

TESTIMONY OF
JAMES D. NEIMAN

OWNER/OPERATOR
NEIMAN TIMBER CO., LLC., AND NEIMAN SAWMILLS, LC.

BEFORE THE
SUBCOMMITTEE ON FORESTS & FOREST HEALTH
OVERSIGHT HEARING ON

FOREST HEALTH CONDITIONS AND FOREST MANAGEMENT PRACTICES ON THE BLACK HILLS NATIONAL FOREST

AUGUST 31, 2005
HILL CITY, SOUTH DAKOTA

I am Jim Neiman, a third-generation sawmiller and fifth-generation rancher in the Black Hills. I own and operate two sawmills; Devil's Tower Forest Products in Hulett, Wyoming, where I live, and Rushmore Forest Products right here in Hill City. The Neiman family moved westward from the northeastern US in the late 1800s. My grandfather's original sawmill was set up in the Hell's Canyon west of Custer, SD in the 1930s and was moved to Wyoming in the 1940s. Even as late as the 1980s, the Hulett sawmill was a fairly small, modest operation. In recent times we have invested significantly in both upgrading the Hulett mill and in acquiring and upgrading the Hill City mill. Today, these operations employ a combined 440 people, including our contract loggers, and distribute salaries and payments in the amount of \$21 million annually. Our other endeavors include a small, specialized remanufacturing plant in Sturgis, as well as an airport and a golf course in Hulett.

The purpose of this hearing is to assess the forest health situation on the Black Hills National Forest, so I will simply begin by saying that the situation is dire. Wildfires and an epidemic of mountain pine beetles have and are continuing to destroy the forest which my family and I have worked, in partnership with the Forest Service, for many years to manage, protect, and care-for. Others testifying before the Subcommittee can speak to the ongoing threats, the bug biology, the science of wildfire behavior, and so forth; but one element of concern to me is what happens -- or more often, what *does not* happen -- in the wake of these events.

I believe that salvage timber harvest operations following wildfires is an integral part of restoring and rehabilitating burned areas. The rehabilitation of soil resources from the hydrophobic condition often present after a severe wildfire can be sped along by the soil disturbance and subsequent reseeded which accompany timber harvest. The fuel loading for future wildfires is considerably reduced by salvage operations. Finally, in my experience salvage helps to abate the wave of bark beetle and secondary pathogenic insect infestation which accompany a wildfire and often spread onto living, green forest outside the fire perimeter.

This is even more so the case following bark beetle outbreak events, because managers have a chance to not only remove the dead and dying trees, but also to create forest conditions surrounding the outbreak which can effectively slow or completely stop its spread. Salvage and sanitation within and around beetle outbreaks serves an even more important fuel reduction role as does salvage after a fire, as the dried-out needles of recently killed trees are highly flammable. Sanitation and salvage, while they are not a substitute for maintaining an overall healthy forest condition, do afford land managers a potent tool in responding to spikes in beetle mortality as part of an overall suppression strategy.

However, we face a unique challenge in Black Hills ponderosa pine, particularly in comparison to other forests and tree species in the Rockies and coastal regions. This is because, under the best of circumstances, we have a less than one year in which to complete salvage or sanitation operations before fungal stain, secondary insects (particularly wood-boring insects), and decay render the standing dead trees useless for lumber products. Early-season fires can shorten this timeframe to as little as one month, depending on conditions. This challenge has rendered salvage operations on the Black Hills National Forest almost impossible, due to the length of time currently required for the Forest Service to complete NEPA analyses. In recent years, salvage has only taken place using categorical exclusions under HFI, or under existing NEPA analysis where a wildfire burned within cutting units of an existing timber sale. Of the twenty-one wildfires over 100 acres the Black Hills have experienced since 2000, only four have seen salvage operations take place. Clearly, the health of our forest deserves better than this dismal rate of response.

Any discussion of forest health conditions naturally begs the question of what the term "forest health" means. I'm sure everyone in this room has a different concept of how a "healthy forest" should look and function. I can perhaps answer this question with greater specificity than most. I say this because our industry has become so concerned with the forest health conditions on the Black Hills, that we recently undertook the preparation of a new alternative for consideration in what's called the "Phase II" Amendment to the Black Hills' Forest Plan.

The history of "Phase II" is long and tortured. What we experienced can only be described as a "train wreck" of the Forest Planning process. Appeals and lawsuits surrounding the 1997 Revision to the Black Hills Forest Plan put the Forest into a tailspin from which it has yet to recover. The Forest began its Revision in 1989 and finally completed the Record of Decision in the spring of 1997. The Decision was appealed by environmental special interest groups and by the Black Hills Regional Multiple Use Coalition. The appeals sat on the desk of then-Chief Mike Dombeck for two years, until a decision was finally issued in October, 1999. The Chief's decision essentially rendered the Forest Plan illegal, playing directly into an ongoing lawsuit over -- what else -- a bark beetle salvage timber sale in an inventoried roadless area. Once the Plan had been "determined" illegal, all decisions the Forest had made to date under the Plan were also illegal, and the timber sale program on the Black Hills came to a grinding halt. A negotiated multi-party settlement was reached wherein the Forest Service agreed to go back and re-mark a host of existing and planned timber sales, place additional restrictions on future timber sales, and perform a two-stage Amendment to the Forest Plan to correct the "deficiencies" cited by the Chief. These Amendments were called "Phase I," which was to be completed in 2001, and "Phase II," which was to be completed in 2002. "Phase I" was signed in May, 2001, as an interim maximum-protective measure to remain in place until the more thorough analysis of "Phase II" was completed. The Forest Service now anticipates the Phase II Amendment's completion in September, 2005. To encapsulate this whole scenario, it is useful to note that presuming Phase II is indeed signed in September, the Black Hills National Forest will have the dubious distinction of spending 16 years on a 10-15 year Forest Plan.

The Black Hills National Forest has simply languished in the Forest Planning limbo surrounding the appeal, lawsuit, "Phase I," and "Phase II." The Forest had no clear strategy in the Plan with which to implement a response to the rapid onslaught of beetles and wildfires. Furthermore, the halt within the Forest's timber sale program was nearly simultaneous with the upswing in forest health problems, making an already bad situation even worse. Finally, the restrictions in the Chief's appeal decision and "Phase I" Amendment placed nearly insurmountable impediments upon the Forest Service's ability to craft and implement project decisions that can adequately address forest health issues, whether reactively and proactively. "Phase II," however, holds forest health centrally within the scope of the Amendment and is therefore the Forest's best chance to set the Black Hills back on a healthy course.

The plan prepared by our industry was, appropriately, named The Healthy Forest Alternative. The analysis we completed was quite detailed, including the maintenance of wildlife species viability, the diversity of forest conditions across the landscape, the forest's overall susceptibility to large and severe wildfires and bug outbreaks, and the interrelation among these aspects. A professional environmental consulting firm, called Ecosystem Research Group, assisted us in reviewing and applying the relevant scientific information, compliance with applicable laws and regulations, and performing complex forest modeling analyses to compare the multiple management strategies we examined (including the Forest Service's Alternatives from the Draft EIS). Based on this analysis, we outlined a proposal for active management that would have reduced predicted beetle kill 60 percent better than the Forest Service's Draft Alternative, reduced stand-replacing wildfire 40 percent better, and at the same time maintained species viability and enhanced diversity.

In plain terms, our concept of a "healthy forest" from a biological perspective is one that supports a great diversity of conditions: big trees and small trees, young forest and old forest, dense forest and open forest, green forest and dead forest -- although, we could do without an increase in that last one. Similarly, our concept of a "healthy forest" from a socioeconomic perspective is one that would continue to support a great diversity within the overall economic infrastructure: Our sawmills, our post & pole manufacturers, our particleboard plant, our small tree chipping operations, our wood preservative facilities.

The Phase II Amendment is, unconditionally, the most important decision the Forest Service will make regarding the long-term health of the Black Hills, and the persistence or extinction of my family business. I would be remiss to go without mentioning the phenomenal level of support we have received from our SD and WY Congressional Delegations and the work Congresswoman Herseth has done, in addition to support from the SD and WY State agencies, legislatures, and Governors, County governments, City governments, and a broad coalition of people and groups, all of whom have a great deal at stake in the management of the Black Hills National Forest. In fact, a letter signed by the joint Delegations of South Dakota and Wyoming was sent to the Forest Service in February, 2005 requesting that they adopt The Healthy Forest Alternative in its entirety. The ball is very squarely in the Forest Service's court to determine the fate of the Black Hills, beginning with the Phase II decision.

It's worth reiterating that we have more than just pie-in-the-sky aspirations about how all this could work. We've got bona fide scientific analyses to support our proposals that's as good or better than the Forest Service's; we've got over a hundred years' experience in the management of this Forest to guide us; finally, and unlike many other National Forests, we've got the technical capability of our existing industry infrastructure to fulfill these management objectives on the ground in a cost-effective manner.

However, experience has shown time and again that even if the agency sees fit to make the right decision in the planning arena, they face a litany of challenges once it comes time to implement the selected program of management. The Subcommittee has conducted countless hearings on analysis paralysis, conflicting agency mandates, appeals and litigation, and these are all issues in great need of attention.

I would, however, single out one such challenge, because I can relate directly to how it affects the ability of an organization to function: The challenge, is *certainty and stability in the resources you need to get your job done*. From the perspective of my business, I am faced every day with trying to find some measure of certainty and stability in the Forest Service's program of management over the long-term. Certainty enables me to maintain a competitive, technologically advanced operation; lack of certainty begets protectionism, stagnation, and invariably leads to the demise of good businesses. Similarly, the Forest Service each year faces the challenge of planning a program of management without certainty in the funding levels they will receive from Congress. In other words, we are out here trying to manage the forest under hundred-year timeframes, based on one-year's appropriations, two-year Congressional election cycles, and four-year Presidential elections. It can be pretty maddening, as I'm sure you can attest. I would therefore advocate the following, because I believe it to be an integral part of fostering certainty and stability in National Forest System management, whether toward meeting forest health goals, or for any other National Forest program: At minimum, Congress should consider a biannual appropriations process -- and the longer, the better. The political difficulties such a proposal would encounter are undoubtedly significant. Be that as it may, there is little more important to my own business than consistency and stability and I have no doubt the agency would see immediate and significant real-world benefits were its own situation to improve.

One of the consistent themes of addressing forest health I hear from the agency and some members of Congress is the need to find a way to utilize more small-diameter trees and biomass. Here again, *certainty and stability* comes to the fore. There is, quite frankly, little reason for a prospective business person to invest millions of dollars in a biomass processing facility on little more than a promise from the Forest Service, whose track record of accountability is less than stellar. There is even less reason for a banker reviewing a loan application from that prospective business person to restrain himself from laughing the applicant right out of the room. Rather, the Forest Service would do better to pin its hopes about biomass and small tree utilization upon the sawmills and other primary-processing facilities that remain in existence around National Forests today. These businesses are by far the most likely to, granted some additional *certainty and stability*, branch out from their existing operations to develop markets for products from small-trees and biomass. The existing infrastructure holds the know-how to develop harvesting and utilization processes; they are familiar with the Forest Service and know how to execute contracts; they have a presence in their communities; and they're survivors. In my opinion, retaining existing forest industry infrastructure through improvements in the *certainty and stability* of the Forest Service's timber program is the one and only way to encourage better utilization of non-sawtimber products.

In conclusion, the Black Hills National Forest, like many others, stands at a critical juncture in its long-term management. The Forest Service's current ability to respond to forest health issues is simply inadequate, and the more time allowed to pass, the more dire the situation becomes. Both the Agency and the businesses that are its partners in managing the forest need certainty and stability in order to be effective stewards.