

**Statement of
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United States Department of Agriculture
Before the
Subcommittee on Public Lands and Forests
Energy and Natural Resources Committee
United States Senate
May 3, 2007**

Concerning

S. 647: The Lewis and Clark Mount Hood Wilderness Act of 2007;

and

H.R. 356: To remove certain restrictions on the Mammoth Community Water District's ability to use certain property acquired by that District from the United States

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you to today to provide the Department's views on the bills which are on the agenda today.

S. 647: The Lewis and Clark Mount Hood Wilderness Act of 2007

The Lewis and Clark Mount Hood Wilderness Act of 2007 provides management direction for Mount Hood and its surrounding landscapes that emphasizes the importance of wilderness, recreation, and forest health, as well as cultural, historical, environmental and scenic values.

The Administration recognizes that the bill's sponsors have conducted a considerable amount of outreach and worked with a number of communities of interest including local and state governmental entities, tribes, profit and non-profit organizations and individuals in the development of S. 647.

Last year, the Administration testified in hearings on two bills concerning the management of lands in and around Mount Hood: S. 3854 and H.R. 5025. We are gratified that several of the suggestions offered at that time have been considered in S. 647, and it is preferable to last year's Senate bill. However, we still have critical concerns regarding several provisions which precludes our support for the bill as written.

Several of the provisions continue to be highly prescriptive and limiting, and we believe, could benefit from additional collaboration among all stakeholders. While we strongly support public involvement and community collaboration, the concept of legislating management direction is problematic. We find the land exchange provisions and several of the wilderness designations to be especially troubling. We would like to work with this committee and the sponsors to ensure that existing legal and cooperative frameworks for decision-making continue to be honored as we seek to meet the goals of the legislation.

Overview

S. 647 would expand the National Wilderness Preservation System and the National Wild and Scenic Rivers System, and designate national recreation areas, and a special resources management unit. It would provide for the retention of fees from recreation and other special uses and establish a recreational working group.

In addition, the bill would direct the Secretary to work with State, local, and other Federal governments to develop an integrated multi-modal transportation plan, and, with the State of Oregon, study the feasibility of establishing a gondola connection and a multi-modal transportation center located near Government Camp.

The bill would require the Secretary of Agriculture to conduct a Forest Stewardship Assessment to address forest health, to establish Memoranda of Understanding for watershed management between the Forest Service and irrigation districts or municipalities and to study long-term biomass available on the Mount Hood National Forest. The bill would direct the Secretary to establish priority-use areas and provide for the gathering of first foods by members of Indian tribes with treaty-reserved gathering rights.

The bill would require the Secretary to enter into specified land exchanges with private landowners and directs the Secretary to publish a prospectus to operate a ski area and inn that would be acquired in an exchange.

Analysis

The Administration supports many of the concepts and provisions of this bill, including some wilderness and wild and scenic river designations, and the attention focused on recreation, watershed and forest health and transportation issues on and around Mount Hood.

We would like to work with the committee and sponsors to correct technical items and resolve concerns regarding the legislation including: 1) effects of some of the wilderness proposals; 2) special use fee retention; 3) restrictive management requirements of the Crystal Springs Watershed Management Unit; 4) the requirement to enter into a land exchange that, in our consideration, is not in the public interest; and 5) the requirement to undertake procedures required by the National Environmental Policy Act, the Endangered Species Act, and other laws for a legislated land exchange when the statute

leaves no discretion to take into consideration the information obtained by these procedures.

The bill also authorizes approximately \$2 million in appropriations and many new management activities without identifying sources of funding or proposed offsets. It requires some 20 different types of plans, studies, and management activities without consideration for ongoing forest or regional priorities. It sets multiple timelines that are unachievable given the volume of work, current staffing, and requirements for third party participation.

Wilderness

S. 647 proposes to designate approximately 128,800 new acres of wilderness on the Mount Hood National Forest, and about 1,700 acres of wilderness on adjacent lands managed by the Bureau of Land Management. The Administration would support the designation of wilderness for areas that are consistent with the hallmarks of wilderness described in the Wilderness Act of 1964 – areas dominated by the forces of nature, with primeval character and natural conditions that contrast with developed lands and offering outstanding opportunities for solitude or primitive and unconfined recreation.

The best opportunities for achieving these conditions are within those proposed areas that are contiguous to existing wilderness areas. The additions that, in our opinion, could enhance existing wilderness areas include approximately 59,000 acres consisting of the following: Bull of the Woods (5,400 acres), Mount Hood (2,000 acres), Salmon-Huckleberry (7,700 acres), Roaring River (31,000 acres), and Gorge Face (12,500 acres).

We would like to work with the committee to seek agreement on mapping changes that would provide more manageable boundary locations and enhance the overall wilderness character of the proposed wildernesses. We also seek the flexibility in legislative language to make minor boundary adjustments prior to survey to exclude non-conforming uses such as power lines, roads and existing permitted operations. In addition, we understand that some of the maps referenced in the legislation have been modified since the bill was first introduced, and bill language should be amended to reflect the changes.

We have specific concerns with other proposed wilderness designation including many of the smaller, isolated areas. These areas are currently managed for values and uses that are inconsistent with wilderness designation, including motorized access. Examples of proposed wilderness with limited or impaired wilderness character would include areas close to I-84 and Highways 35 and 26, and small extrusions and peninsulas extending from existing wilderness and from some of the proposed new wilderness. We believe these proposed areas would be adversely impacted from adjacent activities or from activities associated with the continuation of existing uses, such as mountain biking and motorized camping. We would like to work with the committee to explore alternatives that could meet the intent of protecting these areas for future generations short of wilderness designation.

S. 647 proposes new wilderness within the boundary of the Columbia River Gorge National Scenic Area (CRGNSA) designated by Congress in 1986. Most of the area within the CRGNSA covered under the bill is adjacent to urbanized areas and significant infrastructure (such as the cities of Hood River, Bonneville, and Cascade Locks, the unincorporated communities of Dodson and Warrendale, Bonneville Power Administration's high voltage power lines that traverse and transect the Gorge, Interstate 84, and the Union Pacific Rail Line). We believe that adjacent land uses, in conjunction with special provisions for existing rights such as the Army Corps of Engineers permit related to Bonneville Dam, could potentially conflict with and compromise the wilderness character of the proposed Gorge Face Wilderness. The CRGNSA designation has been highly successful in protecting and enhancing the scenic, cultural, and natural and recreation resources of the area while accommodating economic development consistent with these purposes.

Section 106 would require the Secretary to construct a system of defensible fuel profile zones. Significant intergovernmental agency and community involvement has resulted in the development of the City of Cascade Locks Community and the Clackamas County Community Wildfire Protection Plans, completed in 2005. Implementation is being planned by the Forest Service and these partners at this time. However, it would be difficult to implement the proposed zones in a manner consistent with the Mount Hood National Forest Management Plan. The area around Government Camp is spotted owl habitat. Previous fuel reduction projects in this vicinity have been limited because effective treatment would change the stand composition, conflicting with spotted owl habitat. More flexibility in bill language would address this concern

Wild & Scenic River Designations

The Department supports the wild and scenic river designations proposed by S. 647, with the exception of the Fifteen Mile Creek and the East Fork Hood River. The former did not rise to a level of significance for a wild and scenic river eligibility study during the Land and Resource Management Planning process and we believe it still does not merit further consideration. The East Fork Hood River was determined not a suitable addition to the National Wild and Scenic Rivers System in the Mount Hood Land and Resource Management Plan. The paragraphs amending Section 3(a) of the Wild and Scenic Rivers Act should not be numbered, and several river-specific proposals require further clarification. We look forward to working with the committee to address these concerns.

The Forest Service is also concerned about its ability to protect wild and scenic river values with regard to particular wild and scenic river boundary locations; the language relative to water rights and flow requirements; culverts; and treatment of State highways. We prefer that the boundaries be adjusted to exclude potentially nonconforming activities to protect the values associated with these special resources. We would like to work with the committee on amendments to address these concerns.

Recreation

Title IX of the bill would, for a 10 year-period, provide for retention of land use fees from special use authorizations, recreation residences, resorts (including winter recreation resorts), communication uses, linear rights-of-way, and other special uses. Revenues would be held in a special account for expenditure toward a variety of purposes, such as installation, repair, maintenance, and enhancement related to visitor enjoyment, access, and health and safety.

We recognize the importance of outdoor recreation to the social and economic well-being of the Mount Hood region today and into the future. We share the sponsors' concerns with the challenges of managing complex and often conflicting recreation values and uses. However, the new fee retention authority for the Mount Hood National Forest as specified in the legislation is objectionable. The inclusion of new authority for retention and expenditure of land use fees would result in a loss of Treasury receipts which are used to fund ongoing programs.

The proposed legislation would provide for the establishment of a Mount Hood National Forest Recreational Working Group that would be exempt from the Federal Advisory Committee Act (FACA). This working group would provide advice on planning and implementing recreational enhancements on the Mount Hood National Forest, including advice on how the retained fees should be expended. The FLREA already requires the creation of a Recreational Advisory Committee, with similar membership. We believe creation of any additional advisory council would be administratively burdensome and costly and would like to work with the Committee to develop a means to address the objectives of this provision.

S. 647 would designate a Mount Hood National Recreation Area (NRA). The Administration supports this designation, which recognizes the variety of recreational activities that visitors currently enjoy in the proposed area. We also appreciate the significant changes in language reflected in this bill in response to Administration concerns with language in previous versions. We suggest that some of the smaller isolated tracts now proposed for wilderness would be better protected as additions to the proposed national recreation areas as an alternative to wilderness designation.

The bill proposes only the Mount Hood NRA, although the maps reference two additional national recreation areas: the Fifteenmile Creek NRA, and the Shellrock Mountain NRA. As mapped, the Mount Hood NRA overlaps the proposed Badger Creek Wilderness (3,004 acres), the proposed Barlow Butte Wilderness Area (1,973 acres) and the proposed Twin Lakes Wilderness Area (6,359 acres). This dual designation would prove difficult to manage and could also be confusing to the public. We suggest that national recreation area designation for all of these areas is most appropriate. The bill should be amended to reflect the designation of the three separate national recreation areas referenced on the maps.

Transportation

The Administration supports collaboratively participating with the State of Oregon, local governments, and Federal departments in the development of a comprehensive, multi-modal transportation strategy for the Mount Hood region. We do not support language contained in Section 402(e), which assigns responsibility for the transportation plan to the Secretary, or Section 402(f) which authorizes the appropriation of \$2 million to carry out the section. Existing funding mechanisms under section 1117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)(P.L. 109-59) are already available to the Oregon Department of Transportation to address transportation planning. Indeed, the Mount Hood National Forest has recently secured \$100,000 of funding under section 3021 of SAFETEA-LU for the State to begin work on preliminary planning. The transportation plan will include a review and compilation of all existing studies related to transportation in the Mount Hood region.

In addition to the transportation plan, the bill would require the Secretary to conduct a study of the feasibility of establishing a gondola connecting Timberline Lodge to Government Camp and an inter-modal transportation center in close proximity to Government Camp. Given the complexity of conducting this study, we suggest that the Department of Transportation has the appropriate expertise to carry it out.

A 2001 gondola feasibility study conducted with funding from the Federal Highway Administration estimated the cost to construct a gondola from Government Camp to Timberline Lodge ranged from \$21 to \$26 million, and estimated the cost of the gondola from Government Camp to Mount Hood Meadows ranged from \$37 to \$56 million. We do not believe another study of the gondola feasibility would be needed and we would recommend including the completed study as part of the regional transportation planning process.

Section 404 authorizes the Secretary to provide State and Private Forestry program grants to Cascade Locks and Hood River County for the burial of power lines, but the use of these funds is inconsistent with the purposes of the State and Private Forestry program. Section 405 allows for activities not normally permitted in designated wilderness and wild and scenic rivers to repair, realign, expand capacity, and carry out other activities for Highway 35 and any other existing State highway. We would like to work with the sponsors to adjust the proposed wilderness and wild and scenic river boundaries to reduce the need for these types of activities within these designations while still allowing the State to respond to unforeseen emergencies.

Forest & Watershed Stewardship

We support the objectives of the Forest Stewardship Assessment in both bills to determine forest health needs. The Forest Service is currently developing an integrated vegetation management approach similar to the approach provided for in the legislation. The ability to use existing information and processes would expedite developing a forest stewardship assessment consistent with other agency efforts. However, the legislation requires commencement of implementation of the stewardship assessment projects within

a limited time frame, and the Department is concerned this requirement will redirect other available funds allocated to meet higher priority needs. The bill, if enacted, therefore would require the Forest Service to utilize existing funds and displace other, more critical, ongoing work. Again, we would like to work with the committee to address this concern.

We support the concept of assessing the amount of long-term sustainable biomass available in the Mount Hood National Forest. The Forest Service has already begun a study as part of a recent memorandum of understanding signed by the Confederated Tribes of Warm Springs and others to analyze the supply of biomass for a tribal co-generation plant. The bill restricts biomass material to by-products from forest restoration activities. We would like to work with the sponsors to expand the definition of biomass to be consistent with the language in the memorandum of understanding with the Confederated Tribes of Warm Springs.

Local and Tribal Relations

The bills would encourage the Secretary of Agriculture to cooperate with the Tribes, Federal and State entities, and local communities. We support this general direction. We also support the requirement to identify, establish, develop, and manage priority-use areas for gathering of first foods by member of Indian tribes with treaty reserved rights (as provided in section 802(a) of S. 647.

Land Conveyances

We appreciate the sponsors' efforts to resolve long-standing conflicts on Mount Hood with the Cooper Spur- Government Camp land exchange proposal, as well as the changes in the bill to address some of the valuation-related concerns expressed in previous testimony.

While we support the direction in S. 647 to use nationally recognized appraisal standards, the Administration objects to the bill's requirements that depart from those standards. The Administration also objects to the additional requirements that the date of valuation be the spring of 2005 and that appraisal be approved by other parties, namely the County and Mt. Hood Meadows . To protect the public's investment, appraisals performed for any proposed exchange should be done as close to the date of transaction as is feasible. Approval of appraisals is normally solely at the discretion of the Secretary. Mount Hood Meadows and Clackamas County should have the opportunity to provide the appraisers with market information, but should not share approval authority with the Secretary because of their potential interest in the outcome. We have a number of suggestions for improving the land exchange proposal.

First, we recommend reconsideration of the requirements that the Forest Service would take possession of an aging infrastructure, solicit a new concessionaire, and be prohibited from subsequent land or facility adjustments, because all could be problematic.

Second, we suggest consideration of alternative exchange lands. The 770 acres of private lands offered to the United States at Cooper Spur do not have national forest characteristics. They are heavily disturbed, fragmented and interspersed with roads, power-lines, and subdivisions.

Third, we recommend re-evaluation of the unique resource implications of privatizing the two parcels of land at Government Camp. We have other concerns regarding the Cooper Spur land exchange process and would like to work with the committee on amendments to address these concerns.

The Administration supports the proposed exchange with the Port of Cascade Locks to improve the Pacific Crest National Scenic Trail. The administration does not object to the Hunchback Mountain exchange with Clackamas County. We note that this exchange would require a legislated adjustment to the Mt. Hood National Forest Boundary and we would work with the committee to address this.

Sec. 503(f)(1) provides that it is the intent of Congress that the Secretary complete all legal and regulatory processes required for the exchange of Federal land and the non-Federal land in 16 months. This timeframe is unachievable given the applicable requirements for environmental studies, public participation, evaluation of alternatives, Endangered Species Act consultation, additional third-party consultation requirements in this legislation, and the limitations in sharing costs with the proponents, as well as conflicts with the Region's existing priorities for critical land exchange work.

In addition, the requirement that provisions with legislated outcomes, such as the land exchanges, be subject to participatory environmental laws such as the National Environmental Policy Act is not consistent with the requirements of such laws since there is no ability for the agency or the public to effect adjustments to the proposal because the outcome is specified in the legislation.

The Administration could support relevant conveyances if bill language is amended to address these concerns.

Summary

In summary Mr. Chairman, while we are encouraged by the sponsor's efforts on behalf of the Mount Hood National Forest, the Administration has significant concerns with S. 647 as presently written. Nevertheless, we see a great potential, working with the many stakeholders of the region and beyond, to meet the bills objectives to protect for future generations the recreation opportunities and resource values of the Mount Hood National Forest. We believe we can accomplish these objectives using existing authorities as well as some of the provisions of the bill. We strongly support negotiated agreements on land management and we are committed to continuing to work on the sections where we have concerns.

H.R. 356: “To remove certain restrictions on the Mammoth Community Water District’s ability to use certain property acquired by that District from the United States”

Thank you for the opportunity to present our views on this bill, which would remove use restrictions included in the patent the Mammoth County [California] Water District received when it purchased approximately 25 acres of land from the U.S. Forest Service [Inyo National Forest] in 1987. The lands were purchased at market value by the District for a community sewage treatment facility, which up to that time had been authorized under a Forest Service Special Use Permit. The District has since upgraded their sewage treatment system, and their aeration ponds are no longer necessary. The District wishes to convert these ponds to a more suitable community use that would be compatible with the adjacent sewage treatment facility, but the use restriction from the patent must first be lifted.

The Department supports the bill.

Mr. Chairman and members of the committee, this concludes my testimony. I am happy to answer any questions you may have at this time.