify them. We  
16 incorporate exactly what is expected or outlined in  
17 the Washington office direction.

18 Q. Is that a recent change?

19 A. Over the last three or four years it  
20 has become more and more defined.

21 Q. And before that, you made a -- excuse  
22 me. Before that, you made a case-by-case decision  
23 about how much to include?

24 A. I didn't. Generally the regional  
25 office had outlined what was to be included in

1       that.

2           Q.       Understood.  Today what percentage of  
3       that whole general administration category -- all  
4       those cost pools that go into making up general  
5       administration -- what percentage of that is  
6       attributed to the timber sale program?

7           A.       Generally speaking, it's about  
8       33 percent.

9           Q.       Is there a separate category for forest  
10      planning and forest level monitoring?

11          A.       For cost pools?

12          Q.       Yes.

13          A.       Well, the way it works is a number is  
14      generated for cost pools, for everything on the  
15      Tongass.  And then it is divided up by individual  
16      budget line items -- recreation, timber, inventory  
17      monitoring.  And it's generated by how many people  
18      do you have working in each of those programs,  
19      determines what percentage of cost pools is paid by  
20      that program.

21          Q.       And forest planning is one of those  
22      programs?

23          A.       That's correct.

24          Q.       Do you know roughly what percentage of  
25      this fiscal year's budget for general

1 administration is attributed to forest planning?

2 A. It is not very much. If I understand  
3 your question correctly, how much do we get  
4 allocated in forest planning for this year?

5 Q. Yes, for general administration cost  
6 purposes.

7 A. We generally get about \$1 million --  
8 less than \$1 million, I believe. Let me correct  
9 that. If I remember the numbers correctly, we get  
10 in the neighborhood of about a half a million  
11 dollars for forest planning work this year. And I  
12 believe about 25 to 30 percent -- I won't commit to  
13 that number, but, generally speaking, I think it's  
14 about 25 to 30 percent is cost pool associated, so  
15 in the neighborhood of a couple hundred thousand  
16 dollars to \$300,000.

17 Q. And how does that compare, the cost  
18 pool amount, for the timber sale program in the  
19 same year?

20 A. Timber generally has more people in the  
21 field. There are more people associated with  
22 producing the outcomes to outputs to timber. The  
23 more people you have, the more percentage you pay  
24 in that separate category.

25 Q. Can you estimate what that would be for

1 this year, for -- I understood you to say that  
2 somewhere in the order of 33 percent -- I think you  
3 said 30 percent -- of the general administration  
4 cost pools would go to timber-sale-related  
5 activities?

6 A. That's my recollection, yes.

7 Q. And the total size of that general  
8 administration cost pool?

9 A. For the forest?

10 Q. For the forest, for the year, yes.

11 A. It would only be a guess. We get about  
12 60-some, \$65 million in appropriated funds to  
13 operate the Tongass. Somewhere between 15 and  
14 20 percent of that number is probably associated  
15 with cost pools.

16 Q. Your declaration at the top of page 10  
17 mentions that forest vegetation management includes  
18 reforestation of roads unrelated to timber sales.  
19 Do you know of roads that have been revegetated,  
20 actively revegetated, where there has been money  
21 spent on revegetating them, unrelated to timber  
22 sales?

23 A. We've planted some roads after sale  
24 activities have occurred. It has been in the form  
25 of grass seeding. We've planted alder on some of

1 those roads, but it is not a big number. We  
2 generally don't do it. If we plant grass on roads,  
3 it's to keep the alder out. If we are trying to  
4 close them off earlier, we have a tendency to plant  
5 alder to some degree in various areas. But it is  
6 generally not done.

7 Q. But that is done in connection with  
8 closing something out after a timber sale; is that  
9 right? It is not done otherwise?

10 A. Sometimes, or in case of a slide, or  
11 resource concerns. It's done on a very  
12 site-specific basis. It is not a general activity.

13 Q. Okay. So it is done rarely. It's  
14 normally done as a result of -- or after a timber  
15 sale, and it either involves seeding to outcompete  
16 alder, or, in some cases, you actively plant alder,  
17 is that correct, to stabilize it?

18 A. That's correct.

19 Q. So returning to Exhibit 1, 3-505 --  
20 that same list of six timber management activities  
21 or six budget items related to timber management  
22 activities -- my understanding, based on what you  
23 have said, is the following: That there are  
24 expenses here that are incurred by the forest and  
25 necessary to run a timber sale program that are not

1 included in the cost centers, but you didn't try to  
2 estimate the magnitude of those expenses? These  
3 would have been expenses like those related to the  
4 forest planning process, for example.

5 A. Is that a question?

6 Q. It was a question. I want to know  
7 whether I have accurately summarized what you said  
8 on this. I understood you to say that there were  
9 such costs, but that you did not -- you didn't  
10 hazard any guess about how substantial they were.

11 A. There are expenses here necessary in  
12 order to run a range management program as well.  
13 We don't have a range management program, and I  
14 won't calculate any costs from doing forest  
15 planning level work to create a range management  
16 unit cost.

17 So you have to do forest planning  
18 prior to doing project planning for timber sales.  
19 The forest planning costs were not included in the  
20 timber sale preparation costs.

21 Q. This page of the TLMP FEIS says that  
22 these are -- and I'm quoting. It says these are  
23 budget items related to timber management  
24 activities.

25 After having considered each of

1 those categories, would you say that the expenses  
2 outlined here, the costs outlined here, are mostly  
3 related to timber management activities?

4 A. No.

5 Q. You would expect that the majority of  
6 those expenses would not be related to timber sale  
7 activities?

8 A. Like I said earlier, ecosystem  
9 planning, inventory and monitoring at the forest  
10 plan level is not included. It is necessary to do,  
11 but it generally does not generate an output for  
12 timber.

13 Road maintenance to some degree is  
14 necessary to do, and some is related and not  
15 related to timber.

16 Forest vegetation management -- it  
17 is a conscious decision on my part whether we  
18 invest anything in timber stand improvements. The  
19 point of making vegetative management investments  
20 for thinning is to create either faster-growing  
21 timber or habitat for other uses like deer. It is  
22 not a necessary thing to do in order to produce  
23 timber in out-years.

24 So if I understand your question  
25 correctly, there are some costs in here that do not

1 get included into the timber sale program because  
2 they do not directly produce outputs for the timber  
3 sale program. That \$101 figure includes costs that  
4 produce direct outputs to timber.

5 Q. Thank you. That helps. If I  
6 understand you correctly, there are two other  
7 groups of costs here. One set are costs that are  
8 related to timber management activities, but they  
9 don't produce timber outputs directly.

10 And the second category is just  
11 not related to timber management at all; is that  
12 correct?

13 A. Indirectly, it is. The forest plan --  
14 like I said, you have to produce a forest plan  
15 before you can do timber sale projects. We get a  
16 separate budget line item for forest planning.

17 Q. And then there are some expenses that  
18 are listed in here that just don't have anything to  
19 do with timber sales at all. They might have to do  
20 with special forest products, or they might have to  
21 do with, you know, making a road suitable for  
22 public use, that sort of thing?

23 A. That's correct. I'll give you an  
24 example. If you were to take the road maintenance  
25 budget for expenditures for the last fiscal year

1 and divide it by harvest, you would be  
2 incorporating costs in road maintenance that had  
3 nothing to do with timber sales.

4 Q. So, if I understand this correctly,  
5 this set of budget items can be broken out into  
6 three groups: One is a set of expenses that  
7 directly produce timber outputs. The second set is  
8 related to timber management activities -- that's  
9 the phrase used in the EIS here -- but they don't  
10 directly contribute to the timber outputs. And the  
11 third category just doesn't have anything to do  
12 with timber management at all.

13 A. You could break those cost centers out  
14 that way, yes.

15 Q. If look at this whole set of six  
16 categories, which one of those three groups of  
17 costs is the greatest, those that are related  
18 directly to timber outputs, those that are only  
19 indirectly related to timber outputs like forest  
20 planning, and those that don't have anything to do  
21 with timber?

22 A. For any given year?

23 Q. For the average year.

24 A. If I was working with the same planning  
25 team that put the forest plan together, I would say

1 the forest plan expenditures were probably  
2 comparable to a light timber program year.

3 Over all, the timber sales  
4 management cost center has probably more  
5 expenditures than any of the other cost centers for  
6 any given year.

7 Q. But I understand your point, which is  
8 this is really variable. It depends a lot, among  
9 other things, on where you are in the forest  
10 planning cycle; is that correct?

11 A. That's correct.

12 Q. So what if we take a look at the whole  
13 decade -- just take the whole decade and average  
14 them out over the whole decade -- which of those  
15 three categories would you expect to be greatest,  
16 the cost for timber -- direct timber outputs, or  
17 the costs that are timber-sale-related but don't  
18 directly go to timber outputs, like forest  
19 planning, or that third category which is just  
20 totally unrelated and might include recreation  
21 roads, or it might be, as you said, special forest  
22 uses, special forest products?

23 A. For the Tongass, I would say that  
24 timber is probably pushing the highest. Depending  
25 on what happens in the Ninth Circuit, if I have to

1 go back and redo the '97 forest plan or some other  
2 plan, you know, it can be as expensive.

3 Q. Good point. Without getting back into  
4 replanning in the future, just looking back over  
5 the last decade, would you say that that first  
6 category directly related to timber outputs was  
7 bigger than the other two combined?

8 A. The first paragraph of the six?

9 Q. No, all six. All six; absolutely.

10 A. So the question one more time?

11 Q. Looking at this whole set of six  
12 categories, would you say that the costs for all  
13 six that are directly related to timber outputs are  
14 greater than the balance of the costs of those that  
15 are only indirectly related to timber in some way  
16 or the other, like forest planning, and those that  
17 have nothing to do with timber, like special forest  
18 products?

19 A. Generally speaking, I would say you  
20 could probably make that assumption.

21 Q. Thanks. I'm going to take a two-minute  
22 break. You can extend it if you want to, but my  
23 purpose in doing this is to see what I can  
24 streamline, and see if we aren't really close to  
25 the end here. So that's really up to you.

1           A.       Back up to the last answer I gave you.

2           Q.       Please.  Before we break, let's go  
3 ahead and do that.

4           A.       Timber sales management, running at the  
5 current demand analysis, is \$150 million a year.  
6 If you multiply that by \$101, that's slightly over  
7 \$15 million a year for a budget.  If I took general  
8 administration for the forest -- that's in excess  
9 of the timber management budget -- or if I took the  
10 portion of general administration and added it to  
11 road construction and other ones, the other ones  
12 are in excess of the timber management program.

13                       So I think what you asked me was,  
14 over the decade, does it cost more to produce  
15 timber than anything else on that list?  My answer  
16 was no.  Combined, the other cost factors have a  
17 high probability of exceeding the timber management  
18 program.

19           Q.       Are they roughly on the same order,  
20 without sort of judging which one is really more?  
21 Are they kind of in the same ballpark, direct  
22 timber outputs I'm talking about now, and then  
23 everything else lumped together?

24           A.       General administration on the forest  
25 costs, I'm guessing, \$20 million.  A timber sale

1 program on current demand is about \$15 million,  
2 directly timber dollars. Timber road  
3 construction -- separate cost category -- we spent  
4 \$5 million in contracts last year. In road  
5 maintenance, I believe our budget was about  
6 \$2 million. In forest vegetation management,  
7 thinning, I'm guessing near \$2 million. Ecosystem  
8 planning, half a million dollars. Those  
9 collectively are more than the timber sales  
10 program.

11 But what I understood you to ask  
12 me was: Is timber more expensive than the rest of  
13 them? My answer was yes, and my answer now is no,  
14 the way you asked that question.

15 Q. I understand I'm asking you to think  
16 about this in a way you may not normally think  
17 about it, and it takes a little reflection.

18 The general administration costs,  
19 I understood you to say, were about somewhere  
20 probably around 30 percent related to timber sales?

21 A. (Nods head).

22 Q. You said there were maybe  
23 \$20 million of general administration costs?

24 A. Overall on the forest, yes.

25 Q. All right. So would somewhere on the

1 order of \$6 or \$7 million of that be attributable  
2 to the timber sales?

3 A. That's correct.

4 Q. So does that affect your answer at all?

5 A. The way I heard you to ask it, I  
6 changed my answer.

7 Q. Right. If we look at costs from these  
8 six categories taken together that support --  
9 directly support -- timber outputs, and we include  
10 in that 30 percent of general administration costs,  
11 that whole basket of direct timber output related  
12 costs is greater than any other category, but you  
13 would guess that it is not greater than all the  
14 other categories put together?

15 A. That's correct.

16 Q. That's a fair characterization?

17 A. That's a good way to put it.

18 Q. Would you guess that they are fairly  
19 close, that even if the direct timber output  
20 related costs don't exceed all the others put  
21 together, it is not far behind?

22 A. They are relative. One year they may  
23 be more. The next year they may not be.

24 Q. Okay. Just looking at the portion of  
25 these costs that has nothing to do with timber --

1 it is not directly or indirectly related, and  
2 doesn't go to forest planning or the other things  
3 that are timber related but don't directly support  
4 timber outputs -- that part that really has nothing  
5 to do with timber, can you guess roughly what  
6 percentage of the overall basket of six categories  
7 of costs that represents? Is that a 10 percent,  
8 15 percent, 20 percent figure?

9 A. It would only be a guess on my part. I  
10 don't know.

11 Q. What about the costs that are timber  
12 related but don't directly support timber outputs?  
13 How do those compare to the costs that do directly  
14 support timber outputs?

15 A. Well, I'm having difficulty answering  
16 this because, for example, ecosystem planning -- it  
17 costs us -- I can't remember the figure --  
18 \$30 million, so to speak, to produce the '97 forest  
19 plan. All those funds are not attributed to timber  
20 directly or indirectly.

21 Q. Right.

22 A. There are 20 other programs out there  
23 that benefit similarly from the forest plan record  
24 of decision as does timber. Inventory  
25 monitoring -- we do a whole host of inventory

1 monitoring activities out there that each resource  
2 benefits from.

3 So what portion of that is  
4 directly tied to timber, or indirectly tied to  
5 timber? I don't have any idea. So when you asked  
6 me to put it all together, it's a very small  
7 portion of each one of these, or it could be all of  
8 them. It depends on how you are viewing it.

9 Q. It depends on how you characterize it  
10 as far as the expense?

11 A. That's right.

12 Q. So it really comes down to a judgment  
13 about what is fairly attributable?

14 A. That's correct.

15 Q. Let's take that two-minute break, and  
16 we'll see how much we can streamline the balance of  
17 this and get us all out of here.

18 2:17 PM

19 (Off record)

20 2:31 PM

21 MR. LAWRENCE: Back on record.

22 BY MR. LAWRENCE

23 Q. Are your current budget requests based  
24 on an estimated 150-million-board-feet-a-year  
25 timber sale program?

1 A. Yes.

2 Q. And do you know what your -- what the  
3 most recent timber sale budget request was in  
4 dollars, a round figure?

5 A. For NFTM, it depends on what year you  
6 are asking, because we do budgets three years out.  
7 For every year out that I can remember it's  
8 premised on the idea of doing a 150 million board  
9 foot offer program.

10 Q. Going back, how far would you say  
11 that's been true?

12 A. How long have we been working on  
13 150 million board feet?

14 Q. Yes.

15 A. Well, it has varied from 132 to 180, I  
16 believe, and that number has been published since  
17 the Kathleen Morris timber demand analysis document  
18 came out. And I'm trying to remember what year  
19 that was published, but it has not been that long  
20 ago.

21 Q. That's fine. We can look that up. For  
22 this current fiscal year, the NFTM -- which I think  
23 stands for National Forest Timber Management --

24 A. Yes.

25 Q. -- budget request was for, in round

1 figures, how many million dollars?

2 A. Around \$15 million to \$18 million.

3 Q. And did you in fact get funded at or  
4 close to that level?

5 A. We were to be funded at our request  
6 plus pipeline dollars, which are funds in addition  
7 to our normal appropriations. If you read the  
8 appropriation bill for this year, it says --

9 Q. I won't.

10 A. -- it's one line. It says \$5 million  
11 will go to the Tongass timber program for doing  
12 work in addition to their normal base period  
13 program. For the last three years, maybe four  
14 years, Congress wants those funds in addition to  
15 our base, and the Washington office has  
16 incorporated them as our -- as in our base, meaning  
17 we ask for \$15 million, Congress expects us to get  
18 20, and the Washington office gives us 15 and says,  
19 "The pipeline dollars in addition to are  
20 incorporated into your budget."

21 So the short answer is we get in  
22 the neighborhood of \$15 million a year, sometimes  
23 more, sometimes less, for the last several years.

24 Q. Do you know what happens to the other  
25 \$5 million figure in that hypothetical?

1           A.       I do.

2           Q.       Can you tell me?

3           A.       We have a constrained budget that is  
4 split up between all the regions. The regional  
5 foresters agreed several years ago that for each  
6 region, a certain percentage of each region's  
7 budget would be some percent. They all agreed to  
8 it. So nationally, if \$100 million is out there  
9 and available for timber, it's to be divided up by  
10 the percentages agreed to by the regional  
11 foresters.

12                       When Congress appropriates the  
13 additional \$5 million and then that  
14 \$5 million doesn't come in addition to, then rather  
15 than rob from another region that \$5 million, they  
16 have played a shell game, so to speak, and  
17 incorporated into, so we get the money that we ask  
18 for.

19           Q.       So \$5 million gets taken out of your  
20 budget and divided among other regions according to  
21 this?

22           A.       No. The appropriation bill language  
23 authorizes it, but there is never any money in  
24 addition to, so we're left with our original  
25 constrained funds, and there is no more money. So

1 the Washington office, rather than robbing from one  
2 region the \$5 million and giving it to us, they  
3 don't do that anymore.

4 Q. They just don't give it?

5 A. That's right. The only years where  
6 that was different was '99, 2000, and 2001, and  
7 maybe 2002. But if I remember correctly, from 2002  
8 to present, those funds have been incorporated into  
9 our base level programming, and when I go back to  
10 Congress and they say, "We gave you  
11 \$5 million extra," and I explain to them what  
12 happened, they are generally not very happy.

13 Q. This probably won't surprise you. I'm  
14 not entirely sure I understand that, so let me just  
15 come back to it a little bit more. Is it the case  
16 the that the Forest Service budget as a whole is  
17 underfunded compared to requests?

18 A. I have yet to work a single year in the  
19 Forest Service when we couldn't spend more money  
20 than we asked for. Nationally our budgets are  
21 going down, and each region has more projects than  
22 they have money to spend. So if it's underfunded  
23 or we are underachieving, I don't know how best to  
24 explain it.

25 Q. But there is a request level for timber

1 management nationwide?

2 A. That's correct.

3 Q. And is part of what happens to the  
4 \$5 million that -- I think you referred to as  
5 PayPal; is that correct?

6 A. Pipeline.

7 Q. Pipeline. The \$5 million pipeline  
8 figure, is part of what happens to that related to  
9 the Forest Service not getting appropriated dollars  
10 equivalent to its entire nation-wide timber  
11 management request?

12 A. You have two groups. You have Congress  
13 appropriating funds, and another group, the Office  
14 of Management and Budget, that writes the checks.  
15 The Office of Management and Budget gets X amount  
16 of money per year appropriated funds, and it's a  
17 set amount. When Congress goes through and says,  
18 "We're appropriating funds in addition to," and  
19 there is no authorizing language to make that money  
20 appear, the Office of Management and Budget is  
21 still working with the same number they have always  
22 had, regardless of what Congress says.

23 So they have figured out, "We have  
24 only got X amount of money, and it doesn't include  
25 this \$5 million. So rather than robbing from

1       Region 3 to pay Region 10, we are going to  
2       incorporate that into your normal budget."

3                       So on paper it appears that we get  
4       more money than we ask for. The reality of it is,  
5       for the last five years, we get pretty much what we  
6       ask for.

7           Q.        I think I understand.

8           A.        I don't understand it fully, but . . .

9           Q.        I'm sure I don't understand it fully.

10                      Returning quickly to this page  
11       3-505 of Exhibit No. 1, I was breaking these six  
12       categories of costs out by whether they directly  
13       support timber outputs, didn't directly support  
14       timber outputs, or had nothing to do with timber  
15       outputs. In that middle category, costs that are  
16       related in some way to timber management  
17       activities, as the FEIS says, but they don't  
18       directly support timber outputs, does that include  
19       some costs for sales that are analyzed but never  
20       sold? You have some RODs that aren't sold, or they  
21       are sold but not cut?

22           A.        In the timber management program, sales  
23       preparation, we have laid out an extensive amount  
24       of timber in the national forest that has never  
25       seen an offer.

1 Q. Right.

2 A. Or has never actually been cleared  
3 through a record of decision in the end.

4 Q. And you would consider the costs that  
5 went towards preparing that to be costs that do not  
6 support timber outputs; is that correct?

7 A. No, I wouldn't. They are a direct cost  
8 of the timber sale program.

9 Q. You would consider them to be part of  
10 the -- they are -- they can be characterized as in  
11 that group of expenses that do directly support  
12 timber outputs?

13 A. Correct.

14 Q. Okay.

15 A. But I'm going to clarify them.

16 Q. Please.

17 A. In order for me to make a budget  
18 projection, I assume everything is going to go from  
19 planning stage to the offer stage to the harvest  
20 stage. So when that \$101 figure was generated, it  
21 was assuming everything you sign a record of  
22 decision on is going to be harvested.

23 Those projects that you just  
24 named -- East Kuiu being a prime example -- there  
25 have been five EISs done on that. It has gone

1 through two forest plans, and has never seen a saw  
2 on East Kuiu.

3 So while that is a direct cost to  
4 timber management, because I pay for those EISs  
5 every year, that's generally not incorporated into  
6 the \$101 figure.

7 Q. You have made that clear.

8 A. Okay.

9 Q. But you still would classify it as  
10 directly related to timber outputs?

11 A. That's correct.

12 Q. Thank you.

13 MR. LAWRENCE: Can we go off the  
14 record?

15 2:42 PM

16 (Off record)

17 2:45 PM

18 MR. LAWRENCE: Back on the record.  
19 I have one more exhibit for you.

20 (Exhibit 6 duly marked)

21 BY MR. LAWRENCE

22 Q. I'm going to ask you to take a look at  
23 the document that Ms. Barker just handed you, which  
24 is a series of sheets from several years of Tongass  
25 monitoring and evaluation reports. The first

1 several pages are for the monitoring report for  
2 1998. That's three pages. And then there are  
3 three pages for the monitoring report for 1999.  
4 And then there is one page each for the monitoring  
5 reports for 2000, 2001, and 2002. Are you  
6 generally familiar with these documents?

7 A. Oh, yes.

8 Q. Would you look at page 144, which is  
9 the fourth page of the document. Under "Evaluation  
10 Of Results" it says, "The budget associated with  
11 the implementation of the forest plan is higher  
12 than expected and the level of outputs lower than  
13 expected. The result is a much higher unit  
14 cost . . . it is unclear if this is a one-year  
15 occurrence or a trend." Underneath that it says,  
16 "Recommendation: Reevaluating the unit cost  
17 currently being used in the budgetary process."

18 First, I'd like to know if you  
19 understand that recommendation as being a  
20 recommendation to reevaluate the  
21 \$101-per-thousand-foot figure we have been talking  
22 about today?

23 A. I think that would be a stretch. I  
24 would need to have a recommendation to review it.  
25 Another significance is in FY '99, that was the

1 first year of pipeline funds specifically related  
2 to timber management, and you'll see our TLMP  
3 annual budget of fourteen, and the actual spent  
4 being nineteen-eight. That reflects some of that  
5 increase in the pipeline dollars.

6 So again we invested that money  
7 that we received in that one year specifically in  
8 NEPA projects alone, and in one year you get no  
9 outputs from records of decisions when you are  
10 doing EISs, because are a multiyear project. You  
11 understand where I'm heading with that?

12 Q. Uh-huh.

13 A. In 12 months you don't produce a record  
14 of decision. So while it appears that we are  
15 getting a lot more money in our unit production,  
16 outputs are exceedingly lower. On the timber side,  
17 there is a very good reason for that. Not to  
18 mention, '99 is when we spent a whole lot of money  
19 and put it all on the shelf.

20 Q. You mentioned some of the factors that  
21 occurred in '99 earlier. I understand that. When  
22 the recommendation refers to unit cost currently  
23 being used in the budgetary process, is it  
24 referring to that \$101 figure, in your estimate?

25 A. I don't think that is naming that

1 specifically. I would have to go back through and  
2 determine where the Budget Formulation and  
3 Execution System started. I believe it's generally  
4 in this time period where we were developing unit  
5 costs for everything. Our outputs were relatively  
6 low in comparison to the increase in funds that we  
7 were receiving. So I think it's referring to all  
8 the programs as a whole rather than just the one,  
9 but I'm not sure.

10 Q. Okay. This page does talk about the  
11 costs for producing outputs. And it talks about  
12 the unit cost for timber sales. Are there  
13 significant costs for producing other outputs?

14 A. Oh, yes.

15 Q. Okay. So "output" is broadly enough  
16 construed in this process to include things like  
17 recreation benefits and so forth; is that correct?

18 A. Sure. And I'm not seeing anything  
19 specific to timber. Unit costs for -- oh, I do. I  
20 didn't read that the first time. Sorry.

21 I would have to refer to -- if  
22 it's related solely to timber, generally speaking,  
23 everything that was going on in '99, we got  
24 additional funds, we got the '99 record of  
25 decision. There was a host of reasons. Now,

1       whether that reevaluation occurred, it wouldn't  
2       have been done by anybody other than me, because I  
3       was responsible for it.

4           Q.       Okay.  This is a monitoring report from  
5       1999 and would have been produced in 2000; is that  
6       correct?

7           A.       Yes.

8           Q.       And that was within the time period  
9       when you were doing reevaluations of the  
10       \$101 figure?

11          A.       Generally, yes.  The level of detail I  
12       probably did during this point in time was  
13       significantly less than when I first created them.

14          Q.       Looking back to the first page of  
15       Exhibit 6, under "Evaluation of Results" we have a  
16       similar statement.  And again, the statement is,  
17       "It is unclear if this is a one-year occurrence or  
18       a trend."

19                   MR. LANDON:  Pardon me, but this  
20       one -- I'm sorry.

21                   MR. LAWRENCE:  The first page is  
22       the 1998 report.  I just took you through these  
23       backwards.

24                   MR. LANDON:  Okay.  I found it.

25

1 BY MR. LAWRENCE

2 Q. And then looking at the last three  
3 pages in the exhibit, each one of them has a  
4 category called "Monitoring Results," but there is  
5 no evaluation of results and no statement about the  
6 accuracy of the unit costs being used in the  
7 budgetary process. Why don't you take a minute to  
8 read those three pages.

9 A. (Examines document). So I understand  
10 your question, is it --

11 Q. I didn't actually ask a question yet.  
12 I just want to direct you to those three pages to  
13 read the monitoring results section in each one.

14 A. (Examines document).

15 Q. Can you think of any reason why a  
16 reevaluation would have been less appropriate in  
17 those three out-years -- 2000, 2001, or 2002?

18 A. No. It is not a requirement to put it  
19 in there, but I believe this is when several other  
20 things were going on. I mean, the evaluations are  
21 taking place, whether it's written here or not.  
22 It's what the forest management position does. We  
23 have combined the Tongass from three administrative  
24 areas to one. We've implemented a new budget  
25 formulation process that doesn't even look like

1 last year's, so comparing current year -- whatever  
2 this year is -- to previous years, it's  
3 night-and-day differences.

4 But ultimately you still have to  
5 come up with a projection for budget. We still use  
6 the \$101 figure. It seemed to work. Ultimately at  
7 the end of the year there were still funds  
8 available. In fact, because of the pipeline  
9 funding mechanisms and everything else going on, we  
10 were carrying over between \$5 million and  
11 \$10 million a year because we physically couldn't  
12 spend all the money we were getting. So  
13 essentially it went into the bank.

14 Here is a prime example:  
15 Allocated 2000 budget, \$20 million. Physically  
16 spent the same year, \$14.5 million. The balance of  
17 those funds we call as carryover. They go back to  
18 Congress, and Congress decides whether to allow us  
19 to spend our carryover from previous years, which  
20 they did in most cases.

21 Some years it's decided to pull  
22 all the carryover back and reallocate it to other  
23 regions, which in some years that was done. But  
24 ultimately we spent about \$14.5 million. That was  
25 our base-level program. It's premised on \$101.

1 Anything in addition to that was associated with  
2 the pipeline funding.

3 MR. LAWRENCE: Let's go off the  
4 record for just a second.

5 2:55 PM

6 (Off record)

7 2:56 PM

8 MR. LAWRENCE: Back on. I have no  
9 further questions.

10 MR. LANDON: I have no questions.

11 (Deposition concluded at 2:56 p.m.)

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C O R R E C T I O N S

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Pursuant to Rule 30(e) of the Alaska Rules of Civil Procedure, upon review of your deposition, you are entitled to indicate changes or corrections to be included and made a part of the original deposition. Please make all changes or corrections on this sheet, showing page and line numbers, the change or correction and reason for said change or correction. Use additional sheets if necessary, sign each one at the bottom, and include them with this transcript. If there are no corrections, please write on this sheet "None," and sign at the bottom.

PAGE            LINE                            CHANGE/CORRECTION and REASON

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