

Committee Reports

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Senate Rpt. 104-314

104 S. Rpt. 314

OREGON RESOURCE CONSERVATION ACT OF 1996

DATE: July 2, 1996. Ordered to be printed

SPONSOR: Mr. Murkowski submitted the following Report

COMMITTEE: from the Committee on Energy and Natural Resources

(To accompany S. 1662)

TEXT:

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1662) to establish areas of **wilderness** and recreation in the State of Oregon, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oregon Resource Conservation Act of 1996".

TITLE I OPAL CREEK **WILDERNESS** AND SCENIC RECREATION AREA

SEC. 101. SHORT TITLE.

This title may be cited as the "Opal Creek **Wilderness** and Opal Creek Scenic Recreation Area Act of 1996".

SEC. 102. DEFINITIONS.

In this title:

(1) Bull of the woods **wilderness**. The term "Bull of the Woods **Wilderness**" means the land designated as **wilderness** by section 3(4) of the Oregon **Wilderness** Act of 1984 (Public Law

98-328; 16 U.S.C. 1132 note).

(2) Opal creek **wilderness**. The term "Opal Creek **Wilderness**" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled "Proposed Opal Creek **Wilderness** and Scenic Recreation Area", dated June 1996.

(3) Scenic recreation area. The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, established under section 103(a)(3).

(4) Secretary. The term "Secretary" means the Secretary of Agriculture.

(5) Counties. The term "counties" means Marion and Clackamas Counties in the State of Oregon.

SEC. 103. ESTABLISHMENT OF OPAL CREEK **WILDERNESS** AND SCENIC RECREATION AREA.

(a) Establishment. On a determination by the Secretary under subsection (b)

(1) the Opal Creek **Wilderness**, as depicted on the map described in Section 102(2), is hereby designated as **wilderness**, subject to the **Wilderness** Act of 1964, shall become a component of the National **Wilderness** System, and shall be known as the Opal Creek **Wilderness**;

(2) the part of the Bull of the Woods **Wilderness** that is located in the Willamette National Forest shall be incorporated into the Opal Creek **Wilderness**; and

(3) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map entitled "Proposal Opal Creek **Wilderness** and Scenic Recreation Area", dated June 1996.

(b) Conditions. Subsection (a) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this Act, that:

(1) the following have been donated to the United States in an acceptable condition and without encumbrances:

(A) All right, title, and interest in the following patented parcels of land:

(i) Santiam Number 1, mineral survey number 992, as described in patent number 39-92-0002, dated December 11, 1991.

(ii) Ruth Quartz Mine number 2, mineral survey number 994, as described in patent number 39-

91-0012, dated February 12, 1991.

(iii) Morning Star Lode, mineral survey number 993, as described in patent number 36-91-0011, dated February 12, 1991.

(B) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims.

(C) A public easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36-91-0017, dated May 9, 1991.

(2) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following parcels, specifying the terms and conditions for the disposition of these parcels to the United States Government:

(A) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon.

(B) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39-91-0012, dated February 12, 1991.

(c) Expansion of Scenic Recreation Area Boundaries. On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, by exchange, purchase on a willing seller basis, or donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include the land.

SEC. 104. ADMINISTRATION OF THE SCENIC RECREATION AREA.

(a) In General. The Secretary shall administer the Scenic Recreation Area in accordance with the laws (including regulations) applicable to the National Forest System.

(b) Opal Creek Management Plan.

(1) In general. Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under section 105(a), shall prepare a comprehensive Opal Creek Management Plan for the Scenic Recreation Area.

(2) Incorporation in land and resource management plan. On completion of the Opal Creek Management Plan, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in

the land and resource management plan.

(3) Requirements. The Opal Creek Management Plan shall provide a broad range of land uses, including

(A) recreation;

(B) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(C) educational and research opportunities.

(4) Plan amendments. The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this title.

(c) Cultural and Historic Resource Inventory.

(1) In general. Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area that were developed pursuant to the Oregon **Wilderness** act of 1984 (Public Law 98-328; 98 Stat. 272).

(2) Interpretation. Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factually-based interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(d) Transportation Planning.

(1) In general. To maintain access to recreation sites and facilities in existence on the date of enactment of this Act, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads closed.

(2) Access by persons with disabilities. The Secretary shall consider the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area.

(3) Motor vehicles.

(A) In general. Except as provided in subparagraph (B) and in the transportation plan under paragraph (1), motorized vehicles shall not be permitted in the Scenic Recreation Area.

(B) Exception. Forest road 2009 beyond the gate to the Scenic Recreation Area, as depicted on the map described in section 103(a)(3), may be used by motorized vehicles only for administrative purposes and for access to a private inholding, subject to such terms and conditions as the Secretary may determine to be necessary.

(4) Road improvement. Any construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area shall be only for the purpose of maintaining the character of the road at the time of enactment and may not include paving and widening.

(e) Hunting and Fishing.

(1) In general. Subject to other Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(2) Limitation. The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(3) Consultation. Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this section.

(f) Timber Cutting.

(1) In general. Subject to paragraph (2), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Recreation Area.

(2) Permitted cutting.

(A) In general. Subject to subparagraph (B), the Secretary may allow the cutting of trees in the Scenic Recreation Area only

(i) for public safety, such as to control the spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;

(ii) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(iii) for removal of hazard trees along trails and roadways.

(B) Salvage sales. The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(g) Withdrawal.

(1) Subject to valid existing rights, all lands in the Scenic Recreation Area are withdrawn from

(A) any form of entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) disposition under the mineral and geothermal leasing laws.

(h) Bornite Project.

(1) Nothing in this title shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area conducted in accordance with applicable laws. The Bornite Project Area is depicted on the map described in Section 103(a)(3).

(2) Nothing in this title shall be construed to interfere with the ability of the Secretary to approve and issue special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(3) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) shall be allowed inside the Scenic-Recreation Area to serve the activities conducted on land within the Bornite Project.

(4) After the date of enactment of this title, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(i) Water Impoundments. Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with (h).

(j) Recreation.

(1) Recognition. Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(2) Minimum levels. The management plan shall accommodate recreation at not less than the levels in existence on the date of enactment of this Act.

(3) Higher levels. The management plan may provide for levels of recreation use higher than the

levels in existence on the date of enactment of this Act if the levels are consistent with the protection of resource values.

(k) Participation. In order that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(1) Advisory council. The Secretary shall consult on a periodic and regular basis with the advisory council established under section 105 with respect to matters relating to management of the Scenic Recreation Area.

(2) Public participation. The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(3) Other agencies. The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(4) Nonprofit agencies and organizations. The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

SEC. 105. ADVISORY COUNCIL.

(a) Establishment. On the establishment of the Scenic Recreation Area, the Secretary shall establish an advisory council for the Scenic Recreation Area.

(b) Membership. The advisory council shall consist of not more than 13 members, of whom

(1) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(2) 1 member shall represent Clackamas County, Oregon and shall be designated by the governing body of the county;

(3) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon; and

(4) 1 member each from the City of Salem and a city within a 25 mile radius of the Opal Creek Scenic-Recreation Area.

(5) not more than 8 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the

administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the **wilderness** and scenic-recreation area, and economic development interests and Indian Tribes.

(c) Staggered Terms. Members of the advisory council shall serve for staggered terms of 3 years.

(d) Chairman. The Secretary shall designate 1 member of the advisory council as chairman.

(e) Vacancies. The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(f) Compensation. A member of the advisory council shall not receive any compensation for the members service to the advisory council.

SEC. 106. GENERAL PROVISIONS.

(a) Land Acquisition.

(1) In general. Subject to the other provisions of this subsection, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek **Wilderness** that the Secretary determines are needed to carry out this title.

(2) Public land. Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(3) Condemnation. Subject to paragraph (4), the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that

(A) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this Act; and

(B) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the management plan prepared under section 104(b).

(b) Environmental Response Actions and Cost Recovery.

(1) Response actions. Nothing in this title shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) Liability. Nothing in this title shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(c) Maps and Description.

(1) In general. As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a boundary description for the Opal Creek **Wilderness** and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) Force and effect. The boundary description and map shall have the same force and effect as if the description and map were included in this title, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(3) Availability. The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(d) Nothing in this title shall interfere with any activity for which a special use permit has been issued and not revoked before the date of enactment of this Title, subject to the terms of the permit.

SEC. 107. ROSBORO LAND EXCHANGE.

(a) Authorization. Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this section as "Rosboro") offers and conveys title to the United States acceptable to the Secretary of Agriculture to the land described in subsection (b), all right, title and interest held by the United States to sufficient lands described in (c) of equivalent equal value are conveyed by operation of law to Rosboro.

(b) Land To Be Offered by Rosboro. The land referred to in subsection (a) as the land to be offered by Rosboro is the land described as follows:

(1) Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(c) Land To Be Conveyed by the United States. The land referred to in subsection (a) as the land to be conveyed by the United States is the land described as follows:

(1) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);

(2) Section 2, Township 17 South, Range 4 East, NW 1/4 , SE 1/4 (40 acres);

(3) Section 13, Township 17 South, Range 4 East, S 1/2 , SE 1/4 (80 acres);

(4) Section 2, Township 17 South, Range 4 East, SW 1/4 , SW 1/4 (40 acres);

(5) Section 8, Township 17 South, Range 4 East, SE 1/4 , SW 1/4 (40 acres);

(6) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);

(7) Section 11, Township 17 South, Range 4 East, W 1/2 , NW 1/4 (80 acres);

(d) The values of lands to be exchanged pursuant to this subsection shall be equal as determined by the Secretary of Agriculture, or if they are not equal, shall be equalized by additional lands or by the payment of money to Rosboro or to the Secretary subject to the 25 percentum cash equalization limitation of section 206 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1716).

(e) Timetable. The authority provided by this section shall lapse if Rosboro fails to offer the land described in subsection (b) within two years after the date of enactment of this Act. If Rosboro does offer the land described in subsection (b) with such two-year period, the Secretary shall within 180 days convey the land described in subsection (c) to Rosboro.

(f) Authorization of Appropriations. There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 108. DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"(A) Elkhorn creek. Elkhorn Creek from its source to its confluence on Federal land to be administered by agencies of the Departments of the Interior and Agriculture as agreed on by the Secretary of the Interior and the Secretary of Agriculture or as directed by the President. Notwithstanding subsection 3(b), the lateral boundaries of the Elkhorn River shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

"(B) The 6.4 mile segment traversing federally administered lands from the point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to the point where it leaves federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, in the following classes:

"(i) a 5.8-mile wild river area, extended from that point along the Willamette National Forest boundary on the common section line between Section 12 and 13, Township 9 South, Range 4

East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

"(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where it leaves federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of Interior, or as directed by the President.

"(C) Notwithstanding Section 3 (b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river."

SEC. 109. ECONOMIC DEVELOPMENT.

(a) Economic Development Plan. As a condition for receiving funding under (b) of this section, the State of Oregon, in consultation with the counties and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this section may be used in a manner consistent with this Act and to benefit local communities in the vicinity of the Opal Creek Area. Such plan shall be based on a formal Economic Opportunity Study and other appropriate information.

(b) Funds Provided to the States for Grants. Upon certification of the management plan, and receipt of a plan referred to in subsection (a) of this section, the Secretary shall provide \$15,000,000, subject to appropriations, to the State of Oregon which shall be used to make grants and loans for economic development projects that further the purposes of this Act and benefit the local communities in the vicinity of the Opal Creek Area.

(c) Report. The State of Oregon shall

(1) prepare and provide the Secretary and Congress with an annual report to the Secretary and Congress on the use of the funds made available under this section;

(2) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this section; and

(3) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

TITLE II UPPER KLAMATH BASIN

SEC. 201. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) Definitions. In this section:

(1) Ecosystem restoration office. The term "Ecosystem Restoration Office" means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) Working group. The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this Act, consisting of members nominated by their represented groups, including:

(A) 3 tribal members;

(B) 1 representative of the city of Klamath Falls, Oregon;

(C) 1 representative of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community, including at least one such representative from the State of California with interests in the Upper Klamath Basin Wildlife Refuges;

(F) 4 representatives of local businesses and industries, including at least one representative of the ocean commercial fishing industry and/or recreational fishing industry based in either Oregon or California;

(G) 4 representatives of the ranching and farming community, including representatives of federal lease-land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;

(H) 2 representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department;

(I) 4 representatives from the local community; and

(J) One representative each from the following federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, and Ecosystem Restoration Office.

(3) Secretary. The term "Secretary" means the Secretary of the Interior.

(4) Task force. The term "Task Force" means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (P.L. 99-552, 16 U.S.C. 460ss-3, et. seq.)

(5) Compact commission. The term "Compact Commission" means the Klamath River Basin Compact Commission created pursuant to the Klamath River Compact Act of 1954.

(6) Consensus. The term "consensus" means a unanimous agreement by the Working Group members present at a regularly scheduled business meeting.

(b) In General.

(1) the Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership;

(2) the Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of \$1,000,000 during each of fiscal years 1997 through 2001;

(3) funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office;

(4) the Ecosystem Restoration Office may utilize not more than 15 percent of all federal funds administered under this section for administrative costs relating to the implementation of this title; and

(5) all funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.

(c) Coordination.

(1) The Secretary shall formulate a cooperative agreement between the Working Group, the Task Force and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wildlife restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission;

(2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts.

(d) Public Meetings. The Working Group shall conduct all meetings consistent with Federal open meeting and public participation laws. The chartering requirements of 5 U.S.C. App 2 ss 1-15 are hereby deemed to have been met by this section;

(e) Terms and Vacancies. Working Group members shall serve for three year terms, beginning on the date of enactment of this Act. Vacancies which occur for any reason after the date of enactment of this Act shall be filled by direct appointment of the Governor of the State of Oregon, in consultation with the Secretary of Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined in section (a)(2).

(f) Authorization of Appropriations. There are authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 1997 through 2002.

TITLE III DESCHUTES BASIN

SEC. 301. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) Definitions. In this section:

(1) Working group. The term "Working Group" means the Deschutes River Basin Working Group established before the date of enactment of this Act, consisting of members nominated by their represented groups, including:

(A) 5 representatives of private interests including one each from hydroelectric production, livestock grazing, timber, land development, and recreation/tourism;

(B) 4 representatives of private interests including two each from irrigated agriculture and the environmental community;

(C) 2 representatives from the Confederated Tribes of the Warm Springs Reservation of Oregon;

(D) 2 representatives from Federal Agencies with authority and responsibility in the Deschutes River Basin, including one from the Interior Department and one from the Agriculture Department;

(E) 2 representatives from the State of Oregon agencies with authority and responsibility in the Deschutes River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department; and

(F) 4 representatives from Deschutes River Basin county and/or city governments, which may include representatives from Deschutes, Crook, Jefferson, and Wasco/Sherman counties.

(2) Secretary. The term "Secretary" means the Secretary of the Interior.

(3) Federal agencies. The term "Federal Agencies" means agencies and departments of the United States, including, but not limited to, the Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Natural Resources Conservation Service, Farm Services Agency, the National Marine Fisheries Service, and the Bonneville Power Administration.

(4) Consensus. The term "consensus" means a unanimous agreement by the Working Group members present at a regularly scheduled business meeting.

(b) In General.

(1) the Working Group will propose ecological restoration projects on both Federal and non-federal lands and waters to be undertaken in the Deschutes River Basin based on a consensus of the Working Group, provided that such projects, when involving Federal lands or funds, shall be proposed to the Bureau of Reclamation in the Department of the Interior and any other Federal agency with affected land or funds;

(2) the Working Group will accept donations, grants or other funds and place the amount of such funds received into a trust fund, to be expended on the performance of ecological restoration projects which, when involving federal land or funds, are approved by the affected Federal Agency;

(3) the Bureau of Reclamation shall pay, to the greatest extent feasible, from funds authorized under subsection (g) of this Act up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of \$1,000,000 during each of the fiscal years 1997 through 2001;

(4) non-federal contributions to project costs for purposes of computing the federal matching share under paragraph (3) of this subsection may include in-kind contributions;

(5) funds authorized in subsection (g) of this section shall be maintained in and distributed by the Bureau of Reclamation in the Department of the Interior. The Bureau of Reclamation shall not expend more than 5 percent of amounts appropriated pursuant to subsection (g) for federal administration of such appropriations pursuant to this Act;

(6) the Bureau of Reclamation is authorized to provide by grant to the Working Group not more than 5 percent of funds appropriated pursuant to subsection (g) of this section for not more than 50 percent of administrative costs relating to the implementation of this title; and

(7) the Federal Agencies with authority and responsibility in the Deschutes River Basin shall provide technical assistance to the Working Group and shall designate representatives to serve as members of the Working Group.

(8) all funding recommendations developed by the Working Group shall be based on a consensus of the Working Group members.

(c) Public Notice and Participation. The Working Group shall give reasonable public notice of all meetings of the Working Group and allow public attendance at the meetings. The activities of the Working Group and the Federal Agencies pursuant to the provisions of this Act are exempt from the provisions of 5 U.S.C. App. 2 ss 1-15.;

(d) Priorities. The Working Group shall give priority to voluntary market-based economic incentives for ecosystem restoration including, but not limited to, water leases and purchases; land leases and purchases; tradable discharge permits; and acquisition of timber, grazing, and land development rights to implement plans, programs, measures, and projects.

(e) Terms and Vacancies. Members of the Working Group representing governmental agencies or entities shall be named by the represented government. Members of the Working Group representing private interests shall be named in accordance with the Articles of Incorporation and Bylaws of the Working Group. Representatives from Federal Agencies will serve for terms of 3 years. Vacancies which occur for any reason after the date of enactment shall be filled in accordance with this section.

(f) Additional Projects. Where existing authority and appropriations permit, Federal Agencies may contribute to the implementation of projects recommended by the Working Group and approved by the Secretary.

(g) Authorization of Appropriations. There are authorized to be appropriated to carry out this sections \$1,000,000 for each of fiscal years 1997 through 2001.

TITLE IV MOUNT HOOD CORRIDOR

SEC. 401. LAND EXCHANGE.

(a) Authorization. Notwithstanding any other law, if Longview Fibre Company (referred to in this section as "Longview") offers and conveys title that is acceptable to the United States to some or all of the land described in subsection (b), the Secretary of the Interior (referred to in this section as the "Secretary") shall convey to Longview title to some or all of the land described in subsection (c), as necessary to satisfy the requirements of subsection (d).

(b) Land To Be Offered by Longview. The land referred to in subsection (a) as the land to be offered by Longview is the land described as follows:

(1) T. 2 S., R. 6 E., sec. 13 E 1/2 SW 1/4 , W 1/2 SE 1/4 , containing 160 record acres, more or less;

(2) T. 2 S., R. 6 E., sec. 14 All, containing 640 record acres, more or less;

- (3) T. 2 S., R. 6 E., sec. 16 N 1/2 , SW 1/4 , N 1/2 SE 1/4 , SW 1/4 SE 1/4 , containing 600 record acres, more or less;
- (4) T. 2 S., R. 6 E., sec. 26 NW 1/4 , N 1/2 SW 1/4 , SW 1/4 SW 1/4 , NW 1/4 SE 1/4 ; (and a strip of land to be used for right-of-way purposes in sec. 23), containing 320 record acres, more or less;
- (5) T. 2 S., R. 6 E., sec. 27 S 1/2 NE 1/4 NE 1/4 , NW 1/4 NE 1/4 , SE 1/4 NE 1/4 , NW 1/4 NW 1/4 , containing 140 record acres, more or less;
- (6) T. 2 S., R. 6 E., sec. 28 N 1/2 , Except a tract of land 100 feet square bordering and lying west of Wild Cat Creek and bordering on the north line of Sec. 28, described as follows: Beginning at a point on the west bank of Wild Cat Creek and the north boundary of sec. 28, running thence W. 100 feet, thence S. 100 feet parallel with the west bank of Wild Cat Creek, thence E. to the west bank of Wild Cat Creek, thence N. along said bank of Wild Cat Creek to the point of beginning, also excepting that portion of the NW 1/4 NW 1/4 lying east Wildcat Creek, containing 319.77 record acres, more or less;
- (7) T. 2 S., R. 7 E., sec. 19 E 1/2 SW 1/4 , SW 1/4 SE 1/4 , Except a tract of land described in deed recorded on August 6, 1991, as Recorders Fee No. 91-39007, and except the portion lying within public roads, containing 117.50 record acres, more or less;
- (8) T. 2 S., R. 7 E., sec. 20 S 1/2 SW 1/4 SW 1/4 , containing 20 record acres, more or less;
- (9) T. 2 S., R. 7 E., sec. 27 W 1/2 SW 1/4 , containing 80 record acres, more or less;
- (10) T. 2 S., R. 7 E., sec 28 S 1/2 , containing 320 record acres, more or less;
- (11) T. 2 S., R. 7 E., sec. 29 SW 1/4 NE 1/4 , W 1/2 SE 1/4 NE 1/4 , NW 1/4 , SE 1/4 , containing 380 record acres, more or less;
- (12) T. 2 S., R. 7 E., sec. 30 E 1/2 NE 1/4 , NW 1/4 NE 1/4 , Except the portion lying within Timberline Rim Division 4, and except the portion lying within the county road, containing 115 record acres, more or less;
- (13) T. 2 S., R. 7 E., sec. 33 N 1/2 NE 1/4 , E 1/2 NW 1/4 NW 1/4 , NE 1/4 SW 1/4 NW 1/4 , containing 110 record acres, more or less;
- (14) T. 3 S., R. 5 E., sec. 13 NE 1/4 SE 1/4 , containing 40 record acres, more or less;
- (15) T. 3 S., R. 5 E., sec. 26 The portion of the E 1/2 NE 1/4 lying southerly of Eagle Creek and northeasterly of South Fork Eagle Creek, containing 14 record acres, more or less;

(16) T. 3 S., R. 5 E., sec. 25 The portion of the N 1/2 SW 1/4 lying northeasterly of South Fork Eagle Creek, containing 36 record acres, more or less; and

(17) T. 6 S., R. 2 E., sec. 4 SW 1/4 , containing 160.00 record acres, more or less.

(c) Land To Be Conveyed by the Secretary. The land referred to in subsection (a) as the land to be conveyed by the Secretary is the land described as follows:

(1) T. 1 S., R. 5 E., sec. 9 SE 1/4 NE 1/4 , SE 1/4 SE 1/4 , containing 80 record acres, more or less;

(2) T. 2 S., R. 5 E., sec. 33 NE 1/4 NE 1/4 , containing 40 record acres, more or less;

(3) T. 2 1/2 S., R. 6 E., sec. 31 Lots 1-4, incl. containing 50.65 record acres, more or less;

(4) T. 2 1/2 S., R. 6 E., sec. 32 Lots 1-4, incl. containing 60.25 record acres, more or less;

(5) T. 3 S., R. 5 E., sec. 1 NE 1/4 SW 1/4 , SE 1/4 , containing 200 record acres, more or less;

(6) T. 3 S., R. 5 E., sec. 9 S 1/2 SE 1/4 , containing 80 record acres, more or less;

(7) T. 3 S., R. 5 E., sec. 17 N 1/2 NE 1/4 , containing 80 record acres, more or less;

(8) T. 3 S., R. 5 E., sec. 23 W 1/2 NE 1/4 , NW 1/4 SW 1/4 , containing 120 record acres, more or less;

(9) T. 3 S., R. 5 E., sec. 25 The portion of the S 1/2 S 1/2 , SW 1/4 NW 1/4 lying southwesterly of South Fork Eagle Creek, containing 125 record acres, more or less;

(10) T. 3 S., R. 5 E., sec. 31 Unnumbered lot (SW 1/4 SW 1/4), containing 40.33 record acres, more or less;

(11) T. 7 S., R. 1 E., sec. 23 SE 1/4 SE 1/4 , containing 40 record acres, more or less;

(12) T. 10 S., R. 2 E., sec. 34 SW 1/4 SW 1/4 , containing 40 record acres, more or less;

(13) T. 10 S., R. 4 E., sec. 9 NW 1/4 NW 1/4 , containing 40 record acres, more or less;

(14) T. 4 N., R. 3 W., sec. 35 W 1/2 SW 1/4 , containing 80 record acres, more or less;

(15) T. 3 N., R. 3 W., sec. 7 E 1/2 NE 1/4 , containing 80 record acres, more or less;

(16) T. 3 N., R. 3 W., sec. 9 SE 1/4 NW 1/4 , containing 40 record acres, more or less;

(17) T. 3 N., R. 3 W., sec. 17 S 1/2 NE 1/4 , containing 80 record acres, more or less;

(18) T. 3 N., R. 2 W., sec. 3 SW 1/4 NW 1/4 , containing 40 record acres, more or less;

(19) T. 2 N., R. 2 W., sec. 3 SE 1/4 SE 1/4 , containing 40 record acres, more or less; and

(20) T. 1 S., R. 4 W., sec. 15 SW 1/4 NE 1/4 , S 1/2 NW 1/4 , containing 120 record acres, more or less.

(d) Equal Value. The land and interests in land exchanged under this section

(1) shall be of equal market value; or

(2) shall be equalized using nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(e) Redesignation of Land To Maintain Revenue Flow. So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary may redesignate public domain land located in and west of Range 9 East, Willamette Meridian, Oregon, as land subject to that Act.

(f) Timetable. The exchange directed by this section shall be consummated not later than 1 year after the date of enactment of this Act.

(g) Withdrawal of Lands. All lands managed by the Department of the Interior, Bureau of Land Management, located in Townships 2 and 3 South, Ranges 6 and 7 East, Willamette Meridian, which can be seen from the right of way of Oregon State Highway 26, (referred to in this section as the "Mt. Hood Corridor"), shall be managed primarily for the protection of important scenic values. Management prescriptions for other resource values associated with these lands shall be planned and conducted for purposes other than timber harvest, so as not to impair scenic quality.

(h) Timber Harvest. Timber harvest may be conducted in the Mt. Hood Corridor after the occurrence of a resource-damaging catastrophic event. Such harvest, and any additional timber

harvest, may only be conducted to achieve the following resource management objectives, in compliance with the current land use plans

(1) to maintain safe conditions for the visiting public;

(2) to control the continued spread of forest fire;

(3) for activities related to administration of the Mt. Hood corridor; or

(4) for removal of hazard trees along trails and roadways.

(i) Road Closure. The forest road gate located on Forest Service Road 2503, located in T. 2 S., R. 6 E., sec. 14, shall remain gated and locked to protect resources and prevent illegal dumping and vandalism in the Mt. Hood Corridor. Access to this road shall be limited to

(1) Federal and State officers and employees acting in an official capacity;

(2) employees and contractors conducting authorized activities associated with the telecommunication sites located in T. 2 S., R. 6 E., sec. 14; and

(3) the general public for recreational purposes, except that all motorized vehicles will be prohibited.

(j) NEPA Exemption. Notwithstanding any other provision of law, the National Environmental Policy Act of 1969 (P.L. 91-190) shall not apply to this section.

(k) Authorization of Appropriations. There are authorized to be appropriated such sums as are necessary to carry out this section.

TITLE V COQUILLE TRIBAL FOREST

SEC. 501. CREATION OF THE COQUILLE FOREST.

(a) The Coquille Restoration Act (PL 101-42) is amended by inserting at the end of section 5 the following:

"(d) Creation of the Coquille Forest.

"(1) Within 90 days of the enactment of this title, the Secretary of Interior is authorized to and shall, in accordance with this title and in consultation with the Coquille Tribe of Coos County, Oregon, designate approximately five thousand acres of forest lands in Coos County, Oregon, to

which the United States holds title, located in the historic territory of the Coquille Indian people, as the Coquille Forest.

"(2) A map showing the federal portions of these sections designated as the Coquille Forest, and such additional legal descriptions which are applicable, shall within 180 days of the date of enactment of this title, be prepared by the Secretary in consultation with the Tribe and placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

"(3) Two years from the date of enactment of this subsection, the Secretary shall transfer lands designated under subsection (d)(1), to the Bureau of Indian Affairs, to be held in trust, in perpetuity, for the Coquille Tribe. As Indian trust forest lands, the Secretary of Interior, acting through the Assistant Secretary for Indian Affairs shall manage these lands under applicable forestry laws and in a manner consistent with the standards and guidelines of federal forest plans on adjacent lands. The Secretary and the Tribe may authorize management of the Coquille Forest consistent with the Coquille Forest management strategy developed by the Independent Scientific Advisory Team and set forth in the report entitled, "A Forest Management Strategy for the Proposed Coquille Forest" dated August 31, 1995 and including the December 20, 1995 Addendum.

"(4) From the date of enactment of this title until two years after the date of enactment of this title, the Bureau of Land Management shall:

"(A) retain federal jurisdiction for the management of lands designated under this title as the Coquille Forest; and,

"(B) prior to advertising, offering or awarding any timber sale contract on lands designated under this title as the Coquille Forest, obtain the approval of the Bureau of Indian Affairs, which shall act on behalf of and in consultation with the Coquille Tribe.

"(5) After completion of the transfer to the Bureau of Indian Affairs, required in this subsection, the Secretary may, pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), enter into an Indian self-determination agreement with the Coquille Indian Tribe. Such agreement shall provide for the Tribe to carry out all or a portion of the forest management program for the Coquille Forest. Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a Memorandum of Agreement (MOA) with the State of Oregon, as required under subsection (8) this title.

"(6) The Land designated under this title shall be subject to valid existing rights, including all valid liens, rights-of-way, licenses, leases, permits, and easements existing on date of the enactment of this title. These lands will remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state or federal law.

"(7) Unprocessed logs harvested from the Coquille Forest shall be subject to the same federal statutory restrictions on export to foreign Nations that apply to unprocessed logs harvested from federal lands.

"(8) All sales of timber from land subject to this title shall be advertised, offered and awarded in accordance with the public bidding and contracting laws and procedures applicable to the Bureau of Land Management.

"(9) The Coquille Tribe shall enter into a Memorandum of Agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for preserving public access, continuing public rights, advancing jointly-held resource management goals, achieving Tribal restoration objectives and establishing a coordinated management framework. Further, provisions set forth in the MOA shall be consistent with federal trust responsibility requirements applicable to Indian trust lands. The U.S. District Court for the District of Oregon shall have jurisdiction over actions arising out of claims of breach of the MOA.

"(10) So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary shall redesignate public domain land located in the Coquille Tribes service area, as defined in the Coquille Tribal Restoration Act of 1989 (PL 101-42), as land subject to that Act. In no event shall payments due to Coos County, Oregon, under that Act be diminished as a result of the land designations required pursuant to this title.

"(11) Within two years of the date of enactment of this subsection, the Secretary shall complete a formal scientific peer review of the management strategy developed by the Independent Scientific Advisory Team and set forth in the report entitled, "A Forest Management Strategy for the Proposed Coquille Forest" dated August 31, 1995 and including the December 20, 1995 Addendum."

TITLE VI BULL RUN WATERSHED PROTECTION

Sec. 601. Section 2(a) of Public Law 95-200 is amended on line 7 by striking "2(b)" and inserting in lieu thereof "2(c)".

Sec. 602. Public Law 95-200 is amended by adding a new subsection 2(b) immediately after subsection 2(a), as follows:

"(b) Timber Cutting.

"(1) In general. Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage and as depicted in a map dated June 1996 and entitled "Bull Run River Drainage".

"(2) Permitted cutting.

"(A) In general. Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in subparagraph (1).

"(B) Permitted cutting. Subject to subparagraph (B), the Secretary may allow the cutting of trees in the area described in subparagraph (1)

"(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

"(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

"(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

"(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

"(C) Salvage sales. The Secretary of Agriculture may not authorize a salvage sale in the area described in subparagraph (1).".

Sec. 603. Section 2(b) of PL 95-200 is amended by inserting in the first line after (a) "and (b)".

Sec. 604. Section 2(b) of PL 95-200 is redesignated as "2(c)".

Sec. 604. Redesignate the following subsections accordingly.

TITLE VII OREGON ISLANDS **WILDERNESS**, ADDITIONS

SEC. 701. OREGON ISLANDS **WILDERNESS**, ADDITIONS.

(a) In furtherance of the purposes of the **Wilderness** Act of 1964, certain lands within the boundaries of the Oregon Islands National Wildlife Refuge, Oregon, comprising approximately ninety-five acres and as generally depicted on a map entitled "Oregon Island **Wilderness** Additions Proposed" dated June, 1996, are hereby designated as **wilderness**. The map shall be on file and available for public inspection in the offices of the Fish and Wildlife Service, Department of Interior.

(b) All other Federally-owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, not currently designated as **wilderness** and also within the Oregon Islands National Wildlife Refuge boundaries under the administration of the U.S. Fish and Wildlife Service, Department of Interior, as designated by Executive Order 7035, Proclamation 2416, Public Land Orders 4395, 4475 and 6287, and Public Laws 91-504 and 95-450, are hereby designated as **wilderness**.

(c) As soon as practicable after this title takes effect, a map of the **wilderness** area and a description of its boundaries shall be filed with the Senate Committee on Energy and Natural Resources and the House Committee on Resources, and such map shall have the same force and effect as if included in this title; provided, however, that correcting clerical and typographical errors in the map and land descriptions may be made.

(d) Public Land Order 6287 of June 16, 1982, which withdrew certain rocks, reefs, islets and islands lying within three geographical miles off the coast of Oregon and above mean high tide, including the ninety-five acres described in (a), as an addition to the Oregon Islands National Wildlife Refuge is hereby made permanent.

TITLE VIII UMPQUA RIVER LAND EXCHANGE STUDY

SEC. 801. UMPQUA RIVER LAND EXCHANGE STUDY: POLICY AND DIRECTION.

(a) In General. The Secretaries of the Interior and Agriculture are hereby authorized and directed to consult, coordinate and cooperate with the Umpqua Land Exchange Project (ULEP), affected units and agencies of state and local government, and, as appropriate, the World Forestry Center and National Fish and Wildlife Foundation, to assist ULEPs ongoing efforts in studying and analyzing land exchange opportunities in the Umpqua River basin and to provide scientific, technical, research, mapping and other assistance and information to such entities. Such consultation, coordination and cooperation shall at a minimum include, but not be limited to:

(1) working with ULEP to develop or assemble comprehensive scientific and other information (including comprehensive and integrated mapping) concerning the Umpqua River basins resources of forest, plants, wildlife, fisheries (anadromous and other), recreational opportunities, wetlands, riparian habitat and other physical or natural resources;

(2) working with ULEP to identify general or specific areas within the basin where land exchanges could promote consolidation of timberland ownership for long-term, sustained timber production; protection and improvement of habitat for plants, fish and wildlife (including any Federally listed threatened or endangered species); recovery of threatened and endangered species; protection and improvement of wetlands, riparian lands and other environmentally sensitive areas; consolidation of land ownership for improved public access and a broad array of recreational uses; and consolidation of land ownership to achieve management efficiency and reduced costs of administration; and

(3) developing a joint report for submission to the Congress which discusses land exchange opportunities in the basin and outlines either a specific land exchange proposal or proposals which may merit consideration by the Secretaries or the Congress, or ideas and recommendations for new authorizations, direction, or changes in existing law or policy to expedite and facilitate the consummation of beneficial land exchanges in the basin via administrative means.

SEC. 802. REPORT TO CONGRESS

(a) No later than February 1, 1998, ULEP and the Secretaries of the Interior and Agriculture shall submit a joint report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning their studies, findings, ideas, recommendations, mapping and other activities conducted pursuant to this Act.

(b) At a minimum, the report shall include:

(1) a complete analysis and discussion of issues, options and alternatives considered with respect to the specific study items set forth in Section 3(b)(1-7) of this Act and a discussion of the perceived advantages, disadvantages, and obstacles to implementation of such options and alternatives;

(2) recommendations and mapping for specific land exchanges, or the identifications and mapping of general areas where exchanges should be considered;

(3) recommendations, if any, for any changes in law or policy that would authorize, expedite, or facilitate specific land exchanges or facilitate general land exchange procedures;

(4) recommendations, if any, for special provisions of law or policy that might be applied to specific areas of private or Federal lands after consolidations of lands are completed through land exchanges; and

(5) recommendations, if any, for new or enhanced sources of Federal, state or other funding to promote improved resource protection, recovery and management in the basin.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS

(a) In furtherance of the purposes of this title, there is hereby authorized to be appropriated the sum of \$2 million.

Purpose of the Measure

The purposes of S. 1662 are to: (1) establish areas of **wilderness**, recreation and watershed protection and restoration in the State of Oregon; (2) facilitate one public-private land exchange and study another; and (3) establish the Coquille Tribal Forest.

Background and Need

S. 1662 addresses a number of natural resource issues within the State of Oregon. The first title of the bill would establish a wild and scenic river and provide for the protection as **wilderness** and as a scenic recreation area of approximately 25,800 acres of the Opal Creek watershed in the Willamette and Mount Hood National Forests. The second and third titles of S. 1662 would

authorize consensus based working groups in Oregon's Klamath and Deschutes basins. The bill's fourth title would provide for a land exchange in the Mt. Hood corridor. The fifth title of the bill would provide that approximately 5,000 acres of Federal land be held in trust for the Coquille Tribe. The sixth title of the bill provides for the protection of the Bull Run watershed, which provides the bulk of Portland, Oregon's drinking water. The seventh title of S. 1662 would designate as **wilderness** approximately 95 acres of rocks and reefs off the Oregon coast. Finally, the eighth title of S. 1662 would require a study of potential land exchange opportunities in the Umpqua River basin.

Legislative History

The Senate Subcommittee on Forests and Public Lands Management held hearings on S. 1662 as introduced on April 12, 1996 and May 7, 1996 in Salem, Oregon and Washington, D.C. respectively.

At the business meeting on June 19, the Committee on Energy and Natural Resources ordered S. 1662 reported as an amendment in the nature of a substitute.

Committee Consideration

The Committee on Energy and Natural Resources, in open business session on June 19, 1996, by a unanimous voice vote by a quorum present recommends that the Senate pass S. 1662 as amended as described herein.

Section-by-Section

Table of Contents.

Title 1. Opal Creek.

Title 2. Klamath Basin.

Title 3. Deschutes Basin.

Title 4. Mount Hood Corridor Land Exchange.

Title 5. Coquille Tribal Forest.

Title 6. Bull Run Reservoir Protection.

Title 7. Oregon Islands **Wilderness**.

Title 8. Umpqua Land Exchange Study.

Section 1 provides a short title for the bill, the "Oregon Resources Conservation Act of 1996".

title i opal creek **wilderness** and scenic-recreation area

Section 101 provides a short title for the title, the "Opal Creek **Wilderness** and Opal Creek Scenic Recreation Area Act of 1996".

Section 102 provides definitions.

Section 103 provides for the establishment of Opal Creek **Wilderness**, comprising approximately 12,800 acres of new **wilderness** protection, shall be depicted on the map described in section 102(2) of the bill and is to be managed in accordance with the **Wilderness** Act of 1964.

Section 103(2) requires that the portion of the Bull of the Woods **Wilderness** located within the boundaries of the Willamette National Forest is to become a part of, and be renamed as, the "Opal Creek **Wilderness**."

Section 103(3) provides for the establishment of the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as depicted on the map entitled "Proposed Opal Creek **Wilderness** and Scenic Recreation Area", dated June 1996.

Section 103(b) sets forth conditions which must be met before section 103(a) can be implemented, and which must be satisfied within two years of the date of enactment. These conditions include a determination by the Secretary of Agriculture that certain interests have been donated to the United States or, for other specified interests, a legally binding agreement has been reached for the disposition of such interests.

Section 103(c) provides for the inclusion of certain lands, known as the Rosboro Section, be included in the Scenic-Recreation Area in the event that they are acquired by the United States.

Section 104 provides for the administration of the Scenic Recreation Area. Section 104(a) requires the Secretary to administer the Scenic Recreation Area in accordance with the laws and regulations applicable to the National Forest System. Section 104(b) provides for the establishment of an Opal Creek Management Plan, which the Secretary, in consultation with the advisory committee also established in this title, shall prepare within two years after the date of enactment.

Section 104(b)(2) incorporated the Opal Creek Management Plan into the land and resource management plan for the Willamette National Forest. This plan will supersede any conflicting provision in the existing land and resource management plan.

Section 104(b)(3) requires that the Opal Creek Management Plan provide for a broad range of land uses, including recreation, harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets, as well as educational and research opportunities.

Section 104(b)(4) provides a procedure for amendments to the Opal Creek management plan. Such amendments must be consistent with the procedures and purposes of this title.

Section 104(c) directs the Secretary to review and revise the inventory of the cultural and historic resources in the Scenic Recreation Area. Interpretive activities in the area must be developed in consultation with State and local historic preservation organizations and must include balanced and factually-based interpretation of the cultural, ecological, and industrial history of forestry and mining in the area.

Section 104(d) provides for the establishment of a transportation plan for the Scenic Recreation Area to maintain reasonable motorized access to recreation sites and facilities.

Section 104(e) provides for the regulation of hunting and fishing in the Scenic Recreation Area.

Section 104(f) provides restrictions on the cutting or selling of timber in the Scenic Recreation Area.

Section 104(g) provides for the withdrawal of all lands in the Scenic Recreation Area from appropriation under the public land laws or mineral or mining laws.

Section 104(h) provides the intent of the Committee that the Bornite Project located within the watershed shall not be impacted either positively or negatively by this legislation.

Section 104(i) places restrictions on new water impoundments in the Scenic Recreation Area.

Section 104(j) recognizes continuation of recreation at historic levels, at a minimum, as an appropriate use of the Scenic Recreation Area.

Section 104(k) directs the Secretary of Agriculture to consult with the advisory council established under section 105, the public, other agencies and organizations on the future management of the Scenic Recreation Area.

Section 105 provides for the establishment of an advisory council to advise the Secretary of Agriculture on the most sensitive present and future use of the Scenic Recreation Area.

Section 106(a) provides for the acquisition of lands within the Scenic Recreation Area.

Section 106(b) makes clear that nothing in this legislation limits the authority of the Secretary or a responsible party to move forward with the Amalgamated Mill site clean up located within the

Scenic Recreation Area.

Section 106(c) requires the Secretary of Agriculture to prepare maps relevant to this title as soon as practicable after the date of enactment. This includes maps and descriptions of the Opal Creek **Wilderness** and for the Scenic Recreation Area. The Secretary is directed to file those documents with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

Section 107 provides for an equal-value land exchange between the Rosboro Lumber Company and the United States.

Section 108 designates a segment of the Elkhorn Creek as a Wild and Scenic River. This provision provides protection on both Forest Service and Bureau of Land Management managed lands.

Section 109 authorizes funding for economic development projects to benefit local communities in the vicinity of the Opal Creek Area. Under this provision, grants will be made in accordance with a plan for economic development projects in the impacted area. The State of Oregon shall submit a report on the use of the funds made available under this section.

title ii upper klamath basin

Section 201. Upper Klamath Basin Ecological Restoration Project. This section establishes a 5-year pilot project for the consensus-based Upper Klamath Basin Working Group.

Subsection (a) contains definitions, including a description of working group members.

Subsection (b) outlines the procedures under which projects for ecological restoration, economic development and stability, and reducing drought impacts will be proposed by the Working Group and funded by the Secretary of the Interior, through the interagency Klamath Basin Ecosystem Restoration Office. The subsection stipulates that all Federal funding for projects must be matched one-to-one with non-Federal funds and that all projects proposed by the group must be based on a consensus of group members.

Subsection (c) directs the Secretary to formulate a cooperative agreement between the working group and other upper-and lower-Klamath Basin planning organizations, specifically the Klamath Basin Fisheries Task Force and the Klamath River Compact Commission. The Committee feels strongly that coordination between each of these groups is necessary to eliminate duplication of efforts and facilitate upper and lower basin communications.

Subsection (d) directs that all working group meetings shall be consistent with Federal open meeting and public participation laws.

Under subsection (e), the terms of working group members and the procedures for filling vacancies are established.

Subsection (f) authorizes the appropriation of \$1,000,000 per year for Fiscal Years 1997 to 2002.

TITLE III DESCHUTES BASIN

Section 301. Deschutes Basin Ecosystem Restoration Project. This section establishes a 5-year pilot project for the consensus-based Deschutes Basin Working Group.

Subsection (a) contains definitions, including a description of the working group members.

Subsection (b) outlines the procedures under which projects for ecological restoration will be proposed by the Working Group and funded by the Secretary of the Interior, through the Bureau of Reclamation. The subsection stipulates that all Federal funding for projects must be matched one-to-one with non-Federal funds and that all projects proposed by the group must be based on a consensus of group members.

Subsection (c) directs that the working group will provide reasonable public notice of all meetings and allow public attendance at the meetings.

Under subsection (d), priority is established for ecological restoration projects which are based on voluntary, market-based economic incentives.

Under subsection (e), the terms of working group members and the procedures for filling vacancies are established.

Subsection (f) authorizes Federal Agencies within the Deschutes Basin to contribute additional funds, consistent with existing authority and appropriations, to implement projects recommended by the working group.

Subsection (g) authorizes the appropriation of \$1,000,000 per year for Fiscal Years 1997 to 2002.

TITLE IV MOUNT HOOD CORRIDOR

Section 401. Land Exchange. This section facilitates a land exchange between the Longview Fibre Timber Company and the Department of the Interior, Bureau of Land Management (BLM), in the Mt. Hood Corridor, Oregon. The intent of this section is to protect the viewshed along U.S. Highway 26, from Portland, Oregon to Mt. Hood, from timber harvesting practices which could adversely affect that outstanding view.

Subsection (a) stipulates that if the Longview Fibre Timber Company offers and conveys title that is acceptable to the United States to some or all of its land in the Mt. Hood Corridor, the BLM shall convey to Longview an equal value of BLM parcels elsewhere in the State of Oregon.

Subsection (b) describes the lands to be offered by Longview.

Subsection (c) describes the lands to be offered in exchange by the Bureau of Land Management.

Subsection (d) directs that the lands exchanged under this title shall be of equal market value.

Under subsection (e), lands which are taken out of the base of lands considered for revenue purposes under the O&C Act of 1937 are directed to be replaced by a redesignation of lands currently in public domain status. The purpose of this section is to avoid adverse revenue impacts to the O&C Counties of western Oregon.

Subsection (f) establishes a one-year timetable under which the exchange must be completed.

Under subsection (g), all lands managed by the BLM in the Mt. Hood corridor which can be seen from U.S. Highway 26 are directed to be managed primarily for the protection of scenic values. Management prescriptions for other resource values associated with these lands shall also be planned and conducted for purposes other than timber harvest, so as not to impair scenic quality in the Corridor.

Subsection (h) sets out conditions under which timber harvesting may occur.

Subsection (i) stipulates that an existing road that is currently closed to prevent vandalism, dumping, wildlife poaching and other problems should remain closed, except for limited uses.

Subsection (j) exempts the land transfer from National Environmental Policy Act compliance. This action is necessary in order to complete the transfer within the one-year time frame outlined in subsection (f). All BLM parcels listed under subsection (c) for exchange to Longview are classified as matrix lands under the Presidents Forest Plan, and, therefore, no adverse impacts to species, key watersheds or late successional reserves will occur under this transfer.

Under subsection (k), such sums as may be necessary are appropriated for the implementation of this section.

TITLE V COQUILLE TRIBAL FOREST

Section 501. Creation of the Coquille Forest. This section creates a 5,000-acre Coquille Forest in southwest Oregon to be managed, after a two year transition period, by the Department of the Interior, Bureau of Indian Affairs, for the benefit of the Coquille Tribe of Oregon.

Subsection (a) adds a new section (d) to the Coquille Tribes Restoration Act of 1989 (P.L. 101-42). The elements of this new section are as follows:

Paragraph (1) directs the Secretary of the Interior to designate approximately 5,000 acres of forest lands in Coos County, Oregon as the Coquille Forest. This land is in the historic territory of the Coquille Tribe and would be held in Trust for the tribe by the United States.

Paragraph (2) directs that, within 180 days after enactment, a map will be created and filed describing the approximately 5,000 acres which will make up the Coquille Forest.

Under paragraph (3), the details of the transfer are set forth. The 5,000 acres identified in paragraph (1) will be transferred from the BLM to the Bureau of Indian Affairs (BIA) by the Secretary to be held in trust, in perpetuity, for the Coquille Tribe. The Secretary will manage this land consistent with the current Federal forest management plans in place on adjacent lands. At the time of enactment, the plan which will most likely be in place is the Presidents Forest Plan, formally adopted in the Record of Decision dated April 13, 1994. As the forest planning standards and guidelines on adjacent lands change over time, the plan for management of the Coquille Forest should be appropriately amended to reflect those changes. This subsection also gives the Secretary and the Tribe the discretion to implement a management strategy on these lands consistent with the Independent Scientific Advisory Teams (ISATs) report entitled, "A Forest Management Strategy for the Proposed Coquille Forest," developed in 1995. The implementation of an ISAT based plan is purely discretionary.

Paragraph (4) provides guidelines for how the BLM should manage the land in the interim two-year period to the transfer to the BIA.

Under paragraph (5), after the transfer from the BLM to the BIA has occurred, the Secretary is provided discretionary authority to enter into an Indian self-determination agreement with the Coquille tribe which would allow all or a portion of the designated Coquille Forest to be managed by the Tribe. As a condition of entering into this agreement, the Secretary must find that the Tribe has developed a formal Memorandum of Agreement (MOA) with the State of Oregon, as described in paragraph (9) below.

Under paragraph (6), all valid existing rights are protected. In addition, the subsection stipulates that all lands designated as the Coquille Forest will remain open to hunting, fishing, recreation and transportation.

Paragraph (7) requires that all Federal log export restrictions apply to timber sales conducted on the Coquille Forest.

Paragraph (8) requires that all timber sales on Coquille Forest lands will be subject to the same open bidding procedures that apply to timber sales on BLM lands. These guidelines should be followed and that no exclusive timber sales contract or contracts should be authorized by the Secretary, BIA or the Tribe for sales offered on these lands.

Under paragraph (9), the Tribe is directed to enter into a MOA with the State of Oregon.

Paragraph (10) directs that lands which are taken out of the base of lands considered for

revenue purposes under the O&C Act of 1937 are directed to be replaced by a redesignation as lands subject to the O&C Act of lands currently in public domain status. The purpose of this section is to avoid adverse revenue impacts to the O&C Counties of western Oregon, collectively, or to Coos County, Oregon, specifically. In no event should this redesignation exceed 5,000 acres. In addition, no positive revenue impacts to the counties should be created by this section.

Under paragraph (11), the Secretary is directed to complete, within two years from the date of enactment, a full scientific peer review of the ISAT report. A previous peer review on the report, which was conducted prior to the passage of this measure, has been criticized in testimony before the Committee as inadequate. The peer review required under this subsection will be done in a manner consistent with current Interior Department guidelines for the development of such reports.

title vi bull run watershed protection

Section 601. This section renumbers the appropriate sections of P.L. 95-200 accordingly to accommodate the changes outlined in Sec. 602 below.

Section 602. This section amends P.L. 95-200 by adding a new subsection 2(b) to that act. The elements of this new subsection are as follows:

Paragraph (1) prohibits the cutting of trees within the hydrographic boundary of the Bull Run River Drainage, as depicted on a map dated June 1996. The Committee understands that the Bull Run River Drainage means the physical drainage of the Bull Run watershed above the headworks of the City of Portland, Oregon's water storage and delivery project. In no way is it the intention of the Committee to include the Little Sandy River Drainage as a component of this area.

Paragraph (2) outlines conditions under which the Secretary of Agriculture may allow the cutting of trees.

Sections 603, 604, and 605. These sections renumber the appropriate sections of P.L. 95-200.

title vii oregon islands **wilderness**, additions

Section 701. Oregon Islands **Wilderness**, Additions. This section adds lands to the Oregon Islands **Wilderness** System.

Subsection (a) designates 95 acres of rocks, islets, islands and reefs to the Oregon Islands **Wilderness** System. These lands are currently managed as a National Wildlife Refuge.

Subsection (b) designates any Federally-owned, named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the Oregon Coast as **wilderness**.

Subsection (c) requires a map to be filed with the appropriate Congressional Committees as soon as practicable.

Subsection (d) codifies Public Land Order 6287 of June 16, 1982 which withdrew any rocks, reefs, islets and islands within three geographic miles of the Oregon Coast as part of the Oregon Islands National Wildlife Refuge.

TITLE VIII UMPQUA RIVER LAND EXCHANGE STUDY

Section 801. Policy and Direction. Subsection (a) directs the Secretaries of the Interior and Agriculture to participate with the Umpqua Basin Land Exchange Project, other affected units of state and local government, and certain non-governmental partners to build a data base for and make recommendations regarding the exchange.

Section 802. Report to Congress. Subsection (a) requires that a joint report of the Secretaries of the Interior and Agriculture will be submitted to Congress no later than February 1, 1998. This subsection also sets minimum standards for items to be addressed by the report.

Section 803. Authorization of Appropriations. Subsection (a) authorizes \$2,000,000 to carry out the purposes of this title.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1662. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1662, as ordered reported.

Executive Communication

The Committee on Energy and Natural Resources has requested legislative reports from the Department of the Interior, Department of Agriculture and the Office of Management and Budget setting forth Executive Agency recommendations of S. 1662, as amended. When these reports become available, the Chairman will request that they be printed in the Congressional Record for the Advice of the Senate. The testimony provided by the Department of Agriculture and the Department of the Interior follows:

Statement of Nancy K. Hayes, Chief of Staff and Counselor to the Director, Bureau of Land Management

I appreciate the opportunity to present the views of the Department of the Interior on S. 1662, the Oregon Resource Conservation Act of 1996. Before discussing specific provisions of this bill, I would like to express our appreciation to Senator Hatfield for his efforts to develop permanent solutions to longstanding and controversial natural resource issues in the State of Oregon.

The Department of the Interior supports the goals of this legislation, and would support Title II, on the Upper Klamath Basin, if it is amended according to our testimony. We support Title III, concerning the Mount Hood Corridor. On Title IV, the Coquille Forest Ecosystem Management Plan, we have not had the opportunity to analyze fully legislative language on this Plan. However, as prescribed in the Coquille Restoration Act, the Department is working with the tribe to develop a plan for economic development as required in the Act. The Department is in the midst of negotiations with the tribe on various proposals, and we urge Congress to allow us to complete these negotiations.

Title I of S. 1662 would create a 12,800 acre Opal Creek **Wilderness** Area and a 13,000 acre Opal Creek National Scenic Recreation Area. Most of the lands proposed for designation are managed by the U.S. Forest Service in the Willamette National Forest.

Section 104 of Title I calls for the Department and other agencies to contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various sub-areas for the benefit of the public. We plan to work with the Forest Service closely on this issue.

Section 107 would designate Elkhorn Creek as a Wild and Scenic River. We strongly support this designation. Roughly half of the eight mile area is managed by the Bureau of Land Management (BLM) while the Forest Service manages the remainder. As part of the BLMs Salem Resource Management Plan (RMP), we found the creek eligible for designation. This designation would be consistent with the BLMs land use plans, and we are pleased to support it.

Turning to Title II, I think we all have learned from the success of the Applegate Partnership in southern Oregon that when groups which might otherwise be adversaries sit down at the table together, we can go a long way toward resolving competing goals for natural resources. We support your efforts to repeat that success. Title II of S. 1662 sets in statute a five-year pilot project to allow balanced, consensus-based, citizen working groups in both the Klamath and Deschutes Basins, in Oregon, to provide ecological restoration recommendations to federal agencies. This working group process sprang, largely, out of testimony received at the Water and Power Subcommittee hearing held in Klamath Falls, Oregon, on July 7, 1994.

Sec. 201 establishes by statute the Upper Klamath Basin Working Group, which was formed locally in March of 1995. This group is comprised of a wide spectrum of interests, including industry, environmental, tribal and local government, and local community users, and has been charged with developing consensus on recommendations regarding ecological restoration, economic stability, and reducing drought impacts. We strongly support the continuation of this Working Group and a membership that represents a balance between development and restoration efforts.

We urge the Committee to amend Sec. 201 to clarify the role of federal agencies in general and BLM in particular. Sec. 201(a)(2) states that the Working Group will include representation by the BLM, but Sec. 201(b)(1)(F) limits Federal agency participation to providing technical assistance and participating in the Working Group meetings as nonvoting members, and Sec. 201(c)(1) does not include BLM on the list of representatives at all. The BLM should be a full participant at every level of representation on the Working Group, as should the Bureau of Indian Affairs (BIA). We would also note that Section 201(d) is not necessary and could be removed, since the land management agencies already have broad authorities covering these activities under which appropriations could be made.

Sec. 202 authorizes a similar pilot project for the Deschutes Basin Working Group to meet and provide environmental recommendations to federal agencies. This group has been working for nearly five years, and has strong participation and support from environmental groups, tribes, local irrigators, elected officials, and business leaders.

We understand that Sec. 202 may be amended to provide more detailed language on the Deschutes Basin Working Group. As this amendment is developed, we urge that Sec. 202 be amended to clarify the role of various federal agencies and be expanded to fit the specific situation in the Deschutes area. Other federal agencies with regulatory roles in the Deschutes Basin are not mentioned in the bill. The Department recommends that the bill clarify that these agencies could be called upon when issues related to their roles are raised rather than being designated as full time representatives of the group.

In addition to the land management agencies, the Secretary of the Interior has a trust responsibility for Native American Tribes. In that capacity, the representation in the Deschutes Working Group needs to be amended to include the Confederated Tribes of the Warm Springs and the Burns Paiute Tribe.

Also, since the role of FWS on the Deschutes Basin group may differ from its role on the Upper Klamath Working Groups, the Department recommends that the bill be amended to designate the BLM, not the FWS, to manage Deschutes Basin funds. The U.S. Fish and Wildlife Service would continue to manage Klamath Basin funds.

Finally, we do not believe that the working groups set in place by Title II would be subject to the Federal Advisory Committee Act (FACA). However, in order to avoid any uncertainty that may trigger litigation, we recommend that language be inserted to explicitly exempt these community-based working groups from the requirements of the FACA.

Title III of the bill proposes a 3,500 acre land exchange between the BLM and the Longview Fibre timber company in the Mt. Hood Corridor along U.S. Highway 26. Mt. Hood is an Oregon treasure, a landmark in which the citizens of Oregon take great pride. The mountain provides

recreation opportunities for millions of Oregonians. The geology and ecosystems that surround the mountain provide habitat for thousands of wildlife and plant species, and offer clean air and water for Oregon residents. Thousands of people drive along U.S. Highway 26 every year and the view this "corridor" affords is breathtaking. The Department strongly supports this exchange, which when completed, would prevent extensive logging that would mar the view along the highway. In fact, the BLM and the timber company are currently proceeding with this exchange using existing authorities (Sec. 206 of the Federal Land Policy Management Act (FLPMA) and the Federal Land Exchange Facilitation Act (FLEFA)).

The Department supports the goals of this Title. We have some concerns about the requirement in subsection (f) that the Mt. Hood Corridor land exchange be completed within two years, because some factors in the exchange process are not within the BLMs control. However, Senator Hatfield, I know how strongly you support this exchange, and within the next year, we will make progress towards completion.

Finally, Sec. 301(e) addresses the distribution of future revenues from lands acquired through the land exchange. By authorizing the redesignation of public domain land to O&C status, subsection (e) clarifies that revenues would be distributed in accordance with the O&C Act, and not in accordance with general public land laws, and therefore the flow of revenue to the O&C counties will not be adversely affected by this land exchange.

The Department of the Interior appreciates the opportunity to testify on this important bill.

Statement of Brian E. Burke, Deputy Under Secretary, for Natural Resources and Environment, Department of Agriculture

Mr. Chairman and members of the subcommittee, thank you for the opportunity to offer our views on S. 1662, a bill to establish areas of **wilderness** and recreation in the state of Oregon. I am accompanied today by Bill Funk, District Ranger on the Detroit District of the Willamette National Forest. The Department of Agriculture will limit its testimony to Title I of S. 1662 which deals with establishment of the Opal Creek **Wilderness** and Opal Creek Scenic Recreational Area. We defer to the Department of the Interior concerning the remainder of the bill.

The Department of Agriculture supports enactment of Title I of S. 1662.

S. 1662 would establish the Opal Creek **Wilderness**, adding approximately 13,212 acres of the Willamette National Forest in Oregon to the National **Wilderness** Preservation System. The proposed **wilderness** would also include that part of the Bull of the Woods **Wilderness** that is located in the Willamette National Forest. Additionally, the bill would establish the Opal Creek Scenic Recreation Area, also located in the Willamette National Forest, which would be approximately 13,013 acres. The establishment of both the **wilderness** and scenic recreation areas is conditioned on the donation of all right, title and interest in a number of patented parcels within the proposed boundaries of the two units and the donation of an easement across certain other parcels. Finally, S. 1662 would designate Elkhorn Creek as a component of the National Wild and Scenic Rivers System. The bill provides that the boundaries of the designated segment shall include an average of not more than 640 acres per mile in contrast to the 320

acres specified in the Wild and Scenic Rivers Act.

The proposed Opal Creek **Wilderness** and Elkhorn Creek would be managed in accordance with the provisions of the **Wilderness** Act and the Wild and Scenic Rivers Act respectively. With respect to the Scenic Recreation Area, the bill would require the Secretary of Agriculture to: (1) develop a management plan for the Scenic Recreation Area that provides for a broad range of land uses including recreation, harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets, and educational and research opportunities; (2) revise the inventory of cultural and historic resources of the area and develop interpretive activities for the area; (3) develop a transportation plan that evaluates the road network and addresses the access needs by persons with disabilities and the use of motorized vehicles within the area; (4) permit hunting and fishing subject to other Federal and State Laws; (5) permit timber cutting under limited conditions while prohibiting salvage sales; (6) subject to rights perfected before the date of enactment, withdraw the lands from the operation of the mining and mineral leasing laws; (7) provide for a level of recreation activities that, at a minimum, accommodate current levels of use; and (8) actively solicit public participation in management of the area through creation of an advisory panel, and seek the views of private groups, individuals, and the public, other agencies and appropriate nonprofit agencies or organizations. Additionally, the bill would prohibit the Federal Energy Regulatory Commission from licensing any water impoundment or other projects in the scenic recreation area.

The Opal Creek drainage, which gives its name to the proposed **wilderness** and scenic recreation area, has excellent natural resource attributes and protection of this area has long been an important regional issue. There are excellent examples of low elevation old-growth forest within the **wilderness** and scenic recreation areas that provides habitat for the threatened northern spotted owl. The area includes a resident fishery and provides essential water quality for downstream anadromous salmon and steelhead fisheries. A wide array of outdoor recreation opportunities exist within the proposed scenic recreation area.

The entire area within the proposed **wilderness** and scenic recreation area has been designated as a Late-Successional Reserve (LSR) under the Presidents Northwest Plan. LSRs are managed to protect and enhance conditions of late-successional and old-growth forest ecosystems and thereby serve as habitat for late-successional and old-growth related species including the northern spotted owl. This direction is compatible with the purposes of this legislation. Moreover, the lands proposed for inclusion in the National **Wilderness** Preservation System meet the criteria for designation as set forth in the **Wilderness** Act.

We do have a general concern about the creation of another statutory special management unit, the Opal Creek Scenic Recreation Area. We believe that the management direction contained in the Presidents Plan is adequate to protect the resource values found in the proposed scenic area. We understand that some individuals and groups believe permanent statutory protection is necessary. We simply observe that ecosystems are dynamic and that a legislated management regime that fits today's circumstances may not be appropriate for the future. The occurrence of a catastrophic event such as a major fire is the most obvious example of how conditions may change. We believe that the process for allocating land uses under the National Forest Management Act, replete with public input, is a sound way to develop management direction over the long term. We also recognize the long standing public concern over the management of Opal Creek and that this carefully designed legislation represents a compromise among many competing interests.

The Department does recommend two substantive changes. First, sections 104 and 105 of the

bill would require the Secretary to establish an advisory council for the Scenic Recreation Area and consult with the council on a periodic basis. The Administration generally does not support provisions that establish new advisory committee. We recommend that bill language be amended to provide simply that the Secretary develop a management plan for the area "with public participation" and the section 105 be deleted. Accordingly, the Secretary would receive input from interested parties through the traditional public involvement mechanism which rely on notice and provide for total public access.

The other recommended change would specifically classify Elkhorn Creek as a scenic river within the National Wild and Scenic Rivers System. The Elkhorn Creek drainage has had little development. Although some timber harvesting and road development have occurred, very little activity has encroached on the stream. The shoreline is largely inaccessible and primitive. There are no impoundments on this stream, nor are there any recreational facilities on the shoreline. Scenic values are high. This situation best corresponds to the scenic river classification described in sec. 2(b) of the Wild and Scenic Rivers Act. Accordingly, we recommend that language be added to the bill to classify Elkhorn Creek as a scenic river.

In addition, we have several technical suggestions for amending the bill.

This concludes my prepared statement. I would be pleased to answer the Subcommittees questions.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1662, as ordered reported, are shown as follows:
Wild and Scenic Rivers Act An ACT To provide a National Wild and Scenic Rivers System, and for other purposes

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Sec. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

* * * * *

(A) Elkhorn Creek. Elkhorn Creek from its source to its confluence on Federal land to be administered by agencies of the Departments of the Interior and Agriculture as agreed on by the Secretary of the Interior and the Secretary of Agriculture or as directed by the President. Notwithstanding subsection 3(b), the lateral boundaries of the Elkhorn River shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

(B) The 6.4 miles segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to that point where it leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South,

Range 3 East, Willamette Meridian, in the following classes:

(i) a 5.8-mile wild river area, extended from that point along the Willamette National Forest boundary on the common section line between Section 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where it leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of the Interior, or as directed by the President.

(c) Notwithstanding Section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.

(Public Law 101-42, 101st Cong.) An ACT To provide for restoration of the Federal trust relationship with, and assistance, to, the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes

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SEC. 5. TRANSFER OF LAND TO BE HELD IN TRUST.

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(c) Lands To Be Nontaxable. Any real property taken into trust for the benefit of the Tribe under this section shall be exempt from all local, State, and Federal taxation as of the date of transfer.

(d) Creation of the Coquille Forest.

(1) Within 90 days of the enactment of this title, the Secretary of the Interior is authorized to and shall, in accordance with this title and in consultation with the Coquille Tribe of Coos County, Oregon, designate approximately five thousand acres of forest lands in Coos County, Oregon, to which the United States holds title, located in the historic territory of the Coquille Indian people, as the Coquille Forest.

(2) A map showing the Federal portions of these sections designated as the Coquille Forest, and such additional legal descriptions which are applicable, shall within 180 days of the date of enactment of this title, be prepared by the Secretary in consultation with the Tribe and placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

(3) Two years from the date of enactment of this subsection, the Secretary shall transfer lands designated under subsection (d)(1), to the Bureau of Indian Affairs, to be held in trust, in perpetuity, for the Coquille Tribe. As Indian trust forest lands, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs shall manage these lands under applicable forestry laws and in a manner consistent with the standards and guidelines of Federal forest plans on adjacent lands. The Secretary and the Tribe may authorize management of the Coquille Forest consistent with the Coquille Forest management strategy developed by the Independent Scientific Advisory Team and set forth in the report entitled, "A Forest Management Strategy for the Proposed Coquille Forest" dated August 31, 1995 and including the December 20, 1995 Addendum.

(4) From the date of enactment of this title until two years after the date of enactment of this title, the Bureau of Land Management shall:

(A) retain Federal jurisdiction for the management of lands designated under this title as the Coquille Forest; and,

(B) prior to advertising, offering or awarding any timber sale contract on lands designated under this title as the Coquille Forest, obtain the approval the Bureau of Indian Affairs, which shall act on behalf of and in consultation with the Coquille Tribe.

(5) After completion of the transfer to the Bureau of Indian Affairs, required in this subsection, the Secretary may, pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), enter into an Indian self-determination agreement with the Coquille Indian Tribe. Such agreement shall provide for the Tribe to carry out all or a portion of the forest management program for the Coquille Forest. Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a Memorandum of Agreement (MOA) with the State of Oregon, as required under subsection (8) this title.

(6) The Land designated under this title shall be subject to valid existing rights, including all valid liens, rights-of-way, licenses, leases, permits, and easements existing on date of the enactment of this title. These lands will remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by State or Federal law.

(7) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign nations that apply to unprocessed logs harvested from Federal lands.

(8) All sales of timber from land subject to this title shall be advertised, offered and awarded in accordance with the public bidding and contracting laws and procedures applicable to the Bureau of Land Management.

(9) The Coquille Tribe shall enter into a Memorandum of Agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for preserving public access, continuing public rights, advancing jointly-held resource management goals, achieving coordinated management framework. Further, provisions set forth in the MOA shall be consistent with

Federal trust responsibility requirements applicable to Indian trust lands. The U.S. District Court for the District of Oregon shall have jurisdiction over actions arising out of claims of breach of the MOA.

(10) So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary shall redesignate public domain land located in the Coquille Tribes service area, as defined in the Coquille Tribal Restoration Act of 1989 (P.L. 101-42), as land subject to that Act. In no event shall payments due to Coos County, Oregon, under that Act be diminished as a result of the land designations required pursuant to this title.

(11) Within two years of the date of enactment of this subsection, the Secretary shall complete a formal scientific peer review of the management strategy developed by the Independent Scientific Advisory Team and set forth in the report entitled, "A Forest Management Strategy for the Proposed Coquille Forest" dated August 31, 1995 and including the December 20, 1995 Addendum.10

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Public Law 95-200 H.R. 7074; Nov. 23, 1977 04National Forest System Oregon Administration Authority 04An ACT To provide improved authority for the administration of certain National Forest System lands in Oregon 04

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management02

Sec. 2. (a) The unit and the renewable resources therein, shall be administered as a watershed by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to National Forest System lands except to the extent that any management plan or practice is found by the Secretary to have a significant adverse effect on compliance with the water quality standards referred to in section 2(b) 2(c) hereof or on the quantity of the water produced thereon for the use of the city, and other local government units and persons using such water under agreements with the city (and the Secretary shall take into consideration the cumulative effect of individually insignificant degradations), in which case, and notwithstanding any other provision of law, the management plan and all relevant leases, permits, contracts, rights-of-way, or other rights or authorizations issued pursuant thereto shall forthwith be altered by the Secretary to eliminate such adverse effect by a application of different techniques or prohibitions of one or more such practices or uses: Provided, however, That use of such water for the production of energy and the transmission of such energy through and over the unit are deemed consistent with the purposes of this Act and the rights-of-way heretofore granted to Bonneville Power Administration by the Forest Service through and over the unit are validated and confirmed and deemed consistent with the purposes of this Act.

(b) Timber Cutting.

(1) In general. Subject to paragraph (2), the Secretary of agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage and as depicted in a map dated June 1996 and entitled "Bull Run River Drainage".

(2) Permitted cutting.

(A) In general. Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in subparagraph (1).

(B) Permitted cutting. Subject to subparagraph (B), the Secretary may allow the cutting of trees in the area described in subparagraph (1)

(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

(C) Salvage sales. The Secretary of Agriculture may not authorize a salvage sale in the area described in subparagraph (1).

(b) (c) The policy set forth in subsection (a) and (b) shall be attained through the development, maintenance, and periodic revision of land management plans in accordance with procedures set forth in section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477, as amended; 16 U.S.C. 1604), through the maintenance of systems for monitoring and evaluating water quality, and through supporting scientific research as the Secretary may deem necessary after consultation and in coordination with the city. In the development and revision of land management plans for the unit, the Secretary, except as otherwise provided in section 2(a) hereof, shall provide for public participation and shall consult and coordinate with appropriate officials and advisors of the city, and shall consider such data and research as the city may collect through its own monitoring systems and scientific efforts, if any. Such plans shall be prepared by an interdisciplinary team; be embodied in appropriate written material, including maps and other descriptive documents; shall contain water quality standards developed by the Secretary after consultation and in cooperation with the city, which standards shall be substantially based on and shall reflect a quality of water not significantly less than the quality reflected by percentile curves developed from data collected from 1967 through 1975 and, if none, from data collected in the first three years of record thereafter; and be available to the public at convenient locations. The initial plan or plans shall be completed as soon as practicable after the enactment of this Act, but not later than September 30, 1979. Current data shall be compared to historical data at least annually for the purpose of determining compliance with the standards and the significance of any deviation therefrom. Deviations occurring from operation, maintenance, alteration, or construction of water storage, or electrical generation and transmission facilities, seasonal fluctuations, variations in climate, and other natural phenomena,

fire, or acts of God, shall not be considered in determining the historical or current percentile curves.

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