

Summary of Testimony of Robert A. Luoto
Before the Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
Hearing on “Regulatory Reform Series #8 – Private Sector Views of the
Regulatory Climate One Year after Executive Order 13563”
February 16, 2012

- The enormous and increasing uncertainty created by our regulatory system is contributing to the collapse of professional logging in the United States.
- The United States is the world’s fourth most forested country and has the world’s largest forestry sector – it supports almost 1.1 million full-time jobs and adds \$108 billion to our economy annually.
- The most critical component of the forestry sector – our professional loggers who harvest and transport the wood needed by the sector – is also the most at risk.
- From 2001 through 2011, the professional logging workforce in the United States has declined from 73,500 to 48,400 – a loss of 25,100 jobs or 35 percent.
- From 2001 through 2010, the median age of the professional logger increased from 40.5 to 46 years of age.
- Key sources of regulatory uncertainty that harm professional loggers include the invalidation of the “Silvicultural Rule,” the treatment of forest bioenergy for greenhouse gas regulations, and the prevalence of lawsuits to prevent harvesting timber from Federal lands.

Testimony of Robert A. Luoto
Before the Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
Hearing on “Regulatory Reform Series #8 – Private Sector Views of the
Regulatory Climate One Year after Executive Order 13563”
February 16, 2012

Chairman Stearns and distinguished Members of the Subcommittee on Oversight and Investigations, my name is Bob Luoto, and I am a third-generation and lifelong professional logger. My wife, Betsy, son, Kirk, and I own and operate Cross and Crown, Inc., a commercial logging business based out of Carlton, Oregon. During my almost 38 years as a professional logger, I have proudly served as a President and Board Member for both the Associated Oregon Loggers and the American Loggers Council. The Associated Oregon Loggers has named me Logger of the Year and also named Betsy Woman of the Year for her community and philanthropic leadership. Currently, I serve as the Board Chairman for the Sustainable Forestry Initiative. In all of our roles, Betsy, Kirk, and I have tirelessly advocated on behalf of professional loggers and their communities, and I consider myself very blessed to have the opportunity to share with you my personal thoughts on how the enormous and increasing uncertainty created by our regulatory system – despite the stated intent of Executive Order 13563 – is contributing to the collapse of professional logging in the United States.

In order for us to appreciate the impact of the regulatory system upon our professional loggers, we must first appreciate our forests and what they provide us. According to the United Nations Food and Agriculture Organization and its 2011 report

entitled, *State of the World's Forests*, the United States is the world's fourth most forested country with over 304 million hectares or 750 million acres of forest area. Further, over the last decade, our forests have grown by more than 380,000 hectares or 938,000 acres.

Our Nation's forest wealth supports, among other things, an industry critical to both our national economy, as well as hundreds of rural forestry communities like the one I call home in western Oregon. According to the United Nations Food and Agriculture Organization, the forestry sector in the United States is the world's largest, supporting almost 1.1 million full-time jobs and generating more than \$108 billion dollars for our economy annually.

I am so proud that my family's history and business contribute to the world's greatest forestry country. Currently, we employ 40 men and women and have an annual payroll of almost one and a half million dollars, which includes a comprehensive health insurance package, in addition to 401-K retirement plans, and vacation pay. We have two trained foresters on staff, and all our employees have been trained in Best Management Practices by the Oregon Professional Loggers Master Logger Program, which was created to satisfy the strict environmental standards set by the Sustainable Forestry Initiative. We also have nine log trucks and other support trucks that have over a million miles travelled without an accident or serious violation.

However, as we look closer at the forestry sector, we see that its most critical component – the men and women who actually harvest and transport the wood to be used by the wood products industry – may soon be lost forever. According the Bureau of

Labor Statistics *Current Employment Statistics Survey*, from 2001 through 2011 the United States logging workforce declined from 73,500 to 48,400 – a loss of almost 25,100 jobs or 35 percent. Further, the logging workforce has lost jobs each and every year from 2001 through 2011.

My home state of Oregon has suffered greatly as well. According to the Bureau of Labor Statistics and Department of Labor *Quarterly Census of Employment and Wages*, from 2001 through 2010 the Oregon logging workforce declined from 7,528 to 5,030 – a loss of almost 2,498 jobs or 33 percent. Our company had to lay off 10 people at the beginning of 2008, and only recently have we been able to hire some back. However, we are having trouble hiring young men and women – even those from the families of professional loggers – because they are choosing not to enter or reenter the logging workforce in light of their legitimate concerns about the future of forestry. We see clear proof of this in the recent significant aging of the logging workforce. According to the Bureau of Labor Statistics and Bureau of the Census *Current Population Survey*, in 2001, the median age of professional loggers in the United States was 40.5 years of age. By 2010, the median age had increased to 46 years of age. This increase of 5.5 years was more than double the increase seen over that same period for all industries combined.

When I think of all of the causes for the collapse of professional loggers in the United States, I feel that the tremendous volatility and uncertainty created by our regulatory system is one of the most significant. You need look no further than the tremendous uncertainty created for our professional loggers from the recent decision by the Ninth Circuit Court of Appeals in *NEDC v. Brown*, which invalidated the United States Environmental Protection Agency's (EPA) "Silvicultural Rule." This rule –

which has been in effect for almost as long as I have been a professional logger – excluded silviculture activities such as the construction of logging roads from certain permitting requirements under the Clean Water Act. The EPA adopted this exclusion because professional loggers, like me, are trained to use Best Management Practices and otherwise comply with many state regulation and guidelines to protect against water pollution. Since the construction of logging roads is essential to most professional loggers’ businesses, many are concerned about the form and cost of these completely new permitting requirements, as well as how they may otherwise be used by others to interfere with their logging operations. Logging roads are the lifeblood of our operation. They provide access into the forest so that we can harvest the timber and get it to the mills. If we can’t build roads, our logging operations will come to a halt and eliminate our company, its jobs, and the many other companies that rely upon us for their business.

As I read Executive Order 13563, I feel that the EPA has been ordered to quickly resolve the uncertainty created by the invalidation of its Silvicultural Rule. For example, Executive Order 13563 states, “Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. ... Where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.” In light of this instruction, EPA should already be working with Congress to amend the Clean Water Act to make its own Silvicultural Rule explicitly permitted within the statute since Best Management Practices and state regulations and guidelines are already in place. While Congress recently delayed imposition of the new permitting requirements for this fiscal

year, to my knowledge the EPA has not asked Congress to resolve this issue once and for all. While appreciated, the one-year delay does not remove the terrible uncertainty we face, and I would respectfully ask that Congress schedule hearings immediately involving the EPA and other forestry stakeholders to pass the Silvicultural Regulatory Consistency Act (HR 2541). I would like to thank Representatives Sue Myrick and Mike Ross, esteemed Members of this Subcommittee, for their sponsorship of this Act.

Make no mistake, the invalidation of the Silvicultural Rule is only one of many sources of regulatory uncertainty facing our professional loggers. Further sources of regulatory uncertainty include how the EPA will choose to treat bioenergy from woody biomass for the purpose of greenhouse gas emissions regulations. Despite the promise that woody biomass holds for rural forestry communities that need more jobs, clean energy, and improved forest management, what professional logger or investor in his or her right mind would invest in new employees, facilities, or equipment to harvest and use woody biomass for energy without knowing how the EPA will choose to treat it after it completes its study in three years?

In addition, there is no end in sight for the uncertainty created by countless lawsuits that prevent the harvesting of timber from Federal lands. We are now managing our Federal lands by crisis and allowing infestations and fire to ravage our forests and destroy homes and communities, rather than having the most capable and professional loggers in the world sustainably manage the forests, create jobs, and pay taxes. The impact of this on my home State has been severe – Oregon is made up of over 55 percent National Forest land that cannot be used reasonably to improve the lives of those in our local communities, many of Oregon’s counties are now facing enormous budget

shortfalls, increasing poverty rates, and related social problems. This type of land management by over-regulation and litigation is therefore taking its toll on not only professional loggers and the forestry sector, but on all of our most important resource – our children.

In conclusion, I would like to make very clear that I agree with the core principle set forth in Executive Order 13563 – “Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.” In order of our regulatory system to meet all of these goals, the system must emphasize long-term certainty for those affected by it. The regulatory system today creates uncertainty through numerous and ever-changing regulations, and those limited few who know how to use and access this regulatory system take advantage of the uncertainty as an additional means to restrict behavior – of professional loggers as well as others testifying today.

On behalf of my wife Betsy, son Kirk, daughter Marisa, daughter in-law Jenna, son in-law Jesse, and grandchildren Liam, Finn, Landon, and Lydia, I would like to thank you sincerely for allowing me to share my concerns about the future of professional logging in the United States. I am happy to answer any questions that you have.