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September 16, 1985

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CABLE ADDRESS: ATOMLAW

Mr. Harold Denton  
Director, Office of Nuclear  
Reactor Regulation  
U.S. Nuclear Regulatory  
Commission  
Washington, D.C. 20555

In the Matter of  
Gulf States Utilities Company  
(Blue Hills Station, Units 1 and 2)  
Docket Nos. STN 50-510 and 50-511

Dear Mr. Denton:

Pursuant to 10 C.F.R. §2.101(a-1), Gulf States Utilities Company ("GSU") applied for an early site review for the proposed Blue Hills Station, Units 1 and 2, on January 14, 1976. The NRC Staff published its Early Site Review Report (NUREG-0131) in January 1977 and a supplement containing the views of the Advisory Committee on Reactor Safeguards in June 1977. The Staff also published its Final Site Environmental Statement (NUREG-0449) in July 1978. The State of Texas (as an interested state), the NRC Staff, and GSU participated in the proceeding before the the Atomic Safety and Licensing Board. The Licensing Board issued a Partial Initial Decision (Early Site Review) on April 28, 1981. 13 NRC 382 (1981). No exceptions to the decision were filed by any party.

The Texas Forest Service has surveyed the Blue Hills site on several occasions during 1985 and has determined that approximately 375 acres of the site are infested or damaged by the Southern Pine Beetle ("SPB"). The Texas Forest Service has found that the current heads of the combined bug spots are moving east and southwest, with the available timber. The Texas Forest Service has concluded that the bug spots present a severe problem in that a great deal of timber has already been lost, more will be damaged,

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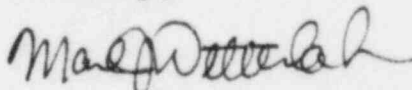
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11

and further growth of the spot will adversely affect surrounding landowners.

The Texas Forest Service has requested, in a letter dated August 29, 1985, that GSU voluntarily take immediate steps to control the SPB infestation on the Blue Hills site. Copies of that and several other letters from the Texas Forest Service and the pertinent sections of the Texas Code are attached.

Accordingly, as recommended by the Texas Forest Service, GSU intends to fell the brood trees and an appropriate buffer strip ahead of the attacked trees. This will entail felling the trees on approximately 100 acres. GSU has scheduled these measures to begin on September 23, 1985. GSU expects to have the trees cut by October 31, 1985. See attached Affidavit of Phillip C. Waller. The Texas Forest Service has been notified of this schedule. GSU will salvage whatever timber is in an acceptable condition.

Sincerely,



Mark J. Wetterhahn  
Counsel for Gulf States  
Utilities Company

cc: Alan S. Rosenthal, Chairman  
Christine N. Kohl, Esq.  
Colleen P. Woodhead, Esq.  
Environmental Protection Division,  
Attorney General of Texas



# TEXAS FOREST SERVICE

The Texas A&M University System



District #10  
(409) 423-2890

P.O. Drawer 280  
Kirbyville, Texas 75956

August 16, 1985

Mr. Phillip Waller, System Forester  
Gulf States Utilities  
P.O. Box 2951  
Beaumont, Texas 77704

Dear Mr. Waller:

At the request of Mr. Jim Tullos, District Forester for Temple-Eastex, this report will try and identify the effected area of Gulf States Utilities' property in northern Newton County. In addition, I will try and point out control actions that will need to be instituted, potential liability problems due to the lack or delay of control, and possible impacts in the future.

## Scope of the Problem

During the first flight of the 1985 Southern Pine Beetle Season, TFS personnel identified a bug spot that had over wintered on property owned by GSU. This spot was already in the neighborhood of 15 to 25 acres in size. Please understand that the bulk of the timber in this area was already dead and two active heads were identified at that particular time. Mr. Grimes with GSU was contacted and he refered the information concerning the spots to the local T-E forester.

On May 9th, two outrider spots were identified on GSU property with active heads. These spots were ground checked by TFS personnel and T-E / GSU were informed. (Following this date, additional flights showed the four identified heads of the bug spots converging together and further ground checking was discontinued.)

Currently, the bug spot is still quite active and moving in a predominately westerly direction. The damaged area is approximately 100-120 acres in size. An aerial survey and mapping of the property is planned for later this month.

## Control Action

Methods to stop the forward progress of a SPB infestation are to fell the brood trees and an appropriate buffer strip ahead of the freshly attacked trees. The buffer strip can range from 100 to 200 feet ahead of the bug spot. The buffer trees and the fresh attacked trees are still acceptable for lumber products. This combination of dropping the brood trees and the green buffer strip effectively retards reproduction efforts and removes immediately available host material for future populations.

State Law (Texas Forest Pest Control Law)

There is a State Forest Pest Control Law on the books that asks the landowner to take appropriate control measures within 10 days of notification of a SPB spot on their property.

Potential Liability

Currently, there are several lawsuits underway in Louisiana for failure to control SPB spots that subsequently moved on to another's property. These lawsuits will serve as the first test cases for civil liability for lack of control or delayed control of a Southern Pine Beetle infestation. (Note: This is where a whole spot crossed over a property boundary and not for bugs that left one area to infect another property.) Currently, your spot is primarily moving towards land held by Temple-Eastex.

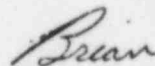
Future of this Spot

Given the current nature of this bug spot, there is no natural barrier present to stop its forward growth. If predictions of staff entomologists are true and we receive no unexpected weather this winter, then this current cycle of bug problems will persist into 1986. Left unchecked, the GSU spot has no choice but to get bigger.

Overall, this bug spot is a severe problem area. A great deal of timber has been lost this summer and more will be damaged. But the recurring, long term problem will be this spot's effect on the surrounding landowners and the actions that GSU initiates to correct the problem. Courses of action are clear, control of the progress of the spot by containment thru cut-n-leave methods or, if available a salvage program to utilize what timber that is in an acceptable condition.

Mr. Waller, please let Mr. Tullos and myself know what efforts that GSU plans to take in regard to the control of this spot. As for the Texas Forest Service, we will provide any assistance that we can to aid you in this program.

Sincerely,



Brian J. Clark  
Forester II

BJC/nn  
Enclosures

cc: Jim Tullos, Temple-Eastex

SOUTHERN PINE BEETLE DETECTION DATA - GULF STATES UTILITIES

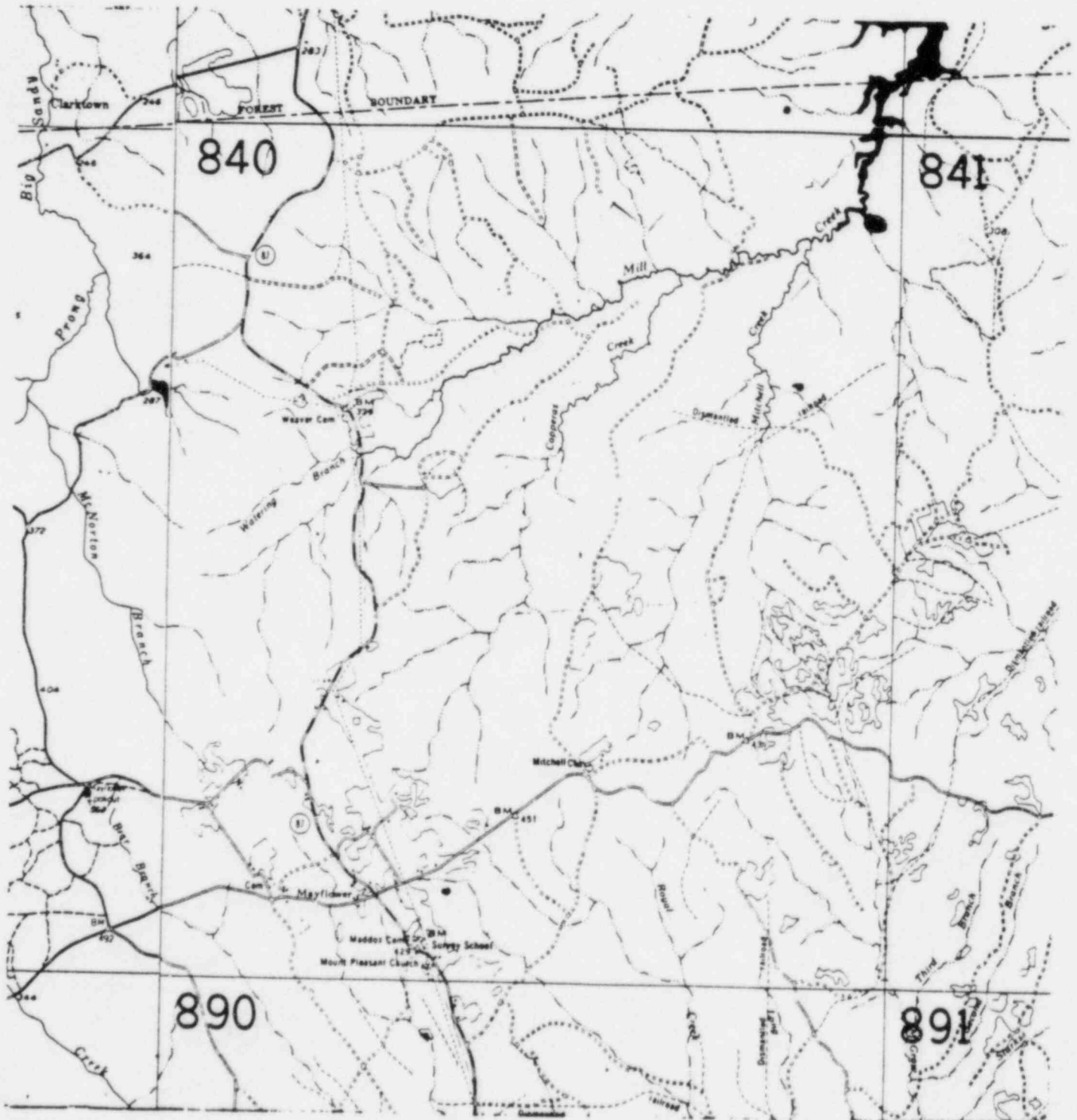
<u>Flight Date</u>	<u>TFS Grid</u>	<u>Active Trees</u>	<u>Ground Check Date</u>
April 16	840-C-12-F	50	April 25
April 16	840-C-14-C	20	April 25
May 9	840-D-10-C	15	May 13
May 9	840-C-14-C	50	May 13

\* After this date, these spots begin to converge on each other to form the large spot now present on the property.

# TEXAS FOREST SERVICE



Landowner Gulf States Utilities  
 Spot No. \_\_\_\_\_ Grid Location \_\_\_\_\_ Date \_\_\_\_\_  
 Remarks \_\_\_\_\_





## CHAPTER 152. FOREST PEST CONTROL

### SUBCHAPTER A. GENERAL PROVISIONS

#### Section

- 152.001. Policy.
- 152.002. Public Nuisance.
- 152.003. Definitions.

[Sections 152.004 to 152.010 reserved for expansion]

### SUBCHAPTER B. POWERS AND DUTIES OF THE TEXAS FOREST SERVICE

- 152.011. In General.
- 152.012. Surveys and Investigations.
- 152.013. Determination of Area Control Measures.
- 152.014. Notice of Finding of Infestation.
- 152.015. Hearing.
- 152.016. Procedures for Control.
- 152.017. Specific Control Measures.
- 152.018. Notice to Specific Landowner.
- 152.019. Notice to Forest Owner.
- 152.020. Supervision.
- 152.021. Control Measures Applied by Forest Service.
- 152.022. Expense of Control Measures Taken by Service.
- 152.023. Claim Against Landowner.
- 152.024. Suit.
- 152.025. Landowner Reimbursement.
- 152.026. Cooperative Agreements.

[Sections 152.027 to 152.060 reserved for expansion]

### SUBCHAPTER C. POWERS AND DUTIES OF THE LANDOWNER

- 152.061. General Duty of Landowner.
- 152.062. Duty to Apply Control Measures.
- 152.063. Reports and Consultation With Service.
- 152.064. Notifying Service of Forest Owner.

[Sections 152.065 to 152.100 reserved for expansion]

### SUBCHAPTER D. JUDICIAL REVIEW

- 152.101. Judicial Review of Service Notice.
- 152.102. Venue.
- 152.103. Control Measures Pending Litigation.
- 152.104. Priority.
- 152.105. Injunctive Relief for Landowner.
- 152.106. Notice Final.

#### Cross References

Conservation of natural resources, see Const. Art. 16, § 59.

### SUBCHAPTER A. GENERAL PROVISIONS

#### Library References

Woods and Forests 6045.

C.F.S. Woods and Forests § 5.

#### Section 152.001. Policy

It is the public policy of the State of Texas to control forest pests in or threatening forests in this state in order to protect forest resources, enhance the growth and maintenance of forests, promote stability of forest-using industries, protect recreational wildlife uses, and conserve other values of the forest.

#### Historical Note

##### Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 1.  
Vernon's Ann.Civ.St. art. 165-9, § 1.

#### § 152.002. Public Nuisance

Forest pests are declared to be a public nuisance.

#### Historical Note

##### Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 3.  
Vernon's Ann.Civ.St. art. 165-9, § 3.

#### § 152.003. Definitions

In this chapter:

(1) "Service" means the Texas Forest Service.

(2) "Forest pests" means insects and diseases that are harmful, injurious, or destructive to forests and whose damage, if uncontrolled, is of considerable economic importance, and includes:

(A) pine bark beetles of the genera *Dendroctonus*, *Ips*, *Pissodes*, and *Hyllobius*;

(B) sawflies of the genus *Neodiprion*;

(C) defoliators in the genera *Datana*, *Malacosoma*, *Hyphantria*, *Diapheromera*, and *Galerucella*;

(D) pine shoot moth of the genus *Rhyacionia*;

(E) wilt of the genus *Chalara*; and

(F) rots of the genera *Fomes* and *Polyporus*.

(3) "Forest land" means land on which the trees are potentially valuable for timber products, protection of watershed, wildlife habitat, recreational uses, or for other purposes, but does not include land within the incorporated limits of a village, town, or city.

(4) "Forest" means the standing trees on forest land.

(5) "Control" means prevent, retard, suppress, eradicate, or destroy.

(6) "Infestation" means actual infestation or infection at conditions beyond normal proportion causing abnormal epidemic loss to present or future commercial timber supply or both.

(7) "Landowner" and "owner" mean a person who owns forest land or has forest land under his direction irrespective of ownership.

(8) "Forest owner" means a person who owns the standing trees on forest land, either by a present right or by a future right under the terms of a valid existing contract.

(9) "Tract" means all contiguous land in common ownership.

#### Revisor's Note

V.A.C.S. Art. 165—9, Sec. 2, Subsec. (j) and (k), are omitted from the revised law because they are covered in Sec. 2.02 of V.A.C.S. Art. 5429b—2 (Code Construction Act), Subsec. (j) and (k) read as follows:

(j) The singular and plural number shall each include the other unless the context otherwise requires.

(k) The masculine gender shall include the feminine and neuter.

#### Historical Note

##### Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 2.  
Vernon's Ann. Civ. St. art. 165—9, § 2.

#### Library References

Words and Phrases (Form 154)

[Sections 152.004 to 152.010 reserved for expansion]

### SUBCHAPTER B. POWERS AND DUTIES OF THE TEXAS FOREST SERVICE

#### Library References

Woods and Forests 607.

C. J. S. Woods and Forests § 13

### § 152.011. In General

The Texas Forest Service shall administer the provisions of this chapter and make all relevant determinations.

#### Historical Note

##### Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 5.  
Vernon's Ann. Civ. St. art. 165—9, § 5.

### § 152.012. Surveys and Investigations

(a) The service shall make surveys and investigations to determine the existence of infestations of forest pests and means practical for their control by landowners.

(b) Duly delegated representatives of the service may enter private land and public land, including that held by the United States if permission is obtained, for the purpose of conducting surveys and investigations.

(c) All the service's information shall be available to all interested landowners.

#### Historical Note

##### Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 5.  
Vernon's Ann. Civ. St. art. 165—9, § 5.

### § 152.013. Determination of Area Control Measures

If the service finds an infestation existent or threatened in the state, it shall determine:

- (1) when control measures are needed;
- (2) the nature of the control measures;
- (3) availability of control measures; and
- (4) the techniques by which the control measures shall be applied.

#### Historical Note

##### Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 6.  
Vernon's Ann. Civ. St. art. 165—9, § 6.

### § 152.014. Notice of Finding of Infestation

After determining that an infestation exists, the service shall give notice of the fact by:

- (1) placing a notice in a newspaper or newspapers in the county or counties in which any infested land is located, or, if



there is no newspaper in the county, placing a notice in a newspaper or newspapers with general circulation in the county or counties in which any infested land is located, stating its findings and setting a time and place for a hearing on the need for the control of the pest, to be held not less than 10 days from the date of the notice;

(2) mailing copies of the notice to owners of forest land known to the service to have holdings in the affected area; and

(3) arranging for publicity on the subject by all news media serving the affected area.

**Historical Note**

**Prior Law:**

Acts 1962, 58th Leg., p. 745, ch. 281, § 6.  
Vernon's Ann.Civ.St. art. 165—9, § 6.

**§ 152.015. Hearing**

At the hearing, the agent of the service who presides shall:

- (1) describe the conditions that have been found;
- (2) explain the measures needed to control the pest infestation;
- (3) hear all suggestions and protests; and
- (4) record the proceedings.

**Historical Note**

**Prior Law:**

Acts 1962, 58th Leg., p. 745, ch. 281, § 6.  
Vernon's Ann.Civ.St. art. 165—9, § 6.

**§ 152.016. Procedures for Control**

(a) As soon as practicable after the hearing, the service shall promulgate procedures to be followed for the control of the infestation and shall:

- (1) mail a copy to all appearing at the hearing and to all to whom notices were originally sent; and
- (2) publish a copy in a newspaper circulated in the affected area in the same manner as publication of preliminary notice

(b) Publication as provided in Subsection (a) of this section is notice to each landowner and each tract of land in the affected area on the date of publication.

**Historical Note**

**Prior Law:**

Acts 1962, 58th Leg., p. 745, ch. 281, § 6.  
Vernon's Ann.Civ.St. art. 165—9, § 6.

**§ 152.017. Specific Control Measures**

If the provisions of Sections 152.013 through 152.016 of this code have not been applied and control measures are needed to check the spread of the forest pests on forest land owned or controlled by any person, written notice, signed by a duly authorized representative of the service whose mailing address is shown on the notice, shall be given to the person owning or controlling the forest land.

**Historical Note**

**Prior Law:**

Acts 1962, 58th Leg., p. 745, ch. 281, § 7.  
Vernon's Ann.Civ.St. art. 165—9, § 7.

**§ 152.018. Notice to Specific Landowner**

(a) The notice required by Section 152.017 of this code shall inform the landowner of:

- (1) the facts found to exist;
- (2) his responsibilities for the control measures;
- (3) the control technique recommended;
- (4) the law under which control must be accomplished; and
- (5) the authority of the service in the event the landowner takes no action toward controlling the pest.

(b) The notice may be given by:

- (1) personal service on the landowner or on the person having control of the forest land;
- (2) registered or certified mail directed to the landowner or person having control of the forest land at his last known address; or
- (3) if the person or his address is unknown, publication in one issue of a newspaper of general circulation in the county in which the land is located.

(c) A published notice under Subsection (b) of this section shall include the information specified in Subsection (a) of this section, state the name of the owner, if known, and briefly describe the land to which the notice applies.

(d) No other notice is necessary under the provisions of this chapter.

**Historical Note**

**Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 7.  
Vernon's Ann.Civ.St. art. 165-9, § 7.

**§ 152.019. Notice to Forest Owner**

If the landowner has given notice to the service of an interest in the forest on his land owned by another, as provided for in Section 152.064 of this code, the service shall furnish the same information to the forest owner that it is required by the provisions of this chapter to give to the landowner.

**Historical Note**

**Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 9.  
Vernon's Ann.Civ.St. art. 165-9, § 9.

**§ 152.020. Supervision**

(a) The service shall keep informed of what is done by the landowner to take measures to control the infestation and the result of it.

(b) The service may change its prescribed procedures as conditions or new information may require.

(c) On request, the service shall certify when all reasonably practicable measures to be done by the landowner, pursuant to its prescribed procedures, have been completed.

**Historical Note**

**Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 8(a).  
Vernon's Ann.Civ.St. art. 165-9, § 8(a).

**§ 152.021. Control Measures Applied by Forest Service**

If pest control measures prescribed by the service are not applied by the landowner or any other person within 10 days from the time notice is given as provided in this chapter, exclusive of the date the notice is given, representatives of the service shall enter the land and have the forest pests controlled or destroyed.

**Historical Note**

**Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 11.  
Vernon's Ann.Civ.St. art. 165-9, § 11.

**§ 152.022. Expense of Control Measures Taken by Service**

(a) Except as provided in Subsection (b) of this section, all charges and expenses of destruction or control measures taken by the service shall be paid by the owner of the land on which the infestation occurred.

(b) If the tract with respect to which the service conducted control measures contains 50 acres of forest land or less and the landowner in whose name the record title to the land stands owns no more than 50 acres of forest land in the county in which the infestation occurred, the cost of control shall be borne by the service.

**Historical Note**

**Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 11.  
Vernon's Ann.Civ.St. art. 165-9, § 11.

**§ 152.023. Claim Against Landowner**

If control is undertaken by the service, the cost, not to exceed \$10 for each infested acre or part of an acre on which control measures have been employed, constitutes a legal claim against the landowner, but does not constitute a lien on any land owned by the landowner.

**Historical Note**

**Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 11.  
Vernon's Ann.Civ.St. art. 165-9, § 11.

**§ 152.024. Suit**

The attorney general may bring suit on behalf of the service in the county in which the infestation occurred to recover the claim against the landowner, together with all costs incurred in the suit.

**Historical Note**

**Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 11.  
Vernon's Ann.Civ.St. art. 165-9, § 11.

**§ 152.025. Landowner Reimbursement**

If the landowner has given the service notice of an interest owned by another in the forest on his land and the landowner has made expenditures for pest control purposes as provided in Section 152.062 of this code, or has paid a legal claim against him under the provisions of Sections 152.022 through 152.024 of this code, the landowner is en-

titled to a reasonable reimbursement for the expenses from the forest owner. The reimbursement shall be proportional to the interest owned in the forest by the forest owner.

**Historical Note****Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 12.  
Vernon's Ann.Civ.St. art. 165—9, § 12.

**§ 152.026. Cooperative Agreements**

The service may enter into cooperative agreements with private landowners or forest owners, the federal government, or other public or private agencies to accomplish the control of forest pests.

**Historical Note****Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 13.  
Vernon's Ann.Civ.St. art. 165—9, § 13.

[Sections 152.027 to 152.060 reserved for expansion]

### SUBCHAPTER C. POWERS AND DUTIES OF THE LANDOWNER

**Library References**

Woods and Forests ☞2

C.J.S. Woods and Forests § 2.

**§ 152.061. General Duty of Landowner**

Each owner of forest land shall control the forest pests on land owned by him or under his direction as provided in this chapter.

**Historical Note****Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 4.  
Vernon's Ann.Civ.St. art. 165—9, § 4.

**§ 152.062. Duty to Apply Control Measures**

Within 10 days after notice is given as provided in Section 152.011 or 152.018 of this code, exclusive of the date the notice is given, each affected landowner shall commence diligently to take measures to control the infestation as prescribed and continue this activity with all practical expedition and efficiency under the direction of the service.

**Historical Note****Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, §  
8(c).  
Vernon's Ann.Civ.St. art. 165—9, § 8(c).

**§ 152.063. Reports and Consultation With Service**

(a) The landowner shall notify the service of his actions and the result of his actions.

(b) The landowner may report to and consult with a representative of the service as often as necessary.

**Historical Note****Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, §  
8(c).  
Vernon's Ann.Civ.St. art. 165—9, § 8(c).

**§ 152.064. Notifying Service of Forest Owner**

If all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall notify the service of that fact and furnish the names and addresses of the forest owner within 10 days after receiving the notice from the service as provided for in Section 152.014 or 152.018 of this code.

**Historical Note****Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, §  
8(d).  
Vernon's Ann.Civ.St. art. 165—9, § 8(d).

[Sections 152.065 to 152.100 reserved for expansion]

### SUBCHAPTER D. JUDICIAL REVIEW

**§ 152.101. Judicial Review of Service Notice**

A landowner or person having control of forest land who is aggrieved by the notice given by the service is entitled to seek relief but only if the proceedings to obtain the relief are initiated within 10 days from the time notice is given, exclusive of the date the notice is given.

**Historical Note****Prior Law:**

Acts 1963, 58th Leg., p. 745, ch. 281, § 10.  
Vernon's Ann.Civ.St. art. 165—9, § 10.

§ 152.102

TIMBER

Title 6

§ 152.102. Venue

The proceeding to obtain relief shall be in the district court of the county in which the land is located.

Historical Note

Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 10.  
Vernon's Ann.Civ.St. art. 165-9, § 10.

§ 152.103. Control Measures Pending Litigation

The service shall not proceed with any control measures while the litigation is pending unless permission to do so is given by the court on a showing of probable harm due to a delay in using the control measures.

Historical Note

Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 10.  
Vernon's Ann.Civ.St. art. 165-9, § 10.

*repealed*  
~~§ 152.104. Priority~~

~~The district court shall give priority to a case seeking relief from notice given by the service.~~

~~Historical Note~~

~~Prior Law:~~

~~Acts 1963, 58th Leg., p. 745, ch. 281, § 10.  
Vernon's Ann.Civ.St. art. 165-9, § 10.~~

§ 152.105. Injunctive Relief for Landowner

If the final judgment in an action seeking relief from a notice is in favor of the landowner, the landowner may be entitled to injunctive relief against the use of any control measures on his forest land by the service until such time as the court may determine.

Historical Note

Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 10.  
Vernon's Ann.Civ.St. art. 165-9, § 10.

§ 152.106. Notice Final

If the final judgment is against the landowner, or if the landowner fails to seek relief in the district court of the county in which the

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FOREST PEST CONTROL

§ 152.106

Land is located, the notice from the service is final, and the service shall summarily take the measures necessary to control the infestation.

Historical Note

Prior Law:

Acts 1963, 58th Leg., p. 745, ch. 281, § 10.  
Vernon's Ann.Civ.St. art. 165-9, § 10.



# TEXAS FOREST SERVICE

The Texas A&M University System



District #10  
(409) 423-2890

P.O. District 1003  
Kilbuckville, Texas 75936

August 22, 1985

Mr. Phillip Waller, System Forester  
Gulf States Utilities  
P.O. Box 2951  
Beaumont, Texas 77704

Dear Mr. Waller:

As I mentioned in my earlier correspondence, we made an aerial detection flight over the GSU property on August 19, 1985. The enclosed copy of an aerial photograph (1-84) has marked on it the currently infested areas of the property.

My original estimate of the size of the bug spot was inadequate. Current size of the combined spots is in the neighborhood of 375 acres in size. The current heads on the property are moving East and Southwest, with the available pine timber.

I hope that this may clarify the current situation.

Sincerely,

Brian J. Clark  
Forester II

BJC/nn  
Enclosure

cc: Jim Tullos, Temple-Eastex





# TEXAS FOREST SERVICE

The Texas A&M University System



District #10  
(409) 423-2890

P.O. Drawer 283  
Kirbyville, Texas 75956

August 29, 1985

Bennie Hickman  
P.O. Box 2951  
Beaumont, Texas 77704

Dear Mr. Hickman,

Pursuant to our phone conversation of 8-26-85, I will attempt to expand upon the letter written to Phil Waller of GSU by Brian Clark of the Texas Forest Service on 8-16-85. I believe Brian's description of the buildup to and current scope of the Southern Pine Beetle infestation on property owned by GSU at the Blue Hills site to be adequate.

I would like to elaborate on the control measures I urge you to follow immediately to control this beetle infestation. I refer you to the enclosed TFS circular 225 entitled "Salvage". You will read of the proper salvage techniques for control of SBP in this circular. Salvage is the preferred control technique for large infestations such as the one on the Blue Hills property owned by GSU. I would like to make one amendment to the procedures listed in this publication. I recommend a buffer strip of 200' of green uninfested trees be cut at the active heads of the spot. Also, the active heads plus the green buffers should be cut first to stop the forward spread of the infestation.

Should salvage not be a viable option, the TFS recommends that SBP spots be treated by a "cut and leave" method (see enclosed TFS circular 223). By this method all active infested trees plus an appropriate buffer of green trees would be cut and left on the ground. This technique disrupts the life cycle of the beetle and stops spot growth.

Also regarding your questions relating to the Forest Pest Law, the Texas Forest Service has elected not to pursue our options as outlined in the Forest Pest Law. We encourage all landowners to take immediate actions to control Southern Pine Beetle infestations on their property and thus reduce their losses to future growth.

The Texas Forest Service will be glad to work with GSU and Temple to see that this infestation is controlled in a manner satisfactory to all concerned.

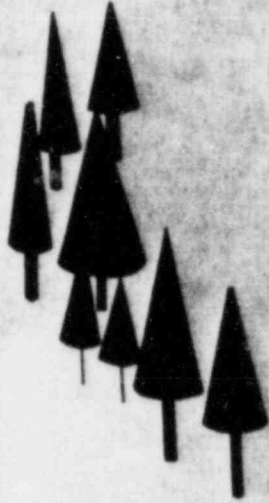
Sincerely,

Ronald C. Dossier  
District Forester

cc: Gary Laco  
enclosures



# S A L V A G E



**THE PREFERRED METHOD TO  
REDUCE LOSSES FROM  
THE SOUTHERN PINE BEETLE**

**Circular 225  
TEXAS FOREST SERVICE**

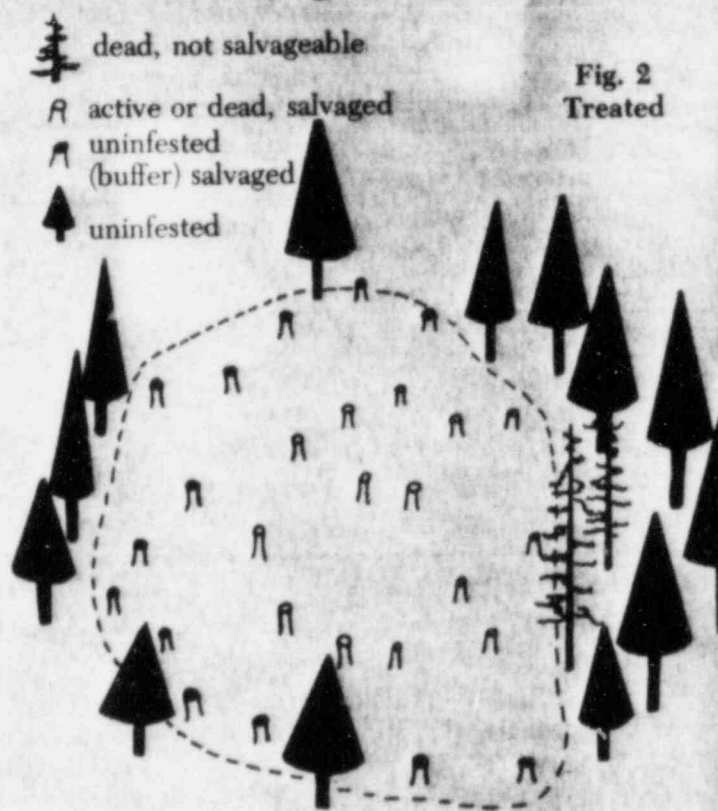
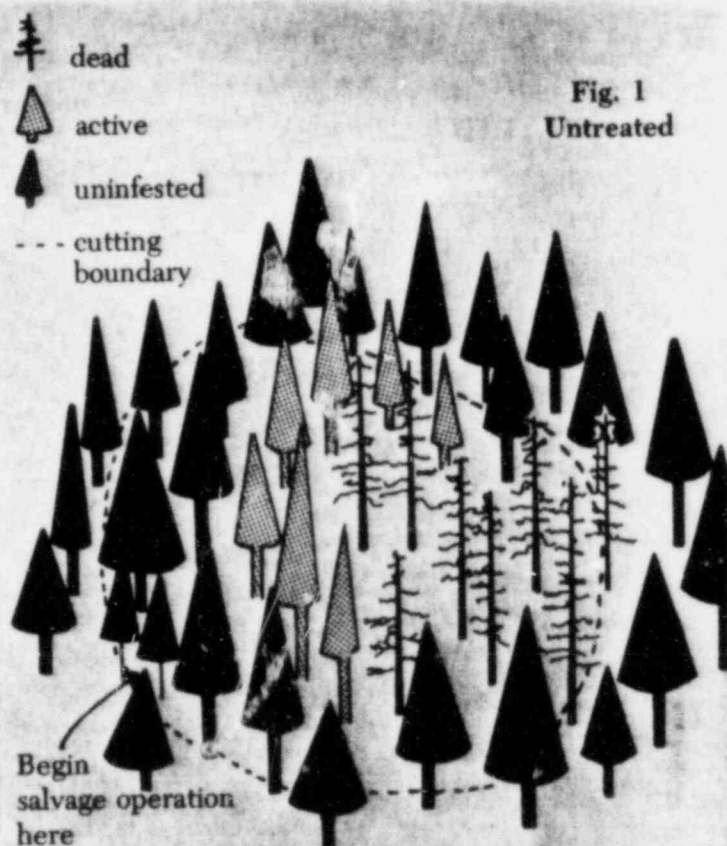
**A PART OF  
THE TEXAS A&M UNIVERSITY SYSTEM**

The preferred method to treat infestations of the southern pine beetle in East Texas is the harvest and utilization of infested trees. If done properly, a prompt salvage operation has many benefits: 1) economic losses from beetle infestations are minimized by utilizing dead trees; 2) spot growth is disrupted by the removal of active trees; and 3) a portion of the beetle population is removed from the forest.

To adequately control southern pine beetle spots by salvage, the Texas Forest Service recommends the guidelines outlined below.

#### HOW TO APPLY

1. Identify all active trees within the spot (the most recently attacked trees in an active infestation will still have green foliage).
2. With tree-marking paint or flagging, mark the salvage boundaries to include a horseshoe-shaped buffer of green, uninfested trees around the active head of the spot (Fig. 1). The buffer should be as wide as the average height of the trees in the spot (40-60'). The buffer is required to guarantee disruption of spot growth and dispersion of beetle populations from the infested area.
3. Salvage should begin as soon as possible after the harvesting boundaries are marked. Cut and remove trees within the buffer first to prevent further spot growth. Continue harvesting towards the spot origin until only those dead trees that have deteriorated beyond use remain standing (Fig. 2).
4. Do not deck infested logs against standing green trees since odors from the logs may draw beetles to adjacent green trees. Ideally, infested trees should be removed from the woods within a few days of felling to prevent the escape of emerging beetles.



5. *Avoid scraping or damaging standing green trees along skid trails. Open wounds attract certain bark beetles.*
6. *After two weeks check the treated spot for re-infestations (breakouts) around the outer edge of the spot, along skid trails or around log decking areas. Re-treat all breakouts.*

The buffer strip of green trees must be included to assure effective control, particularly for spots treated during warm months. If salvage operations are delayed, active spots may have to be marked again prior to harvesting to account for additional spot growth.

#### **WHEN TO APPLY**

Salvage may be applied at any time of year when ground conditions permit. Prompt treatment after detection is recommended. Any delay will mean additional timber loss from spot growth and proliferation. When salvage of a spot is not feasible, or must be postponed for prolonged periods, the Texas Forest Service recommends that active infestations be treated by the cut-and-leave method (See TFS Circular 223).

#### **COST OF APPLICATION**

The cost of salvage application will vary with the total volume and size of trees to be harvested, their current market value, the type and efficiency of equipment used and other factors.

After steps 1 to 5 above are completed the Texas Forest Service recommends that additional uninfested trees be selectively thinned from the owners' adjacent timber, if needed, to complete the final load or to offset the cost of the salvage operation.

## GLOSSARY OF TERMS

1. **SOUTHERN PINE BEETLE . . . .**  
*Dendroctonus frontalis* (Coleoptera: Scolytidae), a bark beetle which can be identified by the "S"-shaped trails it makes beneath the bark of attacked trees.
2. **SPOT . . . .** A group of dead or dying pine trees infested by the southern pine beetle.
3. **SPOT GROWTH . . . .** The natural expansion of untreated spots as additional green trees on the outer edge of a spot become infested.
4. **SPOT PROLIFERATION . . . .** A new spot caused by beetles escaping from controlled and/or uncontrolled spots, located at some distance from the immediate edge of the initial spot.
5. **SPOT BREAKOUT . . . .** An infestation of green trees on the outer edge of a spot following a control treatment.
6. **ACTIVE HEAD OF SPOT . . . .** That portion of the spot containing beetles in the process of attacking green trees.
7. **ACTIVE TREE . . . .** A pine tree containing bark beetle broods (eggs, larvae, or pupae) or attacking adults.
8. **BUFFER . . . .** A group of green uninfested pines adjacent to the most recently infested trees in a spot.

For further information contact the Forest Pest Control Section of the Texas Forest Service, P. O. Box 310, Lufkin, Texas, 75901 or your nearest Texas Forest Service District Office listed below:

City	Address & Zip	Telephone
Carthage	P. O. Box 195 75633	214/693-6865
Center	P. O. Box 968 75935	713/598-2192
College Station	Texas A&M University 77843	713/845-2641
Conroe	Route 7, Box 151 77301	713/273-2261
Crockett	501 Lamar 75835	713/544-7798
Dallas	P. O. Box 47, Renner 75079	214/238-9068
Gilmer	P. O. Box 149 75644	214/843-3921
Henderson	P. O. Drawer 792 75652	214/657-4033
Kirbyville	P. O. Drawer 280 75956	713/423-2890
Kountze	P. O. Box 146 77625	713/246-2484
La Grange	P. O. Drawer G 78945	713/968-5556
Linden	P. O. Box 469 75563	214/756-5571
Livingston	Route 1, Box 39 77351	713/327-4832
Lufkin	P. O. Box 310 75901	713/632-7745
Marshall	707 E. Grand 75670	214/938-8712
Mt. Pleasant	P. O. Box 1326 75455	214/572-5029
Nacogdoches	P. O. Box 814 75961	713/564-9276
Tyler	1417 SE Loop 323 75701	214/597-2603
Woodville	P. O. Box 336 75979	713/283-3785



AFFIDAVIT OF PHILLIP C. WALLER

Phillip C. Waller, being first duly sworn, states as follows:

1. My name is Phillip C. Waller. I am an employee of Gulf States Utilities Company ("GSU"), owner of the Blue Hills site. I am employed by GSU as the System Forester. I hold a B.S. in Forestry from Stephen F. Austin State University and have nine years experience in forest management.

2. In a letter dated August 16, 1985, but received by GSU on August 23, 1985, the Texas Forest Service ("the Service") advised GSU that, based on its aerial surveys, approximately 100-120 acres of the Blue Hills site was damaged by Southern Pine Beetle ("SPB") infestation. The Service states that this bug spot was quite active and moving in a predominantly westerly direction.

3. That letter states that the recommended method for stopping the forward progress of an SPB infestation is to fell the brood trees and an appropriate buffer strip ahead of the freshly attacked trees. The Service recommended that the buffer strip range from 100 feet to 200 feet ahead of the bug spot. The Service further stated that this combination of dropping the brood trees and cutting a buffer strip effectively retards reproduction efforts and removes immediately available host material for future SPB populations.

4. In a letter dated August 29, 1985, the Service stated its declination to invoke the provisions of the Texas Forest Pest Control Law (Tex. Nat. Res. Code Ann. SS152.001 et seq. (Vernon 1978) which require a notified landowner to take appropriate pest control measures within ten days of notification or pay the Service for taking steps to have the pests controlled or destroyed. Instead, the Service requests that GSU voluntarily take immediate steps to control the SPB infestation on the Blue Hills site. Additionally, the Service recommends that GSU cut a buffer strip of 200 feet of green uninfested trees at the active heads of the spot.

5. In a letter dated August 22, 1985, the Service informed GSU that its original estimate that 100-120 acres of the Blue Hills site are damaged was too low and that approximately 375 acres of the site are damaged by SPB infestation. The Service also stated that the current heads of the combined bug spots are moving east and southwest, with the available timber.

6. The most appropriate action for GSU to take in controlling the SPB infestation of its Blue Hills site is to fell the brood trees and a buffer strip of 200 feet ahead of the brood trees. The active heads and the green buffers will be cut first to stop the forward spread of the infestation. To the extent practicable, SPB control action will be done by the salvage method as per Texas Forest Service Circular 225. This will entail cutting approximately 100 acres of trees. The remaining 275 acres are no longer actively infected and need not be cut. As there are no roads into the infested area of the site, GSU will also have to cut roads into the affected area.

7. As GSU does not have personnel on its staff who could fell these trees, it intends to engage Temple-Eastex, the adjoining landowner which is in the business of timber production, to fell these trees for GSU.

8. GSU plans to begin this operation on September 23, 1985, and to complete it on October 31, 1985. GSU intends to salvage whatever timber is in acceptable condition.

Philip C. Waller

Subscribed and sworn to  
me this 13 day of  
September, 1985.

James McSwain  
Notary Public