

**TESTIMONY OF RON SUPPAH, CHAIRMAN,
THE CONFEDERATED TRIBES OF THE WARM SPRINGS
RESERVATION OF OREGON,
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
ON S. 647,
THE LEWIS AND CLARK MOUNT HOOD WILDERNESS ACT OF 2007,
MAY 3, 2007**

Mr. Chairman, Members of the Subcommittee, I am Ron Suppah, Chairman of the Tribal Council of the Confederated Tribes of the Warm Springs Reservation of Oregon. I appreciate the opportunity to testify today regarding S. 647, the Lewis and Clark Mount Hood Wilderness Act of 2007.

Mr. Chairman, the Confederated Tribes of Warm Springs Reservation of Oregon support S. 647's basic premise of updating the Wilderness Areas and other land use designations within the Mount Hood National Forest to address the growing demands placed on the Forest by the expanding population in the Portland metropolitan area and other nearby areas in the State. There is much to like about this legislation, both in its broad goals and its specific provisions. However, we note that the treatment of several issues affecting the Warm Springs Tribe in the Mount Hood National Forest has eroded from last year's legislation, and that is a matter of concern to us.

As we noted in our testimony on last Congress's Mount Hood bills (S. 3854 and H.R. 5025), the people of the Confederated Tribes have lived since time immemorial within and around what is today the Mount Hood National Forest. We have been nourished by its fish, game and plants, and enjoyed its sanctuary, protection and beauty. We arose from this land and have long been its stewards. In more recent times, as a contemporary government in Oregon's community of governments, we also enjoy and exercise our rights and interests both along side and within the Mount Hood National Forest, including our unique treaty reserved rights and our traditional and religious practices.

Against this background, we set forth our comments below on specific provisions of S. 647.

First, we appreciate the deletion of the Findings section from last year's Senate bill. Several of the Findings' statements did not aptly reflect our Tribe's beliefs or our relationship with the Mount Hood National Forest. Although the bill does not now have a Findings section, this legislation's extensive legislative history, including introductory statements, correspondence and committee hearings, should provide a comprehensive portrait of the context within which this legislation is being developed.

Title I – Designation of Wilderness Areas. As a first order of business regarding the addition of wilderness to the Mount Hood National Forest in S. 647 and last year's bills, S. 3854 and H.R. 5025, we want to express our appreciation for the efforts made, as we understand it, to consider huckleberry patches and particularly to preserve our ability to get to the huckleberry

areas to exercise our treaty protected right to gather. It is our understanding that the wilderness additions in the Mount Hood bills avoid the closing of all but a very few existing forest roads in the National Forest, which will allow our Tribal members, particularly our elder members, to continue to take a car or a van to the huckleberry areas.

Section 101(4). Mark O. Hatfield Wilderness Addition. In Warm Springs testimony last year on S. 3854, we supported added acreage to the Mark O. Hatfield Wilderness only to the extent it stops at the top of the ridge above the City of Cascade Locks and does not extend down the face of the ridge. Full Wilderness designation on the very face of the ridge running down toward the City of Cascade Locks could unduly constrain the City's economic options. In S. 647 before the Subcommittee today, we note that the map and acreage describing the addition to the Mark O. Hatfield Wilderness appear essentially unchanged from the map and acreage proposed last Congress in S. 3854. However, upon closer inspection, we note that the wilderness proposal does come significantly down the face of the ridge (as it may have last year), and that the descriptive name of the addition has been changed from "Gorge Ridge" to "Gorge Face." We remain concerned about this encroachment on Cascade Locks, and ask the Committee to work with the City to assure that its capabilities to pursue a full range of economic opportunities, as expressly intended in the Columbia Gorge National Scenic Area Act, are not hampered.

We note and object to the deletion from S. 647 of the Columbia Gorge Airshed provision carried in Section 102(b)(2) of S. 3854 and Section 102(c)(4) in H.R. 5025 last Congress, where it noted that the new Mark O. Hatfield Wilderness addition was not to result in its classification as a Class I airshed. Removal of that provision poses the potential that Class I airshed designation could be applied to the new Wilderness, creating a difficult-to-implement restriction on rail, marine and highway travel through the Gorge that could interfere with one of the important commercial corridors between the Portland metropolitan area and eastern Oregon and Washington and Idaho. We urge that the Airshed provision be reinstated in S. 647.

Section 104. Administration. As we noted in our testimony last year regarding S. 3854, we today note S. 647's omission of the "Continued Use by Members of Indian Tribes" provisions in last Congress's H.R. 5025. That bill's Section 103(i)(1), (2) and (3) authorized access and temporary closure of new Mount Hood Wilderness for tribal traditional and religious purposes. As we said last year, throughout our history, the ancestors of people who today are members of the Confederated Tribes of Warm Springs have used what is currently called the Mount Hood National Forest for traditional cultural and religious purposes. In S. 647, which is predicated on providing Wilderness, Recreation Area and Wild and Scenic River designations for the benefit of the surging majority population, it is particularly essential that our people be assured that we will be able to continue the sacred and ancient traditions that have bound us to the land forever, as in last Congress's H.R. 5025. It is also essential that today's Senate bill include the temporary closure provision from H.R. 5025 so that we can continue to practice our traditional cultural and religious activities without fear of intrusion or interruption. Such closures would have to be arranged with the Forest Service, and would be for the smallest area and the least amount of time practicable to carry out these activities. Additionally, these activities would have to be in accord with the Wilderness Act, as well as the American Indian Religious Freedom Act.

Mr. Chairman, the closure of Forest Service land for limited unique purposes is already authorized. Forest Service regulations (36 CRF 261.53) today allow closure for endangered species, special biological communities, historical interest, scientific experiments, public health and safety, and protection of property. We note that Section 604 of S. 647 itself authorizes public closure of Mount Hood National Forest land for watershed purposes where appropriate. We further note that the temporary closure of federal land for tribal traditional cultural and religious purposes is already authorized in three instances for National Park lands. So closure of Forest Service land is already authorized for certain circumstances and closure of federal land for tribal traditional cultural and religious purposes is not a new precedent. S. 647's own introductory statement clearly describes the burgeoning demands that the majority population's recreational users are placing on Mount Hood's lands, and we only ask that you provide the Agriculture Secretary the discretion, in the face of that rising tide, to allow our people to be able to continue our traditional beliefs and practices in peace.

Section 105. Buffer Zones. Given that S. 647 extends wilderness designations close to established urban areas in some instances, it is important that "no buffer zone" language is included in the bill. Our preference for such language is that used in Section 103(j) of last year's H.R. 5025, which is clearer than the current language. The old House language states that "nothing in this Act creates protective perimeters or buffer zones" while the current language of S. 647 states that "Congress does not intend for designation of wilderness ... to lead to the creation of protective perimeters or buffer zones." S. 647 also states that nonwilderness activities or uses up to boundaries shall not, "of itself," preclude the activities. There is some ambiguity in these provisions, and we believe a clear and firm statement like that in last year's House bill is preferable.

Section 107. Fish and Wildlife; Hunting and Fishing. We prefer the Fish and Wildlife provisions from Section 108 of last year's S. 3854, which expressly allowed activities to maintain or restore fish and wildlife populations and habitat in new wilderness additions, so long as those activities are consistent with applicable wilderness management plans. Fish and wildlife are precious to us, particularly salmon. Tremendous efforts have been and continue to be made to restore Columbia salmon populations. It appears to make sense that, if salmon populations and habitat can be improved inside new wilderness, in keeping with the management plans, that should be permitted.

Title III. Mount Hood National Recreation Area. Section 301. Designation. As we stated in testimony last year, the designation of specific Recreation Areas within the Mount Hood National Forest raises for us the prospect of "loving the Mountain to death." Intensive recreational activity, even in nonmechanized forms such as mountain biking, can be destructive. Accordingly, we approach this Title with some caution.

With regard to Sections 301(a) and (d) of S. 647, our caution is heightened when we note that text from last year's S. 3854 assuring protection of "cultural" and "spiritual" values in the Recreation Area is deleted. The removal of this language suggests that locations of cultural and spiritual sensitivity for our Tribe are not to be protected. Further, the directive in (d) that "the Secretary shall only allow uses that are consistent with the purposes and values identified in

subsection (a)” – recreational, ecological, scenic, watershed, and fish and wildlife - could be interpreted as banning our use of those lands for traditional cultural and religious purposes. We would like to work with the Committee to resolve this difficulty.

We do appreciate that this year’s bill does drop the language from last year that the Recreation Area “interpret” archeological and paleontological sites. “Interpretation” could have led to the identification of sites, and once sites are publicly identified, they can be subject to vandalism. Often the best way to protect such sites is to not identify them.

Section 301(f). Road Construction. Warm Springs appreciates the inclusion of treaty and statutory rights in the Recreation Area road construction exception. Often, the exercise of treaty rights by our Tribal elders can only be accomplished by their driving, or being driven, to a particular area, say to a huckleberry patch. Over time, as huckleberry patch locations may change, new roads may be needed.

Title IV – Transportation and Communication Systems. As our testimony noted last year for S. 3854, significant areas of the Warm Springs Reservation are included in the Section 401 Definition of the “Mount Hood region.” Highway 26 and numerous other State and Forest Service roads come off the Mount Hood National Forest directly onto our land. The road to Timothy Lake traverses our Reservation, and is used by snowmobilers in the winter. Additionally, the scope of the Transportation Plan encompasses travelers traversing the Mount Hood region, which involves a long stretch of Highway 26 crossing the Warm Springs Reservation, often snow covered in winter. Finally, members of our Tribe frequently travel deep within the Mount Hood National Forest, as we have for thousands of years, and transportation access within the Forest is important to us. Accordingly, our Tribal government should be included in the transportation planning process, and we ask that “ the Warm Springs Tribal government” be added in Section 402(b)(2)’s listed Mount Hood regional governments involved in the planning.

Title VI – Mount Hood National Forest and Watershed Stewardship. Section 602. Forest Stewardship Assessment. The Warm Springs Tribe supports this provision, which is identical to the provisions in last year’s S. 3854. Our Reservation has an extensive forested border in common with the Mount Hood National Forest. In many ways, the management and health of our forest are closely linked to the management and health of the Mount Hood National Forest. The required development of a stewardship assessment and its implementation for the Mount Hood Forest will help protect our forest, for which the United States government as a whole, including the U.S. Forest Service, has a trust responsibility.

Section 603. Sustainable Biomass Utilization Study. We support this Section, which is identical to last year’s bill. Our Tribe, through Warm Springs Forest Products Industries, is deeply involved in a 20-megawatt biomass electric generation project that would accept significant amounts of excess biomass material from the Mount Hood National Forest. Our Tribe and the U.S. Forest Service, including the Mount Hood National Forest, entered into a Memorandum of Understanding early in 2006 to facilitate both fuels reduction on the Mount Hood National Forest and the provision of biomass for the Tribe’s biomass generation project.

An immediate example of this is the Warm Springs Tribe's working with the Mount Hood National Forest Clackamas Ranger District on the Cascade Crest Forest Health Improvement Project. Around Olallie Butte, both on our Reservation and on adjoining National Forest lands, more than 60,000 acres of forestland are overstocked and infested with Mountain Pine Beetle. Under the MOU and the Tribal Forest Protection Act, we are developing a stewardship agreement to remove hazardous fuels and thin overstocked stands in this area that will also provide fuel for our biomass facility.

Title VIII – Local and Tribal Relationships. Section 801. Findings and Purpose. Section 802. First Foods Gathering Areas. The Warm Springs Tribe objects to the unilateral elimination of the exclusive use authority for those first foods gathering areas identified as Priority Use Areas in last years bill. This provision was a critical element for us in last year's legislation. It was in both the House and Senate bill. Now, in S. 647, it has been eliminated without so much as a courtesy call to us. No one has bothered to tell us even why they believe this provision should be dropped. Accordingly, we register our strong objection to both the elimination of the provision and the manner in which it was removed.

The Priority Use First Food Gathering Area provisions, including exclusive use, are critical to protecting and preserving the Tribe's treaty protected right to gather roots, berries and plants within the Mount Hood National Forest. In recent years when our Tribal members have gone to long-established huckleberry patches for the traditional annual harvest, we have been alarmed to see others wantonly stripping the berries with rakes and other tools, with no regard for the permanent destruction they are causing the huckleberry bushes. The establishment of exclusive Priority Use Areas for tribes with treaty gathering rights in the Mount Hood National Forest is an exercise of the federal trust obligation to protect treaty resources, and is essential today to protect our roots, berries and plants from the destructive practices of non-Indians. It is disturbing that this current bill, S. 647, offers to exclusively protect the watersheds of various municipalities, but deliberately reverses course when addressing Indian treaty protected resources. We urge the sponsors of S. 647 and the Committee to work with us to try to correct this situation. We believe the former provisions allowed flexibility in establishing the exclusive Tribal Priority Use Areas, enabling the Tribe and the Forest Service to establish these areas through collaborative discussions to bring a desperately needed measure of protection to our treaty protected roots, berries and plants.

Section 804. Savings Provisions Regarding Relations with Indian Tribes. This Section preserving the full scope of the Warm Springs 1855 Treaty rights and protecting our trust lands and allotments, including our fishing access sites, as well as our hunting and fishing rights, are essential to this legislation. Tribal treaties are the highest law of the land, and their preservation from any potential misinterpretation, alternation or diminishment, intentional or otherwise, as a consequence of this Act is absolutely essential for this bill.

Section 905. Mount Hood National Forest Recreational Working Group. The Warm Springs Tribe supports this provision and wishes to express our appreciation to S. 647's sponsors for including affected tribal governments in the list of governments that may make nominations

for Working Groups members to the Regional Forester. We would suggest one further revision to Section 905(d)(10), making it “Affected adjacent Indian tribes.” Given the bill’s emphasis on adjacent governments, including just “affected” tribes could potentially include non-adjacent tribal governments, who may assert their rights are affected by Mount Hood related issues.

Mr. Chairman, that concludes the S. 647 testimony of the Confederated Tribes of the Warm Springs Reservation of Oregon. We look forward to working with the sponsors of the bills and the Committee in revising and advancing this important Mount Hood wilderness legislation.

Thank you.