

JUNE 9, 1993

MORNING SESSION

* * * * *

JOHN P. BLOUNT, Defendant, sworn.

THE CLERK OF THE COURT: Please state your full name for the Court and the jury and spell your last name.

THE WITNESS: John Phillip Blount, (spelling) B-L-O-U-N-T.

DIRECT EXAMINATION

BY MR. CHASTAIN:

Q John, could you tell the jury a little bit about your background, where you were born, where you grew up, who your immediate family members are?

A I was born in Coral Gables, Florida, with my brother and father and family live in Florida.

Q What's your mom's name?

A Shannon Blount.

Q And your brother's name?

A David Shannon Blount.

Q And do you have any other immediate family?

1 A No, sir.

2 Q John, you've lived kind of all over the country,
3 haven't you?

4 A Yes, I have.

5 Q What do you claim as your current residence?

6 A I live in Cannon (ph) (inaudible.)

7 Q Where did you live before that?

8 A Colorado; Fort Collins, Colorado.

9 Q And you became acquainted with a young lady, a young
10 lady, with Guenevere Lilburn in late Fall of '88-89 in
11 Missoula, Montana?

12 A That's right.

13 Q Did you strike up a close relationship subsequent to
14 meeting her?

15 Q Yes, I did.

16 Q And she's the same Quenevere who testified here
17 yesterday?

18 A Yes.

19 Q John, let me direct your attention to the Spring of
20 1989. Were you residing with Guenevere at that time?

21 A Yes, I was.

22 Q Where were you living?

23 A Missoula, Montana.

24 Q What was the street address?

25 A 1925 Kensington.

1 THE COURT: You're going to have to keep your
2 voice up, Mr. Blount.

3 Q (By Mr. Chastain) I want to make sure the jury can
4 hear everything you've got to say. What were the living
5 arrangements, the financial arrangements? How did you
6 and Guenevere support yourselves?

7 A Guenevere supported us. I took care of the house.

8 Q Did you have any other outside sources of income?

9 A No.

10 Q You ever receive money from time to time from your
11 family in Florida?

12 A Small checks, holidays, stuff like that.

13 Q What would you do with those checks?

14 A Give them to Guenevere.

15 Q Did you have a bank account?

16 A No.

17 Q Why not?

18 A I don't really like banks. I don't have that much
19 money.

20 Q How did Guenevere -- what was her source of income?

21 A I believe her parents were supporting her, and she
22 worked part-time.

23 Q She was a student?

24 A Full-time.

25 Q And did you have access to the bank account that she

1 had?

2 A Yes.

3 Q Tell us about that.

4 A (No response)

5 Q You had access to her bank account. How would it be
6 that you had access to her account?

7 A She'd give me money any time that I wanted it and we
8 had a ATM card.

9 Q When you say any time you wanted it, how often would
10 that be?

11 A I really don't spend a lot of money at all, and as
12 long as I, you know, was going to the grocery store or
13 something, I didn't really need money.

14 Q I'm sorry?

15 A I spent about 60 cents a day on tobacco and whatever
16 I'm going to eat, and that's about all I spend.

17 Q During this time, what were you doing? What was
18 your --

19 A Hanging out at the university quite a bit. I had
20 unofficially audited quite a few sociology classes at
21 the university, all sociology classes at the school, but
22 I didn't pay tuition. I just went to them.

23 Q You weren't enrolled as a regular student at U of M?

24 A No, but I took the tests and everything.

25 Q Did you also get to know a person by the name of

1 Jeff Fairchild?

2 A Yes, I did.

3 Q When did you first meet Jeff?

4 A Sometime in the Fall of '88.

5 Q About the same time you met Guenevere?

6 A Yes, same semester.

7 Q Was it fair to say you became friends, buddies?

8 A Yes.

9 Q At some point did you and Jeff talk about the
10 possibility of going into Idaho, and specifically to the
11 Post Office Creek sale?

12 A Yeah.

13 Q How did that come up? What was the genesis of that
14 idea?

15 A Well, it was my idea. I was familiar with Senator
16 McClure's 1864 law and I wanted to be charged with it.
17 I wanted it to be a misdemeanor, and I wanted to
18 preserve the trees.

19 Q What do you mean preserve the trees?

20 A The trees were really big. They were like this big
21 around, and they were supposed to be logged and I wanted
22 to keep them there.

23 Q What do you mean keep them there?

24 A Prevent them from being cut.

25 Q How were you even aware that there was such a thing

1 as the Post Office Creek Timber sale?

2 A Actually, Guenevere got me the map. Before that, I
3 wasn't aware of it.

4 Q When did you receive the map?

5 A I'm really bad on dates; about the time we moved
6 into the house in Kensington, January-February '89.

7 Q Were you familiar with an organization there in
8 Missoula known as Earth First?

9 A I'm familiar with them.

10 Q Were you a member per se?

11 A No.

12 Q Did you ever have occasion to attend their meetings
13 or their rallies?

14 A I went to the national rendezvous with maybe a couple
15 thousand Earth Firsters in 1988 is the first time I'd
16 heard with them. It was about a month before that and I
17 went to see what they were about and I got a ride back
18 to Missoula with one of them, and that's how I came to
19 be in Missoula. But I didn't have much to do with them
20 as a group per se.

21 Q What was it that you actually did in terms of
22 organizing this trip up to the Powell area to the Post
23 Office Creek sale?

24 A I procured the spikes, hammers, spray paint, food,
25 and recruited people to go.

1 Q Okay, let's back up on that. You've already
2 testified that you really don't have any money or any
3 income. How did you acquire all these items?

4 A Guenevere gave me the money.

5 Q Did you tell her what you wanted the money for?

6 A Yeah.

7 Q And how long before the actual trip was made?

8 A Not too long. Maybe, you know, probably two weeks
9 or less. I bought the spikes on two different
10 occasions.

11 Q And when you say spikes, what are we talking about?

12 A Big nails, eight-ten inch nails.

13 Q And you've seen the exhibits that have been
14 introduced by the government, something similar to
15 those?

16 A Yeah, that's probably them for sure except the real
17 tiny ones, I didn't use anything like that.

18 Q When you say real tiny ones, are you talking about
19 the ones that the mill worker held up?

20 A Yeah, the young gentleman that was here today. I
21 didn't use anything like that.

22 Q Did you go to UBC in Missoula to pick those up?

23 A Yes, I did.

24 Q Did you buy paint at the same time?

25 A Well, I bought the spikes on two different

1 occasions. I bought one box of 10 inch and I didn't buy
2 any paint at UBC. I bought the two cans of paint
3 downtown because it was on sale. Then I went back a
4 second time about a week later when I had more money and
5 I bought two boxes of 8 inch and two cans of paint.

6 Q What kind of paint did you buy?

7 A Rustoleum red downtown and something called Go
8 Green, Flourescent Green at UBC.

9 Q These were hand-held --

10 A Spray paint.

11 Q How did you pay for them?

12 A Cash.

13 Q And what did you do with these items after are you
14 picked them up?

15 A Well, the first -- took them home to the house.

16 Q By the house, you mean the Kensington residence
17 where you lived with Guenevere?

18 A Yes.

19 Q Where did you store them?

20 A In the cupboard.

21 Q When did you approach Mr. Hartley?

22 A After I had the first box of nails and before I
23 bought the second batch. The first time I met Arvid was
24 at a timber industry meeting and he was painted green
25 and had leaves in his hair and he took it upon himself

1 to take this action and he didn't know anybody in the
2 environmental community and he seemed like somebody that
3 might want to go.

4 Q You've heard him testify here on Monday?

5 A Yes.

6 Q You don't really have much disagreement with what
7 Mr. Hartley had to say, do you?

8 A No.

9 Q What about Mr. McLaine?

10 A He was a laborer. He always wanted somebody to take
11 him camping and he asked me several times. The only
12 time I ever seen him was at Connie's Bar and I'd say I
13 had the impression he was afraid to go camping alone,
14 but he really wanted to go and so he was a candidate.

15 Q Where did you ask him?

16 A At Connie's.

17 Q And you've heard him testify as well?

18 A Yes.

19 Q Do you have any disagreement with what he had to
20 say?

21 A Not at all.

22 Q What about Jeff, Mr. Fairchild?

23 A Yeah, I asked him to go. I bought the first batch
24 of 50-pound box of nails at UBC and I carried them home
25 in my backpack and that turned out not to be very

1 practical; we lived a couple of miles away. So I asked
2 Jeff if he would take me to UBC to buy some building
3 supplies, and when we got there I bought two boxes of
4 8-inch nails and two cans of spray paint and Jeff knew I
5 had some environmental concerns and that was one of
6 Jeff's concerns, environmental field of study, and he
7 kind of put two and two together, and asked me what I
8 was doing, I told him and asked if he wanted to go.

9 Q Just so the jury knows, spiking had been a topic of
10 conversation in the environment community in Missoula,
11 hadn't it?

12 A Certainly.

13 Q And it was a source of discussion on a day-to-day
14 basis between many people in the area?

15 A Yes.

16 Q And by many people, I mean in the environmental
17 community?

18 A On both sides. I'm sure the timber industry
19 discusses it, too.

20 Q What was it that made you decide that you needed to
21 do something, actually do something about -- take the
22 step and actually do something about it?

23 A The trees were really spectacular. I had never
24 actually been at the Post Office. We just looked at the
25 map and drove straight to it, but in the general area

1 the trees are really spectacular and natural hot spring
2 pools and thousand-year old trees and Guenevere
3 encouraged me to do something like this, but that wasn't
4 my motivation.

5 Q What was your motivation?

6 A To save the trees, to save some of the old growth.
7 There is so little left.

8 Q Had you been in the area surrounding it, realizing
9 you hadn't been directly to Post Office Creek, but had
10 you been to that area before?

11 A I had been to the hot springs, which I think are
12 like eight nautical miles away.

13 Q Just so the jury knows, you like being in the
14 outdoors?

15 A Yeah, I've lived without electricity for years. I
16 do really well in the woods. I can survive off the
17 land.

18 Q You like to camp?

19 A Yeah.

20 Q Even winter camp?

21 A Sure.

22 Q After you'd acquired the paint and the nails, what
23 did you do?

24 A Got some people together and we went up and spiked
25 the trees.

1 Q What time of year was this, if you recall?

2 A Kind of late winter.

3 Q Could have been in spring yet?

4 A Well, I don't know. I think it was March. I'm not
5 sure when spring actually begins.

6 Q When you say late winter, what is it you base that
7 on?

8 A It was starting to get warm enough to melt the snow
9 off the trees, but not off the ground. So late winter,
10 there was still four-five feet of snow up there.

11 Q What physical arrangements did you make, and by that
12 I mean who loaded the rig, what kind of rig did you use,
13 bring sleeping bags, tents, et cetera?

14 A Well, I asked everybody if they had a vehicle or
15 knew of a vehicle we could use, the three other people
16 involved, and Jeff thought he might be able to get a
17 vehicle, it was a van, and I thought that would be good
18 for hauling all the people and gear. Takes a lot of
19 gear for winter camping. And I'm sure I probably
20 carried all of my gear out of the house and they had
21 some stuff.

22 Q Anybody help do you that?

23 A Jeff might have, but it was three boxes of nails.
24 He probably made a couple trips.

25 Q What about hammers?

1 A I provided those.

2 Q Where did you get those?

3 A I bought them at the secondhand stores in Missoula.
4 They have got a lot of secondhand shops there.

5 Q What about climbing gear?

6 A No climbing gear used at all.

7 Q Did you have ropes with you?

8 A No, we didn't have tow ropes, nothing like that at
9 all, nothing like that.

10 Q What about food, sleeping bags?

11 A Sure, had all that.

12 Q What about rain gear or --

13 A Neil owned some kind of yuppie, you know, lots of
14 gortex and stuff, so he had all the modern outdoor gear
15 and everybody else had basically what they got from Army
16 surplus stuff.

17 Q What about maps?

18 A We had a map.

19 Q You had one map or more than one map?

20 A One map, two copies.

21 Q And what was the map of?

22 A The Post Office Sale area.

23 Q Similar to what the jury has been shown over the
24 last couple of days?

25 A Yeah, pretty much, but didn't have nearly as many

1 lines on it and there wasn't any of the straight
2 squares. It was just little boxes, Sale Number Two and
3 Sale Number Nine and there was no Sale Number Ten on it.
4 It was cut off the line.

5 Q Had you actually sat down and had planning sessions
6 with the other three participants?

7 A No.

8 Q How was it you even knew where to go then?

9 A Well, I can read a map pretty well.

10 Q Who drove?

11 A Jeff drove.

12 Q Had he ever been to the area as far as you knew?

13 A He'd been to the hot springs before. We went
14 together.

15 Q And tell us about the trip?

16 A Well, we went out to the Post Office Creek area and
17 unloaded all the gear out of the car. I would say we
18 hiked in probably only a mile or so from the road, and
19 we only had skis for two people, so two of us had to
20 punch through the snow and it was quite deep, over waist
21 deep with every step, and we were carrying a couple
22 hundred pounds of gear in, and we made a base camp.

23 That afternoon, I believe we went out and I spiked
24 one tree that I felt was outside the timber sale area,
25 but it was right next to where the road was supposed to

1 go through, according to the markings, and I climbed up
2 the tree as far as I dared, maybe 30 or 40 feet, driving
3 nails in.

4 Q Okay, let's back up. What do you mean you climbed
5 up by driving nails in? Explain that to the jury.

6 A Put one nail in here and one nail in over here and
7 grabbed it and then kind of hooked my belt on to the one
8 and pounded in the next one and went up like that maybe
9 30-40 feet.

10 Q Kind of like a rock climber?

11 A Yeah, rock climbing.

12 Q Why did do you that? What was the point of doing
13 that?

14 A Just to make them think really heavy so they
15 wouldn't cut the trees down, to make them think that,
16 "Gee, this might be an extremely difficult incident to
17 deal with, so we should just move over to the left a
18 little," or something.

19 Q Now, you said it was outside the sale. How did you
20 know it was outside the sale?

21 A The sale's really clearly marked.

22 Q In what manner?

23 A Well, the really big trees had yellow rings around
24 them, the big trees had yellow bands painted all the way
25 around each individual tree, like they were individual

1 sales, and then the other trees, the outside boundaries
2 were marked. I'm familiar with timber markings.

3 Q Why was it important to know the boundaries? Why
4 did you care to know where the boundaries were?

5 A Well, because I wanted to prevent the sale and I
6 wanted to make sure everybody knew right where these
7 nails were and so nobody could get hurt, they would be
8 easy to find and so they would stop the darn sale. I
9 wanted to concentrate as many of them in the sale area
10 as possible and in that way I could be accountable for
11 them.

12 Q What steps did you take to let people know that?

13 A We painted -- we painted everything in sight until
14 the paint was all gone. We sent a letter to the Forest
15 Service and I was going to send copies of it to the, you
16 know, like the newspaper and the people that bid on it
17 once the bid hit the newspaper, if I could get a list.

18 Q Okay. We'll talk about the letter here in a second,
19 but let's back up a little bit. Had you and the other
20 three people, had you talked about how you're actually
21 going to go about physically putting the spikes into the
22 trees?

23 A Yeah, I kind of gave people pointers on it.

24 Q What do you mean by pointers?

25 A Well, just the fact that they should be placed real

1 high so nobody would get hurt, that we should do -- I
2 decided we should do the outside perimeters of the sale
3 first because, you know, there is thousands of trees out
4 there and we had a lot of nails. So I thought maybe we
5 should go around and do the outside areas and paint
6 everything, make sure everything was marked as much as
7 possible.

8 Q Just to be clear, some trees were not painted?

9 A No, we couldn't. We didn't have enough paint. But
10 the outside -- there was no way you could miss the
11 markings; you could not possibly get into the cut area
12 without knowing it was spiked.

13 Q That was intentional on your part?

14 A Yes, absolutely.

15 Q What about placement of the nails, that is, the
16 manner in which they would actually be placed into the
17 trees, at what height and what angle, et cetera? Was
18 that discussed?

19 A Yeah, it was. Everybody, well, it turns out these
20 nails were really big and you have to use, like, a
21 three-pound hammer to drive them in and you can't swing
22 a three-pound hammer with one hand, so about the only
23 thing you can do is over your head and about the only
24 motion you can use is both hands.

25 Q Did that serve two purposes by having it over your

1 head?

2 A Yeah.

3 Q What was the other purpose?

4 A Just to make sure none of the sawyers, the people
5 who cut the trees down, couldn't tangle up their saws in
6 there.

7 Q Sounds like it was very hard work.

8 A It was very hard work.

9 Q Did the snow depth vary from location to location in
10 the area?

11 A Yeah, it did vary quite a bit. In some cases there
12 was enough of a crust due to the melt that you could
13 walk over the top of the snow, and then, of course,
14 there are drifts and stuff and some of the drifts were
15 totally un navigable, and I would say the average snow
16 was probably about four feet.

17 Q And it was just the start of the melt at that time?

18 A Right.

19 Q How long, well, tell the jury about what areas you
20 worked on.

21 A Well, like I said, the map had about three areas on
22 it and I wanted to cover all of those, and we did,
23 indeed, cover all of those, and then on our way out from
24 I gues t Unit No. 10 we discovered Unit No. 9 by mistake
25 taking a short cut back down to the road because it was

1 really hard the way we hiked up and we spiked a few
2 trees. That's where the really huge trees were, and
3 they were marked just like the other trees, so I knew
4 they were in the timber sale and going to be sold, and
5 we spiked a few of those and went down the hill to the
6 road and walked back to the camp.

7 Q Did this all happen in one day?

8 A It was three days, I think.

9 Q Were you actually up in the sale all day every day?

10 A Oh, yeah.

11 Q Was there ever any time when anybody actually left
12 the area and went somewhere else?

13 A Yeah. Arvid and Neil went into the town one night
14 to get a couple beers and warm up.

15 Q It was pretty cold?

16 A It was chilly. It was below freezing.

17 Q How many spikes in all do you think you put in the
18 trees?

19 A Two 50-pound boxes and two -- three 50-pound boxes
20 altogether, one 8-inch and two 10-inch.

21 Q Were the nails distributed in any particular manner?

22 A Only that I had all the 10-inchers because nobody
23 else wanted to work that hard. No, just those trees
24 inside the timber area, and it was up high enough nobody
25 would get hurt in case they did try and cut it, and that

1 was it.

2 Q Now, did you intend to do damage to the tree by
3 pounding the nail in?

4 A Didn't hurt the tree. These are really big trees.
5 There is old nails in them from timber camps and every
6 time somebody goes Elk hunting, they pound a bar up so
7 they can hoist the elk up on it. Nails won't hurt
8 trees.

9 Q Was it your intention to damage the trees at all by
10 pounding the spikes in?

11 A I would never damage the tree. I was trying to save
12 the trees. I mean, when I collect fire wood and stuff,
13 I just collect fall wood. I wouldn't cut a tree down
14 for anything.

15 Q Is there another way to pound a spike into a tree
16 that does cause damage to a human being or to equipment?

17 A (No response.)

18 Q Are you --

19 A Yeah, you can make it a pain for the sawyers. You
20 can put the spikes in low and try and get a saw or you
21 can drill big holes in the tree and slide in tons of
22 concrete or something and cover it back up.

23 Q Was any of that done?

24 A Oh, no, no.

25 Q As far as you're concerned, was there any spiking

1 done outside other than what you've described the
2 special tree, any spiking done outside the boundaries of
3 the sales of the units?

4 A Not that I know of. If there was, it wouldn't have
5 been intentional. I know the guy said there was two or
6 three trees outside the boundary, but it was probably
7 just a mistake from somebody.

8 Q How many trips did you make out to Post Office
9 Creek?

10 A One trip.

11 Q You were here when Guenevere testified that in her
12 opinion there were two trips?

13 A Yes.

14 Q You dispute that?

15 A Yes, I do.

16 Q At any time was a gentleman by the name of Nat,
17 (spelling) N-A-T, was he ever on --

18 A No, he wasn't.

19 Q Who was Nat? Did you know him?

20 A Nat is another one of the people -- there was three
21 people at that timber industry meeting that were painted
22 green and had leaves in their hair and stuff. There was
23 Arvid and Nat, who is a small black Jewish fellow from
24 the East Coast, and another young fellow.

25 Q And so Nat didn't go on the trip that you and

1 Arvid and Neil and Jeff went on?

2 A No, he didn't. I read his name all through there --

3 Q He didn't go?

4 A He didn't go.

5 Q When did you find an elk on that trip, on the trip
6 you took?

7 A Yeah, we found an elk laying on the hillside. It
8 somehow managed to fall down the hill and broke its
9 neck, had a big rack on it, five-six points.

10 Q When was that found, first day, second day third
11 day?

12 A Second day.

13 Q Who found it?

14 A I think I did.

15 Q Did you actually butcher the meat?

16 A Jeff's dog found it.

17 Q Pardon me?

18 A Jeff's dog found it. His dog was there.

19 Q Did you actually butcher some of the meat?

20 A Well, yeah. I mean, it was completely exposed and
21 he had probably been dead for a couple weeks and I
22 rolled it over on the down, snow side and cut off a
23 roast.

24 Q And did you bring some of that back?

25 A Yeah.

1 Q And would Guenevere have seen that?

2 A Yeah.

3 Q You heard Guenevere's testimony that in her opinion
4 it came on the second trip?

5 A No, it came on the only trip.

6 Q So Guenevere would be mistaken in that?

7 A Yeah.

8 Q Did you ever go up to that area with Mr. LaCrosse?

9 A Never, no. Neither he nor Nat were there at any
10 time.

11 Q What about an unknown friend of Mr. LaCrosse that
12 Guenevere talked about?

13 A No, there was only four of us total; Jeff, Arvid,
14 Neil, and I, and we went once.

15 Q When did you leave the Post Office Creek sale?

16 A I think on the late afternoon on the third day.

17 Q And where did you go?

18 A Back to Missoula.

19 Q And just so the jury knows, were you in a different
20 vehicle than when you left with?

21 A That's been mentioned. I don't recall it. I don't
22 remember. I do remember going up there in a van, and I
23 just kind of have in my mind that we came back in the
24 van. I don't know.

25 Q Where did you go when you got back?

1 A Home.

2 Q What did you have left, what kind of materials, et
3 cetera?

4 A Well, we had all the trash from the camping trip.
5 We brought back all our trash, everything that we
6 generated, and, of course, our gear, you know,
7 backpacks, stuff like that.

8 Q What did you do with them?

9 A Threw away the trash and put away the gear.

10 Q What about extra spikes, hammers, spray paint?

11 A Brought the hammers back, too. Spray paint was in
12 the trash category now. They were all empty and we used
13 all the nails.

14 Q What was done with the hammers?

15 A I might have had like a handful of nails left.

16 Q What did you do with those?

17 A Put them back in the cupboard.

18 Q At Guenevere's house?

19 A At her house, yeah.

20 Q What did you do with the elk meat?

21 A Cooked some of it up, federal some of it to the
22 alley cats. I think Jeff fed it to the alley cats. I
23 went up to the store and when I came back there were
24 little elk steaks up and down the alley and we had every
25 cat in the neighborhood at that point.

1 Q Did you talk to Guenevere about what you guys had
2 been doing?

3 A Yeah.

4 Q Now, at some point you took -- made an effort to
5 actually notify the Forest Service that this had been
6 done?

7 A Yes.

8 MR. CHASTAIN: Mr. Bailiff, could I have Mr.
9 Blount handed a copy of the envelope and the letter that
10 were marked and admitted?

11 Q (By Mr. Chastain) I think 19 and 20, if that could
12 be handed to Mr. Blount. John, take a look at 19 and
13 20.

14 A Yeah.

15 Q Now, you didn't actually produce those two items,
16 did you?

17 A No, I didn't.

18 Q At some point, did you determine that you needed to
19 notify the Forest Service for what had happened up at
20 Post Office Creek?

21 A I had every intention of doing that before it ever
22 happened.

23 Q Did you actually draft the letter?

24 A No, Guenevere wrote the letter.

25 Q And who typed it?

1 A Guenevere.

2 Q And why did she do it, as opposed to you?

3 A I asked her to. She writes much better than I do.

4 Q What did you do with the letter?

5 A I took it up on campus with me and I asked Tracy
6 Stone to mail it.

7 Q Why did you ask Tracy to do it? Why didn't you do
8 it yourself?

9 A I had been over at the -- I believe at the Earth
10 First House one time and overheard somebody tell how to
11 send an anonymous letter without it being traced.

12 Q Why did you care if it was traced or not?

13 A Well, I thought it would give them more to think
14 about if they had to look around for whoever done it. I
15 intended to take credit for it, but I was kind of having
16 a little fun with the Forest Service.

17 Q What do you mean by a little fun?

18 A Well, it's my opinion that sometimes they spend a
19 lot of money messing stuff up and I was going to make
20 them spend a little bit of money looking around for
21 whoever did this.

22 Q So that's why you didn't sign it?

23 A Right.

24 Q And did Miss -- what instructions did you give Tracy
25 in terms of how to mail it?

1 A I just asked her if she'd mail it without any
2 fingerprints.

3 Q Did she agree to do that?

4 A Yes.

5 Q Did you have to tell her where to mail it from?

6 A No.

7 Q And do you have any doubt of her testimony that
8 that's the letter that she actually sent up to the
9 Powell Ranger Station?

10 A No, I believe that's the letter. It's a couple
11 paragraphs shorter than I remembered it being
12 originally, but I'm sure that's the letter that was
13 sent.

14 Q Did that letter fulfill your intent you had in terms
15 of notifying the Forest Service as to the existence of
16 the spikes?

17 A Yes, it says that the area is heavily spiked, and
18 states the reason why the action was taken.

19 Q It exaggerates, though, doesn't it, in terms of the
20 actual number of spikes in there?

21 A Yeah, it was over-kill.

22 Q Was that on purpose?

23 A Yeah. See, I didn't create the letter. I didn't
24 sit down and tell her what to write, but when I read it
25 I thought it was kind of funny.

1 Q John, when you got involved, when you put these
2 spikes in, did you have the intent to hurt anybody?

3 A Never.

4 Q Did you have the intent to damage anybody's
5 equipment?

6 A Absolutely not. I really didn't think -- I had the
7 understanding there is at least two laws that I know of
8 on the books and the way I understood them they would
9 have to cancel these sales and these trees would not be
10 cut.

11 Q Did you want the trees to remain where they were?

12 A Absolutely.

13 Q Why?

14 A We need to save some of the old growth forest. We
15 need to save it for aesthetic reasons and for reasons
16 like the yew tree, which was originally found growing in
17 stumps of trees. That's where we get the new cancer
18 drug, taxol from. There are insects living in England
19 that only live in tree stumps of 400 years old. That's
20 the only place they live and people need to look at
21 those kinds of values when they look at old growth
22 timber.

23 Q Did you see value of trees remaining as they were?

24 A Absolutely.

25 Q Was it your intent to damage the Federal Government

1 by putting nails into these trees?

2 A I didn't see how that could be done. I did not
3 intend to damage anything.

4 Q What is it -- how was it you believed that you
5 couldn't damage the Federal Government by putting nails
6 in these trees?

7 A It doesn't hurt the trees and I didn't think anybody
8 was going to be silly enough to cut them down. You
9 can't get a 10-inch nail out of a tree and I thought
10 they were going to be protected.

11 Q To some extent you saw benefit in having those trees
12 being alive and growing?

13 A Yes.

14 MR. CHASTAIN: That's all I've got, Your Honor.

15 THE COURT: Did you have any questions of this
16 witness, Mr. Maile.

17 MR. MAILE: No, I don't think so.

18 THE COURT: All right.

19 MR. BREITSAMETER: Could the defendant be
20 handed Exhibit 47, please, one photograph?

21

22 CROSS-EXAMINATION

23 BY MR. BREITSAMETER:

24 Q Do you recognize Exhibit 47?

25 A Yeah, it's a photograph of the tree with some words

1 on it that I wrote.

2 Q And when did you write that?

3 A On the camping trip.

4 Q What camping trip?

5 A The one we went up and spiked the trees at Post
6 Office Creek.

7 Q The testimony you've just given here is that you
8 were going to take credit for doing this?

9 A That's correct.

10 Q Have you ever -- what did you mean by that?

11 A I intended at some point to have a press release,
12 call the press up and get them downtown and maybe the
13 federal building where we did lots of protest on
14 environmental issues in Missoula and stand up and say,
15 "I did it."

16 Q And in fact, you left town, left Missoula after this
17 happened?

18 A Yes, I did. I went fishing in Ontario.

19 Q You knew that this area was scheduled for a sale,
20 did you not?

21 A I knew it would be at some point in the future. As
22 far as I know, it was not up for sale when we were up
23 there.

24 Q You had sale maps for the area?

25 A I had the Post Office map, yeah.

1 Q You had the areas that were marked off for sale
2 purposes?

3 A Yes.

4 Q In the area, the trees that you spiked, there were
5 border trees that were marked as they are for sale?

6 A Excuse me?

7 Q The trees surrounding the sale units, border units
8 were marked as border trees, were they not?

9 A Right.

10 Q So you knew that the trees that were spiked would be
11 sold by the Forest Service to lumber companies?

12 A I did not believe these trees would be sold, if I
13 put nails in them. I knew that they would be up for
14 sale at some point in the future. I didn't think there
15 was any sale going on currently.

16 Q And you were aware, were you not, of the risks
17 associated with mill workers processing spiked trees?

18 A That's why we took every precaution.

19 Q But you were aware of that fact?

20 A Yes.

21 Q It was your intent to obstruct or damage the trees
22 here in question?

23 A Absolutely not. I wanted to save them.

24 Q What about the industrial equipment in October of
25 '88?

1 MR. CHASTAIN: Objection, Your Honor.

2 THE COURT: Yes, counsel, you were to address
3 the court before that area was explored. Sustained.

4 MR. BREITSAMETER: We need to address that at
5 this time.

6 THE COURT: Well, I've sustained the objection.

7 MR. BREITSAMETER: As far as the specifics of
8 what happened.

9 THE COURT: I might say, well, I'll hear from
10 counsel during the noon recess, and I'll reserve on the
11 objection.

12 Q (By Mr. Breitsameter) Is it your testimony that you
13 do not recall everything that happened when you were up
14 there?

15 A I'm sure there is little, you know, like I don't
16 remember our camp fire conversations in the evening.
17 It's a long time ago.

18 Q You don't remember the different vehicles, the
19 change in the vehicles?

20 A No, I really don't. I believe it might have
21 happened. Like I said, the two fellows went into town
22 to have some beers and came back, but I don't remember
23 it.

24 Q You do recall that Mr. Hartley and Mr. McLaine left
25 for a short time to have a hamburger or something?

1 A Yeah, they were gone for quite awhile. They left
2 before sundown and got back what seemed like after the
3 bars closed to me.

4 Q That wasn't the Lacksaw (ph) Lodge?

5 A I have no idea.

6 Q You actually recruited both Mr. McLaine and Arvid,
7 did you not?

8 A Yes.

9 Q And it's your testimony that you agree with what
10 their testimony was, that is, Mr. Arvid Hartley's and
11 McLaine?

12 A Yeah.

13 Q And you obtained all the materials as they testified
14 to and then it was your decision to go to the Post
15 Office Creek sale?

16 A That's correct.

17 Q And initially then you went to that Unit No. 2 sale
18 area?

19 A Yeah. Unit 2 was closest to where our base camp
20 was.

21 Q You used that dayglow green paint to mark the sales
22 in that area?

23 A Yeah.

24 Q And it's your testimony that you also had paint in
25 addition to that?

1 A I had two cans of dayglow green and two cans of
2 Rustoleum Red.

3 Q So you disagree with what Mr. McLaine and Mr.
4 Hartley testified to concerning there was no red paint?

5 A If, indeed, that's what they said, I disagree with
6 it. I did 90 percent of the painting, so they might
7 have only realized that there was green paint. The
8 green paint we used the very first day because it was
9 closest to camp.

10 Admittedly, the other guys weren't as
11 enthusiastic as I was and they kind of started fading
12 out fast the second day because they were cold and
13 tired. They weren't around me very much.

14 Q Okay, and then you went back to Missoula?

15 A Yeah.

16 Q So it was a two-day trip, as they have testified to?

17 A Seems like it was two days to me.

18 Q And you didn't have any climbing gear?

19 A None.

20 Q And then you have no reason as to why spikes were
21 found 20 feet or so up in the -- up in the trees?

22 A No, there is large cones of snow from where the snow
23 falls off the branches and lies on the grounds, so there
24 is like a four-foot base. There could have been an
25 additional several feet directly against the tree a

1 little bit up in a cone shape and everybody put their
2 nails in as high over their heads as they could reach
3 except the one big tree that I climbed.

4 Q It's your testimony that you did have 10-inch spikes
5 on that trip, but apparently Mr. Hartley or McLaine did
6 not observe those 10-inch spikes?

7 A Those were my personal nails.

8 Q You just kept them yourself?

9 A Nobody else wanted to try it. There is such a
10 significant difference between sinking an 8-inch with a
11 thin diameter or a 10-incher, and nobody else wanted to
12 put out the effort to accomplish that. I kind of
13 regreted buying all of that; so I bought 8-inchers the
14 second time, because I was trying a 10-incher on a piece
15 of firewood in the yard, and that was a whole lot of
16 work.

17 Q That was in preparation for this trip?

18 A Yeah.

19 Q And it's your testimony that Guenevere Lilburn
20 actually encouraged you to make this trip?

21 A She certainly supported the type of activity, yes.

22 Q And she helped you on the letter?

23 A She typed the letter, she created the letter
24 entirely, right.

25 Q So then why did she come forward if she was so

1 involved in the spiking?

2 A As it says in her testimony, she wanted me locked
3 up.

4 Q She had reason for that?

5 A Apparently so.

6 Q As far as the spikes that are down at the level of
7 approximately 18 inches from the ground, it's your
8 testimony that you did not place those spikes in that
9 location?

10 A No, I did not personally, no.

11 Q Do you know who did then?

12 A No, no one in my presence.

13 Q What about the blue paint that's on the --

14 A There was no blue paint on our trip. That belongs
15 to somebody else. I heard other people say they used
16 blue paint. I have no idea.

17 Q Was there some other group that went up there and
18 marked trees with Earth First and other logos and spiked
19 trees?

20 A There was nobody on our trip that had blue paint.

21 Q In your first trip?

22 A The only trip we made.

23 Q You don't recall Mr. McLaine or telling Mr. McLaine
24 that there was more work to be done?

25 A It's a big planet with a lot of problems; there is

1 more work to be done.

2 Q But on this particular second day of spiking, do you
3 recall telling Mr. McLaine there was more work to be
4 done, and when he wanted to leave you were opposed to
5 that?

6 A No, I don't recall saying that. It doesn't seem
7 like I would have. We nailed everything in sight.

8 Q So it's your testimony that in those two days you
9 covered all of Unit No. 2, all of Unit No. 9, and all of
10 Unit No. 10 that you've heard in evidence in this case?

11 A Yeah.

12 Q And the spiking --

13 A I worked part of one night, too, when the fellows
14 went into town by myself self.

15 Q What night was that?

16 A Must have been the second night. I'm sure everybody
17 stayed the first night.

18 Q You walked around out in the woods yourself spiking
19 trees?

20 A Yes, sir.

21 Q Were you spray painting them also at that time?

22 A No, I was not.

23 Q Did you spray paint them later?

24 A We basically had already run out of spray paint at
25 that point. I was back into Sale No. 9 then.

1 Q Do you recall bringing those empty cans back to
2 Missoula and storing them Guenevere's residence?

3 A I remember bringing them back into Missoula and I
4 think we threw them away. They were empty.

5 Q What about the money; do you recall telling
6 Guenevere that you got the money from a particular
7 source?

8 A I never said anything like that. Guenevere gave me
9 the cash for this.

10 Q She paid for this?

11 A Yes.

12 Q The UBC receipt then, you admit those are the spikes
13 that you bought, the 8-inch spikes?

14 A I have a well documented sort of learning
15 disability. I do not know dates. I have to count on my
16 fingers to figure out which year my son was born. I
17 can't say that that's the receipt for our sale. I did
18 buy two boxes of 8-inch nails and two cans of spray
19 paint from UBC.

20 Q You don't recall instances where spikes were put low
21 to the ground that were not marked?

22 A No. Everything in the area was marked. If the
23 individual tree wasn't marked, the entire border of the
24 sale was marked. So in my mind everything was marked,
25 even if one individual tree wasn't.

1 Q Okay, as replicated in that Exhibit 47 before you?

2 A Yeah, yeah.

3 Q Is it possible that there was a second trip that you
4 are just having difficulty recalling today that you went
5 out later and used red spray paint?

6 A Not possible.

7 Q So Mr. McLaine and Hartley are mistaken on that?

8 MR. CHASTAIN: Objection. That doesn't
9 characterize their testimony. They only said they went
10 on one trip.

11 THE COURT: Overruled. This is
12 cross-examination.

13 THE WITNESS: I only went on one trip. I only
14 went on one trip with Mr. Fairchild, Arvid, and Mr.
15 McLaine, and if they ever went again, I have no
16 knowledge of that.

17 Q (By Mr. Breitsameter) And you said I was trying to
18 have a little fun with the Forest Service. It was your
19 intent, then, this would obstruct this sale; I mean,
20 that's clearly the intent?

21 A I intended to have the sale canceled.

22 Q You knew that would damage the Forest Service as a
23 result of that, did you not?

24 A No.

25 Q Well, you saw all the costs?

1 A The Forest Service loses money on every timber sale
2 in America every year. It's a fact. It wasn't like
3 they were going to lose money on it because of something
4 I did. They lost money on sales. You get a greater
5 economic return if you wait and find a really good
6 discovery like taxol.

7 Q You don't recall collecting receipts for this for
8 your purchases?

9 A No, I didn't keep the receipts.

10 Q You didn't save them to show someone?

11 A No.

12 Q That's your testimony that Guenevere actually gave
13 you the money for the purchasing of the materials?

14 A That's correct.

15 Q So she's mistaken on that?

16 A (No response)

17 Q On what she's testified to?

18 A She's lying, yes.

19 Q Why is she lying?

20 A Personal motivation, I would suspect.

21 Q On this Exhibit No. 19, you still have the letter
22 before you?

23 A Yes.

24 Q And you actually composed that Exhibit No. 19, that
25 letter?

1 A No, I did not.

2 Q I'm sorry. Who did?

3 A Guenevere.

4 Q Okay, how did Guenevere know what to write in this
5 Exhibit No. 19?

6 A She knew that we could go up there to spike the
7 trees that we had every intention of canceling the sale,
8 but we needed to notify everybody it had been done so
9 the sale would be canceled, and in the event anybody
10 tried to cut down the trees, nobody would be injured,
11 and with those perimeters she typed up a letter.

12 Q So you're saying that she didn't knowing anything
13 about the spiking?

14 A She knew we went up there and did it.

15 Q She knew that you, Fairchild, Mr. Hartley, and Mr.
16 McLaine went up?

17 A Correct.

18 Q And you've heard her also testify that she knew that
19 Mr. LaCrosse went up subsequent, as well as?

20 A As well as Mr. Malongee (ph).

21 Q Malongee?

22 A And none of those people were on our trip.

23 Q In terms of the letter, it says that trees were
24 spiked up as high as 150 feet?

25 A Yeah, I thought that was cute.

1 Q That's Guenevere; not you?

2 A Correct.

3 Q So she had -- she wrote this and she had no
4 knowledge about you spiking trees up in the trees as has
5 been evidenced here?

6 A I'm not quite sure. What do you mean?

7 Q I'm sorry? Did you tell her that you had climbed
8 the trees?

9 A I told her I pounded the spikes into one tree and
10 gotten up 30-40 feet.

11 Q And it's your testimony that's the only tree you did
12 such as that?

13 A Yeah, it was a lot of work.

14 Q And you didn't bring climbing gear?

15 A That's correct.

16 Q When you spiked the trees, and so Guenevere is also
17 mistaken on recalling the ropes, the second trip?

18 A There was no second trip, there were no ropes on the
19 first trip.

20 Q And you weren't disappointed to have the first trip
21 or the trip that Mr. Hartley and McLaine ended early?

22 A It was a roaring success in my opinion.

23 Q Nine days that was spent spiking, that doesn't
24 include this trip, the two trips, first trip and a
25 second trip?

1 A We were not there nine days. There were not, 11
2 people. It was just something cute to write, I reckon.
3 It made it sound like it had been done in such a big way
4 you could never possibly hope to go in there and cut
5 them.

6 Q Okay, is it your testimony then that letter that
7 Guenevere Lilburn composed you gave to Tracy Stone
8 Manning?

9 A Yeah, I did.

10 Q In that same form?

11 A No. Like I said, I think it had a couple more
12 paragraphs. But, I don't know, I don't know. Roughly
13 the same form, yeah. I remember the part about the 11
14 of us, nine days, in God awful weather. The weather was
15 beautiful. It was a brilliant sunny day, and the 500
16 pounds, well, you know, I think there was 150. There
17 may have been some other stuff in the original letter,
18 but this is basically it.

19 Q Mr. Blount, just to be clear, though, the original
20 letter, it's your testimony Guenevere Lilburn composed
21 and you gave to Tracy Stone Manning as is; is that true?

22 A (No response)

23 Q Yes or no?

24 A I gave it to Tracy to give to Guenevere to type it,
25 yes.

1 Q Now, Guenevere, does she use profanities a lot?

2 A Not a lot. I'm sure she knows them.

3 Q Well, in this letter, you recall Tracy Stone
4 describing the profanities that were in the letter?

5 A Yeah, I don't remember, you know, any profanities.
6 I don't remember the original wording. The main thing I
7 remembered was that it was a notification letter and
8 that it vastly exaggerated the numbers, people, amount
9 of nails, and, of course, the height on the trees. You
10 couldn't spike one of these trees 150 feet up in the
11 air. The tallest tree 150 feet, you'd be 20 feet over
12 the highest branch. They are not that tall.

13 Q Aren't you really trying to blame Guenevere when in
14 fact she had little, if any, role in this case?

15 A No, sir. She did have a very minor role in this
16 case.

17 Q And you're just trying to protect certain
18 individuals who were on the second trip; isn't that
19 true?

20 A There was no second trip. For some reason, you guys
21 didn't invite Mr. Malongee to trial.

22 Q Do you know who Mr. Malongee is?

23 A I know that, yeah.

24 Q Where is he?

25 A Oh, I understand you provided documentation saying

1 you located him on the east coast.

2 A And he was not on the trip?

3 Q Have you talked to Mr. Malongee?

4 A No, I haven't.

5 Q Do you know what he has to say?

6 A No, I don't.

7 Q Have you talked to Mr. LaCrosse in preparation for
8 your trial, for your testimony here today?

9 A I haven't seen Mr. LaCrosse in several years until I
10 walked in the courtroom.

11 Q Did you talk to him last night?

12 A No, I didn't.

13 Q Have you talked to him in preparation for your
14 testimony today?

15 A No, I haven't. I've never talked to him outside the
16 courtroom here.

17 Q Did you have business dealings with Mr. LaCrosse?

18 A No.

19 Q None?

20 A No.

21 Q You were aware that Mr. LaCrosse, his family, own
22 Locksaw Lodge?

23 A Seems like I remember hearing that they used to, but
24 I thought it was like way back when he was a little kid.

25 Q And why is it that you particularly selected this

1 Post Office Creek sale?

2 A Because it was the only particular timber map that I
3 had, and it had big enough trees to make it worthwhile.

4 Q And it's your testimony that Guenevere provided you
5 with that letter -- or that sale map?

6 A Yes.

7 Q You don't know where she got it?

8 A No, she kind of led me to believe that -- I know
9 where she got it, but --

10 Q Where did she say she got it?

11 A She didn't really tell me who gave it to her, but
12 she gave me the impression that her Uncle John gave it
13 to her.

14 Q John Lilburn?

15 A Yeah, and the reason I had that impression was
16 because she, I believe, these aren't the right exact
17 words, she said that she got it from somebody that
18 wouldn't give it to me, and John and I don't get along.

19 Q You got John in trouble, didn't you?

20 A No.

21 Q So Guenevere is the one that selected the site?

22 A Yeah. Well, I mean, she says, "Look, is this a
23 timber map?" and I looked at it and I said, "Gee, yeah,"
24 and so -- and I knew the area because it was near the
25 hot springs and they've got these big thousand-year old

1 trees just a couple miles away and seemed like the area
2 I wanted to be in, so we went.

3 Q Do you recall telling her, Guenevere about something
4 you did on the way back from the trip with regard to the
5 helicopter?

6 MR. CHASTAIN: Objection, Your Honor. It's
7 beyond the scope of direct.

8 THE DEFENDANT: No, I don't.

9 THE COURT: Just a moment. Read the question
10 back.

11 (Reporter read the question.)

12 MR. CHASTAIN: Your Honor, I'm going to object
13 based on the Court's ruling, and I may have to make ask
14 for a ruling outside the presence of the jury.

15 (Whereupon, the following proceedings were held
16 at the bench outside the hearing of the jury:)

17 THE COURT: What could you expect the testimony
18 to be about helicopter?

19 MR. BREITSAMETER: He told Guenevere he put
20 some explosives in a helicopter on the way back from his
21 second trip. I assume he'll deny it.

22 THE COURT: Well, I assume he will, too. Are
23 you going to call her in rebuttal?

24 MR. BREITSAMETER: Well --

25 THE COURT: To testify to that?

1 MR. BREITSAMETER: No, I don't. Your Honor, I
2 don't intend to put her on in rebuttal.

3 THE COURT: Well, let's talk about -- I'm going
4 to be instructing the jury that intent to cause damage
5 to the government is not an element of the offense.
6 Intent to commit the act of spiking is the element, but
7 it need not have been done with the intent. The issue
8 is did damage in excess of \$100 result from the willful
9 act, so that being the case, here he is, he's admitted
10 spiking.

11 MR. BREITSAMETER: Okay.

12 THE COURT: I think it probably generates, once
13 again, more heat than light. I just think it would
14 cause more prejudice than it would produce probative
15 evidence.

16 MR. BREITSAMETER: What about the other matter,
17 the October 1988?

18 THE COURT: I think the same ruling, with his
19 admitting he spiked and my instructions to the jury that
20 it need not have been done with intent of causing damage
21 that the issue is did his willful acts cause --

22 MR. CHASTAIN: Your Honor, I think I do for the
23 record need to interpose probably a request for a
24 mistrial based on Mr. Breitsameter's failure to inform
25 the court before he was going to ask those kinds of

1 404(b) questions.

2 THE COURT: Well, it didn't get far enough to
3 bring before the jury the 404(b) tractor issue, if
4 that's what you're referring to.

5 MR. MAILE: For the record, I concur with
6 co-counsel's motion.

7 THE COURT: I'll deny it.

8 (Whereupon, the following proceedings were held
9 in the presence and hearing of the jury:)

10 MR. BREITSAMETER: We have no further
11 questions.

12 THE COURT: Do you have any further questions?

13 MR. CHASTAIN: No, Your Honor.

14 THE COURT: All right, you may step down.

15 As I indicated, members of the jury, we're
16 going to finish the testimony probably fairly early this
17 afternoon. I have other matters besides this case, and
18 I need to have some time for those. So we're not going
19 to start this trial until 1:30 this afternoon.

20 Keep in mind my admonition. Do not discuss the
21 case, do not discuss any of the testimony that's been
22 offered. Keep an open mind until you've heard all the
23 testimony and until you've heard my instructions on the
24 rules of law that apply. Please take your notebooks
25 with you to the jury room, and be back because we will

start promptly at 1:30.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

