

THE OPAL CREEK FOREST PRESERVE
ACT OF 1994

Y 4. AG 8/1:103-86

The Opal Creek Forest Preserve Act...

HEARING
BEFORE THE
SUBCOMMITTEE ON SPECIALTY CROPS
AND NATURAL RESOURCES
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS

SECOND SECTION

ON

H.R. 3905

MAY 18, 1994

Serial No. 103-86

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C.

APR 11 1995



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REVIEW OF H.R. 3905, THE OPAL CREEK FOREST PRESERVE ACT OF 1994

WEDNESDAY, MAY 18, 1994

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SPECIALTY CROPS
AND NATURAL RESOURCES,
COMMITTEE ON AGRICULTURE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1300, Longworth House Office Building, Hon. Charlie Rose (chairman of the subcommittee) presiding.

Present: Representatives Bishop, Clayton, Inslee, Pomeroy, Peterson, Volkmer, Lewis, Kingston and Goodlatte.

Also present: Representative Kopetski.

Staff present: Glenda L. Temple, clerk; Keith Pitts, Joan Teague Rose, James A. Davis, Alex Buell, and Stacy Carey.

OPENING STATEMENT OF HON. CHARLIE ROSE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. ROSE. The Subcommittee on Specialty Crops and Natural Resources will please come to order.

The subject of today's hearing is a review of H.R. 3905, the Opal Creek Forest Preserve Act of 1994.

Before we start off the testimony from the bill's sponsor, Congressman Mike Kopetski of Oregon, I want to recognize Mike for the vigorous and dedicated efforts he made in seeking a resolution to the forest crisis in the Pacific Northwest.

As many of you may remember, Mike's commitment and tenacity compelled this subcommittee and the House Committee on Agriculture to report out what I believe to be the first large-scale, scientifically based ecosystems management bill to address the oftentimes conflicting concerns in the Pacific Northwest. I think the previous chairman of this subcommittee, Harold Volkmer, may have more to say on Mike's role in that process.

However, let me add that I have seen you, Mike, apply the same energy and commitment to other issues. You have served your district and the Nation very well, and you will be sorely missed in the next Congress.

I also welcome another individual that has a long-time dedication to this issue, Assistant Secretary Jim Lyons, back to the subcommittee.

Are there any other opening statements?

If not, we will commence with the hearing.

Our first witness is the Honorable Michael J. Kopetski, a Member of Congress from Oregon.

[H.R. 3905 follows:]

103^D CONGRESS
2^D SESSION

H. R. 3905

To provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1994

Mr. KOPETSKI introduced the following bill; which was referred jointly to the Committees on Natural Resources and Agriculture

A BILL

To provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Opal Creek Forest Preserve Act of 1994”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. Definitions.
- Sec. 4. Opal Creek Forest Preserve.
- Sec. 5. Administration of the Preserve.
- Sec. 6. Prohibitions regarding the management of the Preserve.
- Sec. 7. Access to and acquisition of non-Federal land.
- Sec. 8. Bornite Project Area.

Sec. 9. Authority of the Secretary and responsible parties to conduct environmental response actions or pursue liability.

Sec. 10. Grandfather clause.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) Old-growth forests are unique ecosystems
4 that serve as critical habitat for hundreds of verte-
5 brate and invertebrate animals, plants, and fungi.

6 (2) Old-growth forests provide clean and plenti-
7 ful water and support streams and rivers containing
8 runs of anadromous and resident cold water fish,
9 which are wholly dependent on high quantity and
10 quality water for migration, spawning, rearing, and
11 cover.

12 (3) The high quantity and quality of water in
13 streams and rivers in old-growth forests can only be
14 maintained by protecting the watersheds of these
15 streams and rivers.

16 (4) Old-growth forests provide unique and out-
17 standing opportunities for educational study, sci-
18 entific research, and recreation.

19 (5) The establishment of a watershed and forest
20 preserve to protect areas of old-growth forests and
21 surface waters can contribute significantly to the
22 quality of life for the residents of the State of Or-
23 egon through education, recreation, and a protected
24 water supply.

1 (6) The area known as the Opal Creek Forest,
2 located on the upper Little North Fork of the
3 Santiam River in the State of Oregon, contains one
4 of the largest remaining intact old-growth forest
5 ecosystems in the Western Oregon Cascades. Al-
6 though the landscape mosaic in the Opal Creek For-
7 est may reflect some past logging, young stands of
8 trees in the area mainly owe their existence to natu-
9 ral disturbances, chiefly wildfire.

10 (7) The Opal Creek Forest contains outstand-
11 ing geological and botanical features and contains
12 attributes of historic and prehistoric importance.

13 (8) The recreational use of the Opal Creek For-
14 est, typically in the form of hiking, sightseeing, and
15 the general enjoyment of the outdoor environment, is
16 significant and likely to increase.

17 (9) It is desirable to limit the human-related
18 disturbances and development of the Opal Creek
19 Forest in order to protect fully the special features
20 of the forest and maintain the full potential of its
21 watershed for scientific, educational, and non-
22 destructive research purposes.

23 (10) Preservation of the Opal Creek Forest pro-
24 vides outstanding opportunities for scientists to con-
25 duct nondestructive research regarding old-growth

1 forests and for educators to provide scientifically
2 credible information to the public.

3 (b) PURPOSES.—The purposes of this Act are—

4 (1) to protect and preserve the forests and wa-
5 tersheds contained in the Opal Creek Forest Pre-
6 serve;

7 (2) consistent with paragraph (1), to promote
8 and conduct—

9 (A) nondestructive research in the Preserve
10 regarding old-growth forests; and

11 (B) educational programs in the Preserve
12 regarding old-growth forests and cultural and
13 historic resources in the Preserve; and

14 (3) consistent with paragraphs (1) and (2), to
15 permit and regulate recreation in the Preserve.

16 **SEC. 3. DEFINITIONS.**

17 For purposes of this Act:

18 (1) PRESERVE.—The term “Preserve” means
19 the Opal Creek Forest Preserve established in sec-
20 tion 4(a).

21 (2) NONDESTRUCTIVE RESEARCH.—The term
22 “nondestructive research” means research conducted
23 in the Preserve that does not involve the harvesting
24 of timber or otherwise damage the ecosystem.

1 (3) COOPERATIVE MANAGEMENT PLAN.—The
2 term “cooperative management plan” means the
3 management plan for the Preserve developed pursu-
4 ant to section 5(b).

5 (4) BORNITE PROJECT AREA.—The term
6 “Bornite Project Area” means the area known as
7 the Bornite Project Area, which is excluded from the
8 Preserve as depicted on the map described in section
9 4(b).

10 (5) SECRETARY.—The term “Secretary” means
11 the Secretary of Agriculture.

12 **SEC. 4. OPAL CREEK FOREST PRESERVE.**

13 (a) ESTABLISHMENT OF PRESERVE.—There is here-
14 by established the Opal Creek Forest Preserve in order
15 to protect and preserve the forests and watersheds in the
16 Preserve and to promote the research, educational, and
17 recreational purposes of this Act.

18 (b) DESCRIPTION OF PRESERVE.—The Preserve shall
19 consist of those Federal lands located in the Willamette
20 and Mt. Hood National Forests in the State of Oregon
21 that are generally depicted on the map dated October 10,
22 1993, and entitled the “Opal Creek Preserve Area”. The
23 Preserve shall also include such lands as may be added
24 under section 7 or 8 of this Act. The map referred to in
25 this subsection shall be kept on file and made available

1 for public inspection in the Office of the Chief of the For-
2 est Service, Department of Agriculture.

3 **SEC. 5. ADMINISTRATION OF THE PRESERVE.**

4 (a) IN GENERAL.—The Secretary shall administer
5 the Preserve in accordance with this Act and with the
6 laws, rules, and regulations applicable to National Forest
7 System lands in a manner that will further the purposes
8 of this Act.

9 (b) DEVELOPMENT OF COOPERATIVE MANAGEMENT
10 PLAN.—The Secretary, acting through the Forest Service,
11 shall develop a cooperative management plan for the Pre-
12 serve that is consistent with the requirements specified in
13 this Act and other laws applicable to the Preserve. The
14 cooperative management plan shall be prepared in con-
15 sultation with, and with significant input from, interested
16 individuals and organizations. The Secretary is strongly
17 encouraged to enter into memoranda of understanding
18 with interested parties to accomplish the purposes of this
19 Act.

20 (c) PROTECTION OF CULTURAL AND HISTORIC RE-
21 SOURCES.—Not later than one year after the date of the
22 enactment of this Act, the Secretary shall review and re-
23 vise the inventory of the cultural and historic resources
24 in the area covered by the Preserve, which was originally
25 developed pursuant to the Oregon Wilderness Act of 1984

1 (Public Law 98-328; 16 U.S.C. 1131 note). The Secretary
2 shall submit a report to Congress describing the results
3 of the review of such inventory.

4 (d) WITHDRAWAL.—Subject to valid existing rights,
5 Federal lands in the Preserve are hereby withdrawn from
6 disposition under the public land laws, from location,
7 entry, and patent under the mining laws of the United
8 States, from the operation of the mineral leasing laws of
9 the United States, and from operation of the Geothermal
10 Steam Act of 1970 (30 U.S.C. 1001 et seq.). The with-
11 drawal provided by this subsection shall also apply to any
12 Federal lands added to the Preserve after the date of the
13 enactment of this Act, including lands in the Bornite
14 Project Area added to the Preserve pursuant to section
15 8, except that the withdrawal shall apply to such lands
16 only upon addition to the Preserve.

17 (e) PRIVATE INHOLDINGS.—The Secretary shall co-
18 operate with, and provide technical assistance to, private
19 landowners, organizations, and other entities holding pri-
20 vate lands within the boundaries of the Preserve to pro-
21 mote the use and management of such lands in a manner
22 consistent with the purposes of this Act.

1 **SEC. 6. PROHIBITIONS REGARDING THE MANAGEMENT OF**
2 **THE PRESERVE.**

3 (a) **PROHIBITION ON LOGGING OR OTHER TIMBER**
4 **HARVESTING.—**

5 (1) **PROHIBITION.**—Except as provided in para-
6 graph (2), the cutting of trees in the Preserve is
7 prohibited.

8 (2) **EXCEPTIONS.**—The prohibition contained in
9 paragraph (1) shall not apply to the extent that the
10 Secretary determines that the cutting of specific
11 trees in the Preserve is necessary—

12 (A) for public safety, such as to control the
13 spread of a forest fire in actual existence in the
14 Preserve or on lands adjacent to the Preserve;

15 (B) for administrative use related to activi-
16 ties permitted in the Preserve; or

17 (C) for collection of dead and downed wood
18 to be used for firewood in the Preserve.

19 (3) **LIMITATION ON EXCEPTION.**—The cutting
20 of trees authorized under paragraph (2) may not in-
21 clude salvage sales or harvests of commercial quan-
22 tities of timber in the Preserve.

23 (b) **PROHIBITION ON OPEN FIRES.**—The Secretary
24 shall prohibit open fires in the Preserve except in des-
25 ignated fire rings.

1 (c) PROHIBITION ON OFF ROAD MOTORIZED TRAV-
2 EL.—

3 (1) PROHIBITION.—Except as provided in para-
4 graph (2) and subject to valid existing rights, the
5 use of motor vehicles off or outside of the estab-
6 lished roadbed of roads in the Preserve is prohibited.

7 (2) EXCEPTION.—The prohibition contained in
8 paragraph (1) shall not apply to the extent that the
9 Secretary determines that the use of a motor vehicle
10 off or outside of the established roadbed of a road
11 in the Preserve is necessary to respond to an emer-
12 gency.

13 (d) PROHIBITION ON USE OF CERTAIN ROADS.—

14 (1) PROHIBITION.—Except as provided in para-
15 graph (2) and subject to valid existing rights, the
16 use of motor vehicles is prohibited on the following
17 roads located in the Preserve:

18 (A) Forest road 2209 from the gate in ex-
19 istence on the date of the enactment of this Act
20 eastward to the intersection of the road with
21 the wilderness boundary.

22 (B) Forest roads 290 and 330, which are
23 spur roads to the road described in subpara-
24 graph (A).

1 (2) EXCEPTIONS.—The prohibition contained in
2 paragraph (1) shall not apply to the extent that the
3 Secretary determines that the use of the roads de-
4 scribed in such paragraph is necessary for adminis-
5 trative purposes or to respond to an emergency.

6 (3) RULE OF CONSTRUCTION.—Nothing in this
7 subsection shall be construed to prohibit inholders
8 and the possessors of valid claims from using the
9 roads described in paragraph (1) for ingress and
10 egress to their inholdings or in connection with the
11 exercise of their valid claims, subject to such reason-
12 able terms and conditions, consistent with the pur-
13 poses of this Act, as the Secretary may prescribe.
14 Nothing in this subsection shall be construed to pro-
15 hibit motor vehicle traffic on other roads established
16 in the Preserve.

17 (e) PROHIBITION ON ROAD CONSTRUCTION.—

18 (1) PROHIBITION.—Except as provided in para-
19 graph (2) and section 8(d), and subject to valid ex-
20 isting rights, the construction of new roads is pro-
21 hibited in the Preserve.

22 (2) EXCEPTIONS.—The prohibition contained in
23 paragraph (1) shall not apply to the extent that the
24 Secretary determines that the construction of new
25 roads in the Preserve is necessary to accomplish the

1 purposes of this Act or to provide access to
2 inholdings. The Secretary may maintain or improve
3 roads in the Preserve to the extent the Secretary de-
4 termines that such maintenance or improvements
5 are necessary to accomplish the purposes of this Act,
6 to provide for the protection of the natural resources
7 of the Preserve, or to provide for public safety.

8 (3) LIMITATION ON EXCEPTION.—The con-
9 struction or improvement of roads in the Preserve
10 pursuant to paragraph (2) may not include paving.

11 **SEC. 7. ACCESS TO AND ACQUISITION OF NON-FEDERAL**
12 **LAND.**

13 (a) INVENTORY AND ACQUISITION OF NON-FEDERAL
14 LANDS.—The Secretary shall conduct an inventory of all
15 non-Federal lands and interests in lands within the bound-
16 aries of the Preserve. The Secretary may acquire such
17 inventoried lands (or interests in such lands) for inclusion
18 in the Preserve by purchase at not more than fair market
19 value, by donation, or by exchange. The Secretary may
20 not acquire, for inclusion in the Preserve, any lands or
21 interests in lands within the boundaries of the Preserve
22 without the consent of the owner, unless the Secretary de-
23 termines that the land is being developed or managed (or
24 is proposed to be developed or managed) in a manner in-
25 consistent with the purposes of this Act.

1 (b) SPECIAL RULE FOR SANTIAM NO. 1 LODE MIN-
2 ING CLAIM.—Notwithstanding subsection (a), the parcel
3 of real property located within the boundaries of the Pre-
4 serve that is known as the Santiam No. 1 lode mining
5 claim and identified in section 8140 of the Department
6 of Defense Appropriations Act, 1992 (Public Law 102-
7 172; 105 Stat. 1213), may be acquired by the Secretary
8 only—

9 (1) by purchase for an amount equal to not
10 more than the sum of—

11 (A) the amount that the original patentee
12 of the parcel paid for the parcel; and

13 (B) the cost of any improvements made to
14 the parcel by the patentee; or

15 (2) by donation.

16 (c) RIGHTS-OF-WAY.—Nothing in this section shall
17 be construed to affect the authority of the Secretary to
18 acquire road and trail rights-of-way on lands in the Pre-
19 serve under existing authorities.

20 (d) ACCESS AND UTILITIES TO INHOLDINGS.—

21 (1) IN GENERAL.—In the case of private
22 inholdings located within the boundaries of the Pre-
23 serve, the Secretary shall authorize the use of Fed-
24 eral land in the Preserve by the holder of the

1 inholding to assure adequate access to the inholding
2 under applicable law.

3 (2) JAWBONE FLATS.—With respect to the
4 inholding known as the Jawbone Flats area, the Sec-
5 retary shall authorize the use of Federal land in the
6 Preserve by the organization known as the Friends
7 of Opal Creek to provide for access and utilities for
8 a facility in the inholding if the Secretary determines
9 that the facility (and use of the facility) is consistent
10 with the purposes of this Act.

11 (3) TERMS AND CONDITIONS.—The use of Fed-
12 eral land in the Preserve under this subsection shall
13 be subject to such reasonable terms and conditions,
14 consistent with the purposes of this Act, as the Sec-
15 retary may prescribe.

16 **SEC. 8. BORNITE PROJECT AREA.**

17 (a) ADDITION OF BORNITE PROJECT AREA.—Lands
18 that are located within the Bornite Project Area shall be
19 added to the Preserve upon the occurrence of either of
20 the following events:

21 (1) The determination by the Director of the
22 Bureau of Land Management that the mining claims
23 on the lands are no longer valid and the conclusion
24 of all appeals, if any, resulting from the determina-
25 tion.

1 (2) The determination by the Director of the
2 Bureau of Land Management that all exploration,
3 mining, and reclamation activities, including the re-
4 lease of all reclamation bonds, on the mining claims
5 on the lands are completed.

6 (b) PROHIBITION ON PATENTS.—After the date of
7 the enactment of this Act, and subject to valid existing
8 rights, no patent shall be issued for any mining claim lo-
9 cated under the general mining laws within the Bornite
10 Project Area.

11 (c) SPECIAL USE PERMITS.—Nothing in this Act
12 shall be construed to interfere with the ability of the Sec-
13 retary to issue a special use permit in connection with ex-
14 ploration, mining, and mining-related activities in the
15 Bornite Project Area.

16 (d) ROADS, STRUCTURES, AND UTILITIES.—Roads,
17 structures, and utilities (including power lines and water
18 lines) shall be allowed inside the Preserve to serve activi-
19 ties conducted on land within the Bornite Project Area.

20 (e) EFFECT ON EXISTING ACTIVITIES.—Nothing in
21 this Act shall be construed to interfere with any explo-
22 ration, mining, or mining-related activity in the Bornite
23 Project Area conducted in accordance with applicable
24 laws.

1 **SEC. 9. AUTHORITY OF THE SECRETARY AND RESPONSIBLE**
2 **PARTIES TO CONDUCT ENVIRONMENTAL RE-**
3 **SPONSE ACTIONS OR PURSUE LIABILITY.**

4 (a) **REMEDIATION ACTIVITIES.**—Nothing in this Act
5 shall be construed to limit the authority of the Secretary
6 or a responsible party to conduct environmental remedi-
7 ation activities in the Preserve or the Bornite Project Area
8 in connection with the release, threatened release, or clean
9 up of any hazardous substance or pollutant or contami-
10 nant, including response actions conducted pursuant to
11 the Comprehensive Environmental Response, Compensa-
12 tion, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

13 (b) **LIABILITY.**—Nothing in this Act shall be con-
14 strued to limit the authority of the Secretary or a respon-
15 sible party to address questions of liability related to the
16 release, threatened release, or clean up of any hazardous
17 substance or pollutant or contaminant in the Preserve or
18 the Bornite Project Area.

19 **SEC. 10. GRANDFATHER CLAUSE.**

20 Nothing in this Act shall be construed to affect the
21 operation of any timber sale contract entered into, or
22 interfere with any activity for which a special use permit
23 has been issued (and not revoked), before the date of the
24 enactment of this Act, subject to the terms of the contract
25 or permit.

○

**STATEMENT OF HON. MIKE KOPETSKI, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF OREGON**

Mr. KOPETSKI. Thank you, Mr. Chairman. Thank you for those very kind words. I have many good memories of being in this hearing room and the work that we did under the leadership of Mr. Volkmer trying to resolve legislatively the crisis in the owl forest in the Northwest. I wish we would have been successful beyond the committee work.

Members of the committee, thank you for this opportunity to speak before you today and thank you for holding a hearing on H.R. 3905, my bill to preserve the Opal Creek Forest. I want to start this morning by giving you a little background.

The Opal Creek Forest is in northwestern Oregon, on the west slope of the Cascades, and contains one of the largest intact stands of low elevation old growth in the Pacific Northwest. Walking through the forest, you cannot help but look up, as the Douglas-fir and hemlocks tower around you. Mr. Chairman the clarity of the Opal Creek water is so great that it invites the college of cardinals to test its magical powers. It is quite plainly one of Oregon's and America's last uncut gems. This preserve lies entirely within my congressional district.

I have many reasons to legislate the Opal Creek preserve, including its biological significance, the popular support for protecting it, and the minimal economic impact of giving it permanent protection.

Many of today's witnesses will speak to these reasons. But alongside these solid, logical arguments is my deeply held belief that Opal Creek is a special place that deserves to be set aside for people to enjoy today and forever. This sentiment is shared by citizens in my district and Oregonians throughout the State.

During my campaigns for the House, I made the preservation of Opal Creek a top priority. I tried to legislate the preserve back in 1991 when I sat on this subcommittee, and we wrote a timber bill, the timber bill which the industry opposed because it allowed only 2.2 billion board feet of harvest. Now, I am in my final months in Congress and I have put Opal Creek at the top of my legislative agenda for the remaining months here.

I have worked hard to ensure that this bill is fair, and that all stakeholders have been involved in its creation. The details of protection and management in this bill have been negotiated, written, and rewritten, but they are not set in stone. I am certain that the members of this panel will have constructive ideas to improve the legislation, and I look forward to working with you to make this bill even better. The most important goal here is to ensure that the forests and watersheds of Opal Creek are protected.

The first point that I want to stress is that while the President's plan for forests in the Pacific Northwest will designate the Opal Creek Forest as an old-growth, late-successional reserve, it is only through legislation that we can ensure that the protection is permanent.

Because of the designation in the President's plan, there will be very little logging at Opal Creek even without legislation. Let me mention, also, that both administration and industry representatives have conceded to me that it would be very surprising if Opal

Creek were ever harvested, given the likelihood that a sale in this area would be litigated.

Our self-deceiving attitude toward places like Opal Creek contributed to the unsustainable harvest levels of the 1980's because although there was a tacit recognition that Opal Creek would never be cut, the inclusion of Opal Creek's trees in the timber base falsely elevated the volume that could be harvested annually on a sustainable basis. Thus, I maintain that an act of Congress is absolutely necessary, in order to ensure that protection is permanent.

Forest preservation is tenuous as long as its security is based on the whims of succeeding administrations. Consistent policy objectives in this controversial and highly political and emotional arena of forest management are not guaranteed as long as America has 4-year limits on its Presidency.

Why let indecisiveness and uncertainty continue to rip the fabric of the Santiam Canyon community apart? Why keep lawyers employed by both sides when an act of Congress can resolve this?

I have not yet seen the statement from the administration that will be presented here today. I suspect you will hear that there is no real opposition to the goal of preserving Opal Creek. I can assure you that the differences between the borders of the administration's late-successional, old-growth reserve and my proposed preserve are minimal. My preserve is slightly larger, as I would like the preserve to include important watershed lands for the Little North Fork of the Santiam River and for French Creek.

What I do expect to hear from the administration is that the Forest Service does not like the piecemeal approach of protecting lands bit by bit, and in response to this concern of piecemeal protection, all I can say is that it is unlikely that Congress will ever be able to protect lands in any other way. Yet we should not abandon this important obligation, as only Congress can ensure that land preservation is permanent.

When we can find a way, we need to have the political will to direct our legislative agenda to the preservation of special places. We owe this to the people we represent and to future people.

Let me reiterate the basic objective of my bill: to create permanent preserve status for Opal Creek. Because of the nature of the battle that has been waged over Opal Creek for the last several decades, this legislation has been the target of many rumors and allegations.

Briefly, I would like to address the concerns that I have heard, and I will also be available to answer any questions. First is that the bill is offered to make certain individuals wealthy.

First, realize that 97 percent of the land in the proposed preserve is Federal land; less than 3 percent of the 32,000 acres are privately owned and nothing in this bill requires the Government to make any land acquisitions. At the same time, I have stipulated in the bill that the Government may not take any inholdings through condemnation. In fact, the costs to the Government as a result of this bill may be negligible.

In addition, I have made a special rule for the potential acquisition of recently patented lands. I have taken a cautious approach, anticipating reforms in the mining law, and so the patent named Santiam No. 1, which was awarded in 1992, may not be acquired

by the Government for more than it was patented for, plus the cost of any improvements made on the property since then.

I would like to make a further point about the Santiam No. 1 patent. It is currently owned by the Friends of Opal Creek and it crosses the main entrance road to Opal Creek Forest. Only after Senator Hatfield included in legislation that the Government had to award the patent was the Santiam No. 1 patent awarded to the mining company that was planning to donate its old patent lands to a conservation organization. This was done to satisfy the concerns of groups such as the Nature Conservancy that there would be some way to control vehicular access to the area.

The Friends of Opal Creek, ultimately the recipient of the lands, erected a gate across the road on Santiam No. 1 patent land. This has visitation to Opal Creek limited to foot traffic, and has aided in the preservation of the area.

I intend for the preserve to stay vehicle-free and for the gate to remain. The Friends of Opal Creek have agreed to enter a binding contract that will grant complete pedestrian right-of-way through the gate and will grant to the Forest Service an administrative right-of-way. This will perpetuate the status quo. The Forest Service may argue that it needs this land back, but I contend that it is wrong. The Forest Service will have complete access to manage the preserve.

I would like to address a section of the bill that calls for cooperative management of the preserve. My objective in requiring a cooperative management plan for Opal Creek is twofold. It will allow stakeholders to be heard in the process of developing a management plan for the area, and it will remove some of the burden of implementation of work plans for the preserve from the Forest Service.

This idea is neither original nor unprecedented. There are numerous examples of memoranda of understanding between the Forest Service and nonprofit organizations that formalize a role for extra governmental management on national forest lands. Notably, there are two well-known examples. One on either coast of the Nation: The Appalachian Mountain Club runs cabins and huts along the Appalachian Mountain Trail, which traverses national forest land over much of the east coast. The club provides trail work and educational programs and is allowed to charge a fee for their overnight facilities.

On the west coast, the Pacific Crest Trail Association has a similar memoranda of understanding, and provides similar services. In Oregon, the Friends of Bagby Hot Springs have an agreement whereby their volunteers staff and maintain the hot springs, and the Forest Service has managerial oversight, and provides materials such as cleaning equipment and supplies.

Although the bottom line in managing the preserve will still remain with the Forest Service, I believe it is imperative that all interested parties should be at the table as a management plan is written. Opal Creek has been the focus of much contention in Oregon.

The community, including the Forest Service, has been polarized by the debate. The debate has had such a high profile that a book was written about it, David Seideman's "Showdown at Opal Creek."

The only way that trust will be rebuilt in the process of determining management in the area will be if all stakeholders are invited to weigh in. Cooperative management will be an essential part of the healing that needs to go on in this canyon.

In conclusion, let me say, Mr. Chairman, that although this legislation has been subject to an extraordinary amount of nitpicking, surely the product of Opal Creek's contentious history, its substance remains important and worthy of congressional action. I would like to emphasize that this legislation will protect forever one of Oregon's most spectacular forests, a place that is enjoyed by thousands of people every year, a habitat that supports some of the rarest life in Oregon, and a watershed that provides outstanding spawning habitat for wild salmon stocks. Opal Creek is precious and I would like to ensure that it remains that way.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Kopetski appears at the conclusion of the hearing.]

Mr. ROSE. Congressman, we very much thank you for your testimony and for introducing this bill and we know you have a busy schedule but we hope you can stay awhile with us.

Anybody have any questions for Congressman Kopetski? Congressman Lewis.

Mr. LEWIS. Mr. Kopetski, there are two versions of your bill. Could you explain to us the differences and why the changes?

Mr. KOPETSKI. Yes. That is a very good question, Mr. Lewis. We introduced a bill last year and invited and received comments from the environmental community, from the timber industry, from people who live in the canyon. There were many questions and concerns about that.

We sat down with the Forest Service who also had a lot of concerns about the specificity, if you will, in the original bill of managing the preserve and I felt that the original legislation had tied their hands too much, was too inflexible, too directive.

We took all of these comments, including the parts about the patent land Santiam No. 1 and rather than bring a substitute piece of legislation before you, we thought it would be cleaner and simpler and more readily understood if we introduced the second piece of legislation which is truly a cleanup of that first legislation.

Mr. LEWIS. Thank you, sir. Thank you, Mr. Chairman.

Mr. ROSE. The gentleman is recognized.

Mr. KINGSTON. Mr. Kopetski, on the private landowners, how many are there, approximately?

Mr. KOPETSKI. Three. There would be Rosboro, Friends of Opal Creek, the Times Mirror. And the Federal Government.

Mr. KINGSTON. Do they all want to sell?

Mr. KOPETSKI. I think you will probably hear that from Rosboro later this morning that they do not and nothing in this bill requires them to sell that land.

Mr. KINGSTON. Their portion, the 1,500 acres, the 3 percent, is that in three different tracts?

Mr. KOPETSKI. That is correct.

Mr. KINGSTON. Or a lot of different tracts?

Mr. KOPETSKI. Well, there are two major tracts and then the third is—one section.

Mr. KINGSTON. My question, where I am leading, is their ownership, is that a portion that is on the border of the 52,000 acres or is it—could you cut it out or is it in the interior of the circumference of the portion?

Mr. KOPETSKI. We have a map that I will pass around the dais. This is one section, this is the Rosboro tract and then you can see the different separate ownerships. So the Rosboro is in the Cedar Creek—it helps if it is right side up. In the Cedar Creek area here in this particular watershed.

Mr. KINGSTON. But if they did not want to sell, then, they don't have to; is that correct?

Mr. KOPETSKI. That is correct.

Mr. KINGSTON. And they will still have access to their land?

Mr. KOPETSKI. That is correct.

Mr. KINGSTON. Would they have any covenants in terms of non-motorized vehicles on there or anything that would change?

Mr. KOPETSKI. They have full right of access.

Mr. KINGSTON. OK.

Mr. KOPETSKI. Motorized as well.

Mr. KINGSTON. One other question. In a case like this, and I am not familiar with how these things work, how do you put a value, fair market value on their land? Would the purchase of the land around them or actually there is not a purchase but transfer of the title from one Government agency to the next, will that change the market value of their land or does that make a difference?

Mr. KOPETSKI. I think the Forest Service can answer that question much better than I. They are in the practice of this. It could involve a land exchange. It could be a dollar payment. I think it is just a better question for them how they handle that situation.

Mr. KINGSTON. Thank you very much. Thank you, Mr. Chairman.

Mr. VOLKMER [assuming chair]. Any other questions of the witness? Thank you very much, Mike. Sorry I got here a little late, but I think I remember a little bit about Opal Creek from past hearings and discussions with you.

Mr. KOPETSKI. I know you are an expert on Pacific Northwest forests and Opal Creek as well even though you are from the great State of Missouri.

Mr. VOLKMER. Thank you very much. If you want to, you can join us up here.

Mr. KOPETSKI. Thank you.

Mr. VOLKMER. Our next witness is Mr. Jim Lyons and I want to first extend a hearty welcome to Jim. It is interesting that I happen to be chairing this hearing at this time and I can welcome you here as a former staffer who worked with us very well over the years and showed us some leadership in how to manage our national forests, especially in the Northwest.

I am very happy to have you here in your present position as Assistant Secretary for Natural Resources and Environment, U.S. Department of Agriculture. You are accompanied, I understand it, by Mr. Gray Reynolds, Deputy Chief, Forest Service; Dr. James Sedell, Scientist, Forest Sciences Laboratory, Corvallis, Oregon; and Mr. Bill Funk, District Ranger, U.S. Forest Service, Willamette National Forest.

Jim, your statement will be made a part of the record. You may summarize or review it in full, however you so desire. Again, thank you very much for being here this morning and welcome.

STATEMENT OF JAMES R. LYONS, ASSISTANT SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY GRAY REYNOLDS, DEPUTY CHIEF, U.S. FOREST SERVICE; JAMES SEDELL, SCIENTIST, FOREST SCIENCES LABORATORY; BILL FUNK, DISTRICT RANGER, U.S. FOREST SERVICE, WILLAMETTE NATIONAL FOREST

Mr. LYONS. Thank you very much, Mr. Chairman. It is indeed a pleasure to be here and quite an honor to be able to sit before you in my present role as Assistant Secretary for Natural Resources and Environment.

I would like to summarize some key points from our testimony.

First of all, I want to make clear that we agree with many of the objectives of H.R. 3905. However, the Department of Agriculture recommends the bill not be enacted at this time. The President's forest plan for the Pacific Northwest, which has recently been completed, has been presented to the court and we hope will be received and reviewed and found to be acceptable and will accomplish many of the same goals that H.R. 3905 sets out to do. However, the bill does go beyond the purposes and the intent of the President's plan in a number of ways.

The Opal Creek drainage, which is the heart of the preserve, has excellent natural resource attributes and protection of this area has long been an important regional issue and long been an important goal. There are excellent examples of low elevation old-growth forest and the area provides habitat for the 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 the outdoor recreation opportunities exist within the proposed preserve.

The President's plan would designate nearly 85 percent of the area that will be included in the preserve as a late-successional reserve. And this map, I think, clearly illustrates the extent to which the LSR areas coincide with the proposed preserve. The LSR being in the red hatching.

[Map shown.]

Mr. LYONS. LSR will be managed to protect and enhance conditions of late-successional and old-growth forest ecosystems and thereby serve as the habitats for late-successional and old-growth related species, including the northern spotted owl.

The reserve encompassing the Opal Creek area is one portion of a late-successional reserve system which contains 7.4 million acres overall throughout the region and it is designed to maintain a functional, interacting late-successional and old-growth forest ecosystem.

Under the President's plan, silvicultural treatments inside the LSR are subject to review by the Regional Interagency Executive Committee, which we now have up and running, to provide assurance that treatments are in fact beneficial to the burden of proof

of sustaining and promoting the late-successional, old-growth forest.

No harvest would be allowed in stands over 80 years old, although thinning may occur in stands up to 80 years of age. The purpose of which would be to sustain or accelerate the development of late-successional forest conditions.

The President's plan also requires the preparation of a management assessment before any habitat manipulation might occur in LSR areas. In addition, 83 percent of the proposed preserve is identified as a key tier 1 watershed. This is represented by the blue hatching on this chart.

[Chart shown.]

Mr. LYONS. This is part of a system of large refugia comprising watersheds that are crucial to at-risk fish species and stocks. And Dr. Sedell can address that in greater detail in questioning. Watershed analysis will be required prior to resource management activities, including thinning and salvage, should they occur.

Mr. Chairman, the forest lands in question contain some of the premium old-growth areas in the Pacific Northwest, as well as other resource attributes, and they deserve protection, and that we concur with Congressman Kopetski. The administration's plan for the Pacific Northwest, we believe, however, is a flexible ecosystem approach which addresses the needs of providing old-growth stands over time.

We believe this is the most prudent and scientifically sound approach achieving our mutual goal of protecting these lands for the long term.

That concludes my statement, Mr. Chairman. Gray, Jim, and I would be glad to answer any questions the subcommittee may have.

[The prepared statement of Mr. Lyons appears at the conclusion of the hearing.]

Mr. VOLKMER. Basically, what I understand what you are telling us, Jim, is that under the President's proposal for management of that total Northwest forest, regions 5 and 6, that the area here will be protected just as well and yet you have the flexibility and not the constraints of legislation; is that correct? Is that a basic summary?

Mr. LYONS. That is basically it, Mr. Chairman. I think the only place we fundamentally disagree is whether or not legislative designation for the area is necessary to provide that long-term protection.

Mr. VOLKMER. Right. Any other questions? Does the gentleman from Oregon have any questions?

Mr. KOPETSKI. Yes. Thank you, Mr. Chairman.

Mr. Lyons, is there anything in the President's forest plan to prevent a future administration from directing the Forest Service to offer timber sales in the Opal Creek area?

Mr. LYONS. Congressman, as you know, future administrations can decide to make changes in administrative policy which could in fact lead to changes there. However, I would suggest that given the contentiousness of any management activity in the area, they would be hard-pressed to make significant changes given the criti-

cal linkage to all the component parts of the President's plan, and Opal Creek is a critical element in that LSR system.

Mr. KOPETSKI. So to summarize your answer, is that nothing prevents future administrations from making changes, and more than likely that would be litigated; is that a fair assessment?

Mr. LYONS. That is a fair assessment.

Mr. KOPETSKI. Can you comment on the—well, it is my understanding that no more than 7,000 acres of the land in this proposal have stands under 80 years of age. Can you comment on the harvest level that would be permissible in the preserve given the restrictions of the President's plan?

Mr. LYONS. I think it is fair to say, Mr. Kopetski, that there is a small amount of volume that might actually result from any thinning or salvage, and I assume that or I believe that Dr. Johnson in his statement later will address that since he was involved in that element in the development of the President's forest plan.

In all likelihood, I would not imagine that harvesting would occur in that area given the minimal amount of stands that might benefit from thinning and salvage. However, we hope to be able to maintain that option should it be beneficial for the resource overall.

Mr. KOPETSKI. So you are saying that it may be beneficial to take a chain saw into the Opal Creek area?

Mr. LYONS. No, what I am saying, Mr. Kopetski, that there may be instances where there are benefits to doing thinning and salvage sales in selected parts of that area. However, the President's plan would not allow any management activities in stands in excess of 80 years of age or older and so we get down to a, very small acreage that really would be open to thinning or salvage activities.

Mr. KOPETSKI. So on the one hand you are saying that, no, it is not likely that it would happen and then on the other hand you are saying that it might happen. In some small under 80 years of age area.

Mr. LYONS. I think that is fair, it might, but it is not likely.

Mr. KOPETSKI. And is the bill consistent with the goals and objectives of the President's forest plan?

Mr. LYONS. I think largely the goals are consistent.

Mr. KOPETSKI. And is there a problem with this set-aside getting in the way of the ecosystem function in the general region?

Mr. LYONS. No. I think consistent with the President's forest plan, Congressman Kopetski, we seek to maintain the integrity of the LSR area in the Opal Creek drainage and that is wholly consistent with our long-term goals.

Mr. KOPETSKI. Thank you. Thank you, Mr. Chairman.

Mr. VOLKMER. Any other questions? The gentleman from Washington.

Mr. INSLEE. Thank you, Mr. Chairman.

Mr. Lyons, do I sense that the Department would take the position that really any designation of this type in the option 9 area would probably have to be resisted by the Department just from the principle that you want to maintain flexibility? Is that what is really driving your thinking here?

Mr. LYONS. I think what is driving our thinking, Mr. Inslee, is we would like an opportunity to make the forest plan work and retaining some flexibility is important as we look toward some of our

long-term management goals. Albeit we anticipate minimal management activity in many of these areas, and as I have indicated, in those areas where the late-successional reserve is more than 80 years of age, the stands are more than that or older, we are not going to be doing anything but mainly maintaining the old growth in its current state.

Mr. INSLEE. Do I sense, though, that the Department would really resist any efforts anywhere throughout the option 9 to make this kind of congressional designation?

Mr. LYONS. We are not going to encourage legislative designations of elements of the reserve system, that is true.

Mr. INSLEE. There is nothing in a sense unique which would indicate that shouldn't be subject. It sounds pretty much a general policy that you would rather not see congressional action while option 9 is beginning operation; is that a fair statement?

Mr. LYONS. That is a fair statement, Mr. Inslee.

Mr. INSLEE. It is also a fair statement when you look at late-successional areas that Opal Creek would certainly be toward the higher end of the spectrum of the late-successional area.

Mr. LYONS. It is one of the premium; one of the reasons it has been the source of considerable discussion in this subcommittee over the years.

Mr. INSLEE. Thank you.

Mr. VOLKMER. Jim, I don't want to put words in your mouth, but are you basically asking to let the President's plan have a chance for a while first to see how it works with the flexibility that it gives.

Mr. LYONS. We believe that is true, Mr. Chairman. We think it is important that we have an opportunity to implement the plan to demonstrate its effectiveness and I think rebuild some trust in our ability and the agency's ability to provide the protections necessary for critical areas, such as this.

Mr. VOLKMER. We are going to have a later witness who we all know, Dr. Johnson, and I was just looking over his statement and the effects of it.

I was wondering what if the gentleman from Oregon who had introduced legislation—I recognize his concern about the future and other people may be here and it may be a different story, even though I think with the ongoing, what is ongoing out there isn't going to be so easy to change, and in that area that we know that you are trying to protect, I don't think you are going to see a lot of timber cutting and ruination of not only the land but the streams there.

I think the streams are important, more important in a way than anything else as an effect of cutting. But what if he was going to put one in that would basically legislate what option 9 now gives us on the LSOG one and two? And what would be your position on that, or do you want to think about that?

Mr. LYONS. Mr. Volkmer, what I would like to say, first of all, is I want to compliment Mr. Kopetski and his staff for their work with us to this point in time.

As the Congressman has indicated, they introduced another bill which reflects, I think, significant improvements in discussions we have had. We certainly want to work with Congressman Kopetski

and the members of the subcommittee to see if we can address the concerns raised. We just believe, at this point in time, it is most prudent to allow the plan to go forward, and we believe the plan provides the assurances necessary to ensure that the area and the old growth that we are concerned about here remains intact and that is more of a philosophical difference than probably a real difference on the landscape.

Mr. VOLKMER. One last question. You are still in the process with the court as far as getting everything approved. Let's assume, for the sake of discussion, the judge finally approves what the President has proposed as a valid plan for the area. All the area. That will be under court order at that time.

Maybe you can give the gentleman from Oregon a little bit better peace of mind knowing that if there would be any divergence from that by any future Forest Service, maybe legal scholars could tell me different, but I think they would run into a problem with getting that approved by the court first before they tried to circumvent or make changes in that plan as it applied to this area.

Mr. LYONS. Well, let me clarify, Mr. Chairman, that technically the court doesn't have to approve the plan. We have made a motion to have injunctions lifted against management activities in the areas under the President's plan that would permit harvesting the matrix areas. Subject to the requirements.

Mr. VOLKMER. I have it a little wrong, then.

Mr. LYONS. I think the point that I want to make is we fully intend to, and the President's plan reflects a commitment to protect this important resource in Opal Creek, but the court's action would be more an endorsement I hope of the overall plan and the trust in us to be able to move forward and operate without injunctions than it would be, say, an endorsement of the plan overall. And I think this is one of the issues we are going to run into over time.

In working with the subcommittee over the years, we have often gotten into debates over and discussions over the adequacy of protections and the faith we have in the agencies to move forward and meet other long-term management goals, and one of the goals here is preserving Opal Creek which is critical to the area and something we support.

We would hope that the committee would trust the agency to do what is provided for in the President's forest plan and provide the long-term protections for that resource. And I can assure you the agency is committed to that and committed to implementation of the plan.

Mr. KOPETSKI. Mr. Chairman.

Mr. VOLKMER. Yes, the gentleman from Oregon.

Mr. KOPETSKI. If Judge Dwyer hopefully next week lifts the injunction, the probability is there is going to be a challenge to that as well and this is not going to be resolved next week. Litigation is going to continue over the President's forest plan; is that accurate?

Mr. LYONS. Well, as you know, a lawsuit was filed last week in Judge Jackson's court with regard to concern about FACA violations. There may be other lawsuits filed but nevertheless we are optimistic we are going to be able to move forward.

Mr. KOPETSKI. All that means you get to move forward to do the actual on-the-ground planning; isn't that correct?

Mr. LYONS. And actually move forward with some timber sales.

Mr. KOPETSKI. Yes, on the sales side but also it allows to go to try to implement these option 9's.

Mr. LYONS. Yes, sir.

Mr. KOPETSKI. To become adopted as the plans.

Mr. LYONS. Yes, sir.

Mr. KOPETSKI. I anticipate what you are talking about is this administration's philosophy; succeeding administrations can have a different philosophy; isn't that correct?

Mr. LYONS. That is always a possibility.

Mr. KOPETSKI. And there is a strong possibility that the Endangered Species Act might be changed.

Mr. LYONS. Something tells me that the members here will have more to say about that than we do.

Mr. KOPETSKI. That can affect the forest plans themselves as well?

Mr. LYONS. It is always possible that changes in legislation and our statutory authorities could occur.

Mr. KOPETSKI. And so there is no certainty, is my point, in all of this in the President's plan.

Mr. LYONS. My only point is given current legislative authorities and given the administrative flexibility we have, we feel confident we have designed a plan and a program that will protect the integrity of the Opal Creek resources as well as old-growth forest resources throughout the region.

Mr. KOPETSKI. Thank you. Thank you, Mr. Chairman.

Mr. VOLKMER. Any other questions?

No other questions. Thank you very much, Jim. We appreciate your testimony here today and I am sure we will continue to work with you to resolve this matter. Thank you very much.

Mr. LYONS. Thank you again, Mr. Chairman.

Mr. VOLKMER. Our next panel of witnesses are: Mr. George Atiyeh, Friends of Opal Creek, Lyons, Oregon; Mr. Michael Donnelly, president, Friends of the Breitenbush Cascades from Salem, Oregon; and Ms. Ann Wilhite, Royal Oaks, New Canaan, Connecticut.

Your statements will be made a part of the record, and you may either summarize or review those statements in full. And you will testify in the order in which you were called to the table. Begin Mr. Atiyeh.

STATEMENT OF GEORGE ATIYEH, PRESERVE DIRECTOR, FRIENDS OF OPAL CREEK

Mr. ATIYEH. Mr. Chairman and Members of the committee, I am George Atiyeh, preserve director for Friends of Opal Creek. I want to thank you for the opportunity to testify here today.

The battle to save Opal Creek has raged for over 25 years. I first testified in front of Congress in 1974 and have been testifying for about 20 years on this particular issue. The battle has been one of confrontation, political action, and now, hopefully, cooperation, all in an effort to resolve the fate of this magnificent forest.

While most of the threat of logging Opal Creek is removed by option 9, there is still more, and should be more, to the Opal Creek resolution than just the temporary removal of the threat of logging. Opal Creek was called the conservation community's flagship during the Ancient Forest debate. It is now time to remake the Opal Creek flagship as a model for cooperation between old adversaries.

The proposal to create the Opal Creek Forest Preserve just recognizes what is and sets up a framework and a set of rules for all interested parties. The result would be to create a world class scientific and educational facility. That facility would be an example of cooperation, rather than confrontation.

The group I represent, Friends of Opal Creek, is a nonprofit 501-3C organization. The mission of Friends of Opal Creek is to provide stewardship and management in cooperation with the U.S. Forest Service of the Opal Creek Ancient Forest Preserve and to further understanding of old-growth ecosystems through education and scientific research.

For the past 20 years, efforts have been ongoing to protect the Opal Creek Ancient Forest, what we call the Oregon's uncut gem. And Friends of Opal Creek was established 5 years ago to aid in that effort.

Opal Creek has become known nationally and internationally through a successful media campaign. It has appeared on all the major TV networks, along with CNN. It has had three major national documentaries done about it. It has been on BBC, and TV AM in Great Britain and ARD television in Germany.

In the print media, it has been featured in Time Magazine, U.S. News and World Report, Boston Globe, the New York Times, the Oregonian, and The Statesman Journal, just to name a few.

As Congressman Kopetski also noted, there was a book written, called Showdown at Opal Creek in which Mr. David Seidemen who by the book put a very human face on the old-growth debate.

In December 1992, Friends of Opal Creek received a remarkable gift valued at \$12.6 million within the Opal Creek Ancient Forest from Shiny Rock Mining Company, which is owned by Persis Corporation. This is believed to be the largest gift to a conservation organization in U.S. history, from a private corporation.

It included 155 acres of forest land, including magnificent stands of old growth; 133 mining claims covering 2,660 acres, and the historical town of Jawbone Flats. The town has a number of buildings and can serve as the infrastructure for this preserve.

And it is important that in looking at this issue that we realize that most of the infrastructure, the things that we need in order to do the scientific and educational programs up there at Opal Creek are already in place and will not cost the Federal Government any money.

The Opal Creek Ancient Forest is approximately 35,000 acres. Actually this bill is 32,000. The difference is primarily in private lands and those already in wilderness areas and most of the land is Federal ownership with about 720 acres being privately held by either Times Mirror Corporation, Rosboro Lumber, and Friends of Opal Creek.

Friends of Opal Creek owns about 155 acres and those are in four parcels, fully five parcels. The average age of the trees in the

forest is about 450 years old, but there are individual trees that go up to 1,000 years and up to 10 feet in diameter.

It is important to note that the following scientists have recommended that Opal Creek be set aside as a management area for scientific study and educational purposes. U.S. Forest Service scientist, Dr. Jerry Franklin; Dr. Jim Trappe at Oregon State; Shara Green at the Oregon Range and Experiment Station; Dr. Joy Belsky at Oregon Natural Resources Council; Dr. Peter Schoonmaker at Ecotrust; Dr. Bob Admundson, a plant physiologist, have all recommended that Opal Creek be set aside for scientific study. In fact, Dr. Trappe has been doing very important mycorrhiza research in Opal Creek and it was featured in the January issue of Smithsonian Magazine when they wrote an article about the research he has been doing.

There are numerous programs already operating in the preserve. Last year, we had 235 adults and 549 students participate in programs, and we had highly trained volunteers conducting tours for over 358 people in the preserve, and a little over 14,000 visitors came to the preserve that actually were logged in last year. We produce a newsletter and we have 4,800 members belonging to Friends of Opal Creek.

We have a variety of programs, but our primary mission is to protect the ecosystem, in cooperation with the Forest Service, and to develop a management plan and work with the Forest Service in order to make sure this area is taken care of.

The scientific research programs are involved in planning and doing canopy research for scientific and educational projects; recruiting field biologists to do a scientific inventory base of the watershed; and also to provide professional facilities for researchers at the Jawbone Flats.

We have all these programs already in place and they are outlined in my written testimony so I am not going to go through them. All are key to setting up some type of cooperative arrangement with the Forest Service.

Things are up and running. This place is operating right now as a scientific and educational preserve, and what we need to do through this legislation is set up a framework to work with the Forest Service so that we can reconcile the different conflicts that we have between the forest plan, what is happening under option 9, and what is happening right on the ground, that is what this legislation does.

It just sets up the preserve in such a way that we can reach a memorandum of understanding with the administration and the Congress and work together in order to achieve a true synergy between the two organizations and all the other interested parties to create something that is going to be a lot greater than any individual side can do alone.

That is pretty much the basis of why we want to see this legislation. We need a structure, a way, a direction for both the people that are operating Friends of Opal Creek and the U.S. Forest Service in order to manage this facility. And with that cooperation, with that synergy, I think we can create a world class scientific and educational facility here that will be the pride of this country.

I think that everybody on this committee and everybody in Congress that votes for this can take great pride at what is going to happen here in the future if we pass this legislation.

One last thing that may come up here is the size of this preserve. And the reason the size, it is not an arbitrary size that we just picked out of the air. It was designed in order to do landscape research and education; that in order to do the kind of research that we envision there, we need a true landscape. We have an entire watershed and we have ecosystems that range from the subalpine all the way down to the low elevation, old-growth forest, and if you don't have a facility that big, you are not going to see the interaction between these different ecosystems. So in closing I would like to urge the committee, especially Speciality Crops and Natural Resources, to protect Opal Creek once and for all. It deserves no less and doing so will create a win-win for all parties concerned.

[The prepared statement of Mr. Atiyeh appears at the conclusion of the hearing.]

Mr. ROSE [resuming chair]. Any comments or questions from members of the subcommittee?

[No response.]

Mr. ROSE. Thank you, sir.

Mr. ATIYEH. Thank you very much.

Mr. ROSE. The next witness will be Mr. Michael Donnelly, president, Friends of the Breitenbush Cascades, Salem, Oregon.

STATEMENT OF MICHAEL DONNELLY, PRESIDENT, FRIENDS OF THE BREITENBUSH CASCADES

Mr. DONNELLY. Thank you. I want to thank the chairman and the subcommittee for holding this historic hearing and the invitation to come and speak to our support for H.R. 3905.

My name is Michael Donnelly and I am president of the Breitenbush Cascades, a Salem, Oregon-based conservation group with 72 members that monitors activities on the Detroit Ranger District of the Willamette National Forest.

Over a century ago when Congress was considering setting up the Cascade Forest Reserve, the Chief Justice of Oregon's Supreme Court, Judge John Breckenridge Waldo wrote President Grover Cleveland in support saying:

"There are educational uses in mountains and the wilderness which might well justify a wise people in preserving and reserving them for such use * * * where, in communion with untrammelled nature and the free air, the narrowing tendencies of an artificial and petty existence might be perceived and corrected, and the spirit strengthened and enlarged."

Well, the wise people of that era did indeed set up the reserve, which eventually became the national forests of the Oregon Cascades. The reserve was also supported then by the local timber industry. The vast amounts of timber on the public's land was seen as less desirable, less accessible, and as competition, which would drive down prices of timber cut from private holdings.

Now, the prized centuries-old trees from the once vast unbroken forest that greeted Lewis and Clark when they crossed the mountains into Oregon in 1805 have been liquidated on private timber lands. The once undesirable old growth on public lands is now the

cream of the crop. And, with the advent of industrial forestry, not at all inaccessible.

The rush to convert the original forest to timber plantations has been so thorough that there is but one intact lower elevation watershed left in western Oregon. That unique, special place is Opal Creek and the Little North Fork Santiam River ecosystem. So pervasive has been modern humanity's impact on that pristine wilderness that greeted Lewis and Clark that the Little North Fork is also the only river out of 60 in the entire Willamette River system that is undammed from its source at Opal Lake to the ocean.

From 1984 through 1987, I was business manager for Breitenbush Hot Springs, an historic resort surrounded by the Detroit Ranger District 8, miles from Opal Creek. Breitenbush hosts over 20,000 visitors per year from around the world who come to experience the "untrammelled nature and the free air" of the ancient forests of Breitenbush and Opal Creek.

In 1986, as the clearcuts relentlessly encroached on the resort, I filed a lawsuit challenging the Forest Service's management of our dwindling ancient forest heritage. I was elected vice president of the Oregon Natural Resources Council, a statewide conservation coalition and have since written extensively on the forest issue, including scripting the highly acclaimed video, "Opal Creek: Ancient Forest Endangered."

I first visited Opal Creek in 1985. My family and I spent the summer of 1988 living and working at the mining camp at Jawbone Flats. I explored extensively. I once traveled the entire length of Opal Creek with my son and nephew, both then 9, rock-hopping down the creek and swimming in the pools at the bases of the creek's many waterfalls. I personally have visited 50 waterfalls over 10-foot high in the immediate vicinity of Jawbone Flats. The pristine waters of these creeks are cleaner than that coming from the taps of any municipal water system. And, this is the source of drinking water for Salem and other downstream communities.

All this beauty is within a short drive of the majority of the residents of Oregon. It is the largest, unbroken low elevation tract of public forest left in the western Cascades and, as such, enjoys an international reputation and ever-increasing visits by an appreciative public. I firmly believe that if Opal Creek was located in any number of other countries on Earth, it would be a treasured national park.

Now, thanks to the vision of Congressman Mike Kopetski, we have a bill before this subcommittee and a chance to do a wonderful thing. Judge Waldo himself must surely look down with favor on those of us here today who have the great opportunity to see that generations to come can experience the same pristine Opal Creek area that Waldo visited in the 1870's. To pass this bill is not only a great gift to unborn generations, but an homage to all the efforts of all the spiritual descendents of Judge Waldo who have struggled for decades to preserve, protect, and restore our publicly owned natural heritage.

Thank you.

[The prepared statement of Mr. Donnelly appears at the conclusion of the hearing.]

Mr. ROSE. Thank you very much. That was just right.

Next Ms. Ann Wilhite, Royal Oak Foundation, New Canaan, Connecticut.

STATEMENT OF ANN WILHITE, MEMBER, ROYAL OAK FOUNDATION

Ms. WILHITE. Thank you, Mr. Chairman and members of the subcommittee. I come as a member of the eastern constituency. The Royal Oak Foundation is a New York-based Anglo-American organization that has had the opportunity to give some grant money toward the protection of trees.

It was that simple, a commission. I was its chairman when we began to examine this project and examine how we would deliver the money to a project that would fulfill our guidelines.

As we approached this responsibility, we began to realize that the Forest Service was a large part of what we had to consider, with so little land left in private hands for timber cutting that they have gone into the public lands.

We felt very strongly about the fact that the Forest Service lands our are the public's lands as well as timber industry's or—they belong to us, the forest service is our steward.

We are also aware about the growing concern of air and water quality in the country. I began this project by contacting Dr. Peter Raven, who is a world renowned botanist and director of the Missouri Botanical Garden.

I did not know of Opal Creek. I did not know of the Willamette National Park. I did not know the layout of that area.

And as we began to examine issues, this discussion ensued between Peter Raven and the grants committee of the Royal Oaks Foundation went on for the greater part of a year. For one reason or another and because they didn't suit our guidelines, we eliminated all but two. So we came to Opal Creek in our search for the best project that we could possibly find that would address the issue of how we protect Forest Service lands through better education and scientific research?

We as the Royal Oak Foundation wanted to assist in that effort.

Let's see. I spoke with Dr. Peter Raven and eventually got to George Atiyeh, the director. I organized a trip to Opal Creek. When I spoke with him on the phone it sounded as though it was going to be a fit.

I organized a trip with my successor as chairman of the Royal Oak Foundation, Ned Montgomery and his wife and my husband, and the four of us went out to have a look. And we expected that we were going to be seeing something quite wonderful, but I have to say that when we arrived we were absolutely staggered by its beauty and magnificence. We don't see this in the Northeast. This sort of thing doesn't exist very much at all in this country any more.

After our experience there of walking through the forest with interpretive guides so that we could better understand what an old-growth forest is, what it is to take down these trees, we flew over clearcuts and it was very clear to us that in taking trees out of a forest you are not just destroying trees but you are destroying an entire ecosystem. And therein lies a value to us that we needed to address.

In any case, I made a presentation to our board with photographs of the preserve and it went through very quickly. We are delighted to be supporting this effort and we hope very much that this legislation will pass to protect it.

Mr. ROSE. Thank you all.

Let me ask you all as a group a question. Who is opposed to this and why from your perspective, as best you know? Who do you perceive is opposed to this and why do you think they are opposed here?

Mr. ATIYEH. Mr. Chairman, when we crafted this bill, we tried to create a bill that would bring all the parties to the table and so we would not have opposition. Like I said before, I have been doing this for almost 25 years and realize the confrontation wasn't working, that we were trying to create a win-win for all of us.

I think that the opposition that you are going to see to this bill is going to be more symbolic than actual factual problems with the bill.

Mr. ROSE. It is going to be what?

Mr. ATIYEH. It is going to be symbolic, Mr. Chairman. What we have is Opal Creek has been the flagship in the focal point for the old-growth debate which has been very contentious and emotions have run very high over the entire debate. As we have seen across this country, especially in the Pacific Northwest, and because it had this role in the past of being the flagship for the focal point, it is going to be very hard for some sides to put down the sword and recognize that this is a good bill and this is something that should happen.

So I don't know if the timber industry will oppose it, but if the opposition is there, the opposition is going to be based on a symbolic situation because there is a lot of people who just don't want to see Opal Creek saved because of its role in the past in framing the old-growth debate.

Mr. ROSE. Any other comment?

Thank you all very much. We hope you can stay and listen to the next panel, which is Mr. Tom Hiron, the president of Mad Creek Logging Company, Gates, Oregon; Mr. Gordon Culbertson, Rosboro Lumber Company, Springfield, Oregon; Mr. James McCauley, Associated Oregon Loggers, Salem, Oregon. Please come to the table.

Mr. Hiron, you may go first.

STATEMENT OF TOM HIRONS, PRESIDENT, MAD CREEK LOGGING CO.

Mr. HIRONS. Thank you, Mr. Chairman. I appreciate the opportunity to testify here today. I am Tom Hiron, the owner of Mad Creek Logging Company located in Mill City, Oregon, approximately 8 air miles to the south of Opal Creek.

When my friend back here, George Atiyeh, first asked me to move up to Jawbone Flats in 1972 and spend a year up there with him, I never in my wildest dreams imagined it would lead us here today on a perceived to be opposite side of the poll. But nevertheless, that is where we found ourselves in the last 5 years, being friends on the QT and screaming at each other in public.

Mr. ROSE. We do the same thing up here so don't feel bad about it.

Mr. HIRONS. It is a special place to me. You can't spend almost a year and a half removed from civilization, snowed in for 3 or 4 months at a time, going to the nearest school and getting the curriculum for your three kids for the year and teaching them yourself and having George being the science teacher across the street from where we lived. It has presented me with a problem of having mixed emotions.

Moving up there probably saved my family, made my family better and stronger for sure. Gave us an appreciation for the forests even though I had been working in the forest for a number of years, gave us an appreciation we never had before. Also, if I hadn't moved up there, I would never have had the opportunity to start my own logging company. So I really do approach it from two different directions.

But let me talk about the area. I know it well. And I have no problem with protecting Opal Creek, however, it wants to be protected, whatever is decided, whatever is the right thing to do. But you don't need 35,000 acres to protect Opal Creek.

Cedar Creek and Elkhorn Creek are not a part of the Opal Creek. They are a part of the Little North Fork but they are not a part of the Opal Creek. They are separated by high mountain ridges. They have been subject to past activity. Cedar Creek is, probably 60 percent of that drainage is in reforestation of one kind or another.

Elkhorn Creek I personally logged and had waters of Elkhorn Creek, which is private land, back in the 1960's, and it presents a unique opportunity, Elkhorn Creek does, for future management techniques.

We have a bunch of private land in here that was public land at one time, was acquired at \$2.50 an acre. Gifted to a 501-3C. I am sure a large tax credit was taken on what was once public land. And now the Secretary of Agriculture is being asked to enter into a memorandum of understanding with the intention that if the landowners don't manage their land consistent with the purposes of this act, that it can be acquired by the Secretary of Agriculture.

So, what I am trying to say here is I think the taxpayers are paying for this three times. They paid for it by selling it for \$2.50 an acre when it was worth more than that. Somebody had to make up the difference in what was the Government needed and the tax credit was taken and now they are going to be required—not required but the possibility exists under the act to purchase those lands at fair market value, which I can assure you, Mr. Chairman, is a lot more today than it was 5 years ago.

Mr. ROSE. Isn't that probably one of the main things you object to in the bill, that you would be required to manage your lumber company lands according to the rules set out in this bill, and if you didn't, that there might be some action against your land?

Mr. HIRONS. I don't have any land in there, Mr. Chairman; that is Mr. Culbertson. But that is a problem with the bill, is that if you are holding forest land for management and you can't manage it for harvesting trees, then it is not consistent with the purposes of the act.

This whole debate over Opal Creek appears to me to be a microcosm of the entire forest debate and it is hard to look at Opal

Creek in a vacuum itself without looking at the entire forest debate.

I think my time has expired, Mr. Chairman.

[The prepared statement of Mr. Hirons appears at the conclusion of the hearing.]

Mr. ROSE. We will come back in the question period. You can talk some more but your whole statement is part of the record. Next, Mr. Culbertson.

**STATEMENT OF GORDON CULBERTSON, OPERATIONS
MANAGER, TIMBER/TIMBERLANDS, ROSBORO LUMBER CO.**

Mr. CULBERTSON. Thank you, Mr. Chairman. I appreciate the opportunity to be here today to express my views on the Opal Creek Preserve Act.

My name is Gordon Culbertson and I am employed as timberlands manager for Rosboro Lumber Company in Springfield, Oregon. I have spent all of my adult life working in the woods as a logger, a forester, and a manager.

The Opal Creek Forest Preserve Act proposes creation of a 35,000 acre forest preserve which permits no logging. The land proposed for inclusion is predominantly national forest land. However, there are blocks of private land, including 640 acres of land owned by Rosboro Lumber Company.

Mr. ROSE. How many?

Mr. CULBERTSON. Six hundred forty. Section 7(a) of the proposed legislation directs the Government to acquire lands the Secretary determines are being developed or managed or is proposed to be developed or managed in a manner inconsistent with the purposes of this act. Rosboro objects to any attempt by the Government to acquire or restrict Rosboro's use of our property.

Rosboro Lumber Company is a small business which operates a wood products mill in Springfield, Oregon. We employ approximately 400 people in family wage jobs, with an annual payroll of about \$12 million. Our annual production of building products would construct approximately 10,000 single family homes.

Since 1940, Rosboro has continually acquired forest lands to use as a timber supply for our operations. At the present time, Rosboro owns about 50,000 acres of forest lands. We manage our lands very well. Our reforestation and forest practices exceed any requirements of the State or the Federal Government. Today, we are logging trees that were planted by our foresters in the 1950's. Nevertheless, we rely upon the purchase of logs from private and public landowners to supplement the logs from our own lands.

For many years, Rosboro has purchased timber from Federal lands to supplement harvest of company-owned timber. Since 1990, the Federal timber program has declined by more than 80 percent in western Oregon.

Today, we face many challenges. Our own lands are being restricted by a variety of forces. Let me give you some examples. Because spotted owls have nested on adjacent Federal land, Rosboro is the target of a lawsuit to prohibit harvest of 40 acres of our private timber.

Restrictions on harvesting in areas suitable for sensitive or threatened species, whether they are present or not today, substantially reduces Rosboro's ability to harvest our own private lands.

In some cases our lands are interspersed with Federal lands. Frequently, access must come across Federal land.

We must often go through expensive and protracted biological evaluations and assessments to establish that the use of our private land will not adversely affect any threatened or endangered species. If we cannot conclusively establish this fact, access will be denied.

Clearly, our company needs assurance that we can wisely manage our timberlands without undue interference from the outside.

Without a doubt, we face increased regulation and an overlay of land use restrictions threatening the very survival of Oregon's independent family-owned timber industry. I am here today to warn the committee that H.R. 3905 will not only burden Oregon with further prohibition of multiple use on national forest lands, but also threatens the taking of private property rights.

Rosboro, as the largest private landowner in the proposed Opal Creek preserve, has never been consulted on the drafting of this proposed legislation.

Rosboro is greatly disturbed with the prohibition of forestry which is included in H.R. 3905. Sections of the act include the following prohibitions: Cutting of trees in the preserve is prohibited; it prohibits open fires in the preserve; the use of motor vehicles off or outside the established roadbed of roads in the preserve is prohibited.

These prohibitions serve as an effective ban on the practice of forest management. Please note there is no distinction between Federal lands and the rights of private property owners. Onerous and oppressive legislation precludes Rosboro from seeking the best and intended use of our property.

Section 7(a) of the bill declares in part, "The Secretary may not acquire, for inclusion in the preserve, any lands or interest in lands within the boundaries of the preserve without the consent of the owner, unless the Secretary determines that the land is being developed or managed—or is proposed to be developed or managed—in a manner inconsistent with the purposes of this act."

Considering the prohibition of forestry and the Secretary's remedy to rid the preserve of private timberland ownership, this sanctions the taking of Rosboro's property without hope of adequate compensation. I call this condemnation. This is bad public policy.

It appears the Federal Government has an insatiable appetite for the taking of private land. Where will this stop? The only way Rosboro and other similar companies will be able to survive is to permit continued ownership, management and harvesting of our private lands.

Under no circumstances will Rosboro willingly sell our 640 acre tract of land in the area proposed for the Opal Creek forest preserve. Rosboro will consider exchange of the property for other timberland of comparable value. We will not also willingly surrender our resource lands.

H.R. 3905 does not represent the best interests of Oregonians. The Opal Creek Forest Preserve Act is an unnecessary special in-

terest proposal detrimental to national forest policy. We strongly urge the committee to reject this ill-conceived piece of legislation.

Thank you very much.

[The prepared statement of Mr. Culbertson follows:]

Mr. ROSE. Let me ask you all—well Mr. McCauley, I am sorry.

STATEMENT OF JAMES E. MCCAULEY

Mr. MCCAULEY. Thank you, Mr. Chairman.

For the record, my name is James McCauley, representing Associated Oregon Loggers based in Salem, Oregon. Our membership base is represented by contract logging companies and those organizations which go for support of those activities throughout the State.

The two previous speakers have already articulated many of the same concerns that our organization is interested in in some attempt to try to resolve the concern over this bill.

From our perspective, this legislation is simply not needed. The Forest Service has already provided ample explanation of how much the President's forest plan is providing regulatory protection of Opal Creek. Now and into the future.

There is certainly some risk that the next administration may change those policies. By the same token, Congress has that opportunity as well, even if this were made into some congressional mandate as well.

AOL's history has certainly shown that it has never qualified for special protection. Wilderness legislation during the 1960s, during the 1980s and in 1985 when it was considered for inclusion into a State water and scenic waterway, it was not added at that level as well.

And again in 1989, when the creation of Opal Creek State Park was considered in front of the State legislature, there was as well another resounding no more additional protection than what was already provided for within the forest plans.

Mr. Chairman, there are more than 325,000 acres of wilderness within a 50-mile radius of Opal Creek. These areas provide ample opportunities for recreational experiences, research, as well as protection of a variety of different wildlife habitats.

Under the forest plan, the Willamette National Forest is only allocating 25 to 28 percent of its entire land base to some form of timber production in the future. That means that three-quarters of that land base is entirely off limits to some type of commercial forest harvesting.

The late-successional reserves that are established within the President's forest plan and then overlap a significant portion of the Opal Creek drainage as well as the other portions of this preserve provide a process to evaluate any type of management activity in the area. That management activity, however, has to lead to the acceleration of old-growth development in the future, and that is something that is going to take a detailed process and certainly provide security to maintain the goals and some of the objectives of what this legislation has proposed.

This is without a doubt special interest legislation. From our perspective. George Atiyeh, Friends of Opal Creek, want to legitimize their control through this very narrow special interest piece of leg-

isolation. Why else would this legislation strongly encourage a Memorandum of Understanding between interested parties and the Federal Government? In fact, earlier versions of this bill set up an exclusive agreement between Friends of Opal Creek and future management of this area. And that is something that we don't need to have on our national forests today and into the future.

This bill is also going to cost the American taxpayer. Tom Hirons has already provided an example of—we have already essentially paid for this three times and we don't need to be paying again.

The added benefits from this park preserve, I think, are minimal at best. I think what is already provided for within the President's plan is clearly capable of establishing research opportunities for any scientist from any university or from any interest group.

In closing, there should be little doubt that Friends of Opal Creek, in our perspective, want to control this piece of national forest. The history of it certainly shows it. We, however, view these national forests as public forests, not special interests of any sort.

Debate over Opal Creek has been around for almost two decades or for over two decades. We have no expectation that H.R. 3905 is going to satisfy this group today and we expect to be at some point in the future dealing with trying to regulate those management decisions more precisely in the future. Special interest has no place in managing our national forests today.

Thank you.

[The prepared statement of Mr. McCauley appears at the conclusion of the hearing.]

Mr. ROSE. Thank you very much.

I was looking at the map in the back of one of these pieces of testimony. I was in the Charlotte Airport over the weekend and somebody had put down there a weekly newspaper from Anderson Creek, California. You ever heard of Anderson Creek?

This little weekly newspaper was about the hottest written thing I have ever read in print and it was all about the fight between Georgia Pacific and the local FAC, Forest Advisory Committee. So I got a rather close-in flavor on how hot things can get on this issue at the local level, you understand. I have been sort of spared that being over here on the east coast and not seeing what a local weekly newspaper could gin up on this topic.

So, Mr. Culbertson, you don't think legislation is necessary. The question was asked how many landowners would be involved. Rosboro has about 600 acres that would be involved?

Mr. CULBERTSON. Yes, 640 acres.

Mr. ROSE. Who else? That is one section.

Mr. CULBERTSON. I am not familiar with the other landowners, sir.

Mr. ROSE. Do any of you know?

Mr. HIRONS. Times Mirror Corporation, I believe, has about 60 acres on Gold Creek, and Friends of Opal Creek has approximately 150 acres on several different patented mining claims and mill sites.

Mr. ROSE. So Friends of Opal Creek is not a problem. They want it.

Mr. HIRONS. I am not too sure what they want to do with all their claims and mill sites. I assume—well, I shouldn't be making assumptions. I just don't know, Mr. Chairman.

Mr. ROSE. And what is Times Mirror's reaction?

Mr. HIRONS. I don't know what their reaction is.

Mr. ROSE. Any of you know? Mr. Atiyeh.

Mr. ATIYEH. Mr. Chairman, we have talked to Times Mirror, they have been interested in trying to do some type of land exchange with the Forest Service.

Mr. ROSE. All right.

Mr. Culbertson, are you doing any kind of land exchange with the Forest Service?

Mr. CULBERTSON. Well, we would consider a land exchange with the Forest Service but my largest concern about this is the language, the way that this is written is extremely detrimental to the best and intended purposes of this property.

Mr. ROSE. You said nobody consulted you on how it should be written.

Mr. CULBERTSON. No, sir.

Mr. ROSE. Why don't you—

Mr. KOPETSKI. Mr. Chairman.

Mr. ROSE. Just 1 minute. Why don't you have your lawyers or somebody suggest some ideas on how you would like to change this and send them to me directly. Mr. Kopetski.

Mr. KOPETSKI. If the gentleman would yield on that point, we sent Rosboro Lumber Company a copy of the bill, the original bill, and a letter inviting them to comment on this legislation. We received no response from them, so I find the gentleman's statement inaccurate. In fact, he had conversations with my staff on the phone and didn't—when we invited them to testify and nothing was raised or any comments at that point.

Obviously, we want people at the table. But for him to say that they weren't consulted is wrong, and if you want to correct the record, you have the opportunity to do that.

Mr. CULBERTSON. We were never consulted in the drafting of the legislation. The first indication that I ever had was when I was sent a copy of the bill and—

Mr. KOPETSKI. Did you respond to our letter with comments?

Mr. CULBERTSON. I don't recall a letter ever being sent requesting comments.

Mr. ROSE. All right. Each of you have your own opinions. Mr. Kopetski, I am sure, has got his facts and records straight on that. If you want to straighten yours out about that for the record, we will hold it open, but that is not the ultimate point.

The ultimate point is if you have any specific drafting changes you would like to make in this bill, I am inviting you now to submit them to me in writing in the next 2 weeks and I will certainly consider them as we go forward.

Mr. CULBERTSON. Yes, sir. I will do that. I will consult with our counsel.

Mr. ROSE. And I am not making you any promises about it, but I would like to personally see how you would change Mr. Kopetski's bill.

Tell me about the Rosboro Lumber Company.

Mr. CULBERTSON. OK.

Mr. ROSE. There aren't a whole lot of Roses in the country and I got the family tree of most of them. I am going to figure out which one of my relatives this is. Which Rose started the Rosboro?

Mr. CULBERTSON. Actually, a gentleman named Whit Rosboro started the R-O-S-E-B-O-R-O-U-G-H. And he founded the company in Arkansas and in about 1940 moved to Springfield, Oregon, and the company is still owned by the families of the founder.

Mr. ROSE. All right. Any other comments that this panel would like to make?

Mr. HIRONS. Just one, Mr. Chairman. I hope the committee appreciates that this is a 180 degree reverse in one logger's position when I say that from the gate on the Santiam mining range, ridge-top-to-ridgetop, we hadn't ought to be doing any timber harvesting in there.

Mr. ROSE. All right. Mr. Kopetski.

Mr. KOPETSKI. Thank you, Mr. Chairman. Just a couple of questions.

Mr. Culbertson, for your information, one of the reasons why we put in that language that you referred to in terms of not being consistent with the act was because of comments from the Santiam community who wanted the language, who suggested the language to be in there because they thought that Friends of Opal Creek was going to build a fancy destination resort there, and so this language was put in because people that probably were more supportive of your view thought this was going to be turned into a resort area. So if you have something better, I certainly want to hear that or see that language.

I was curious as to how much Rosboro paid for that section of land?

Mr. CULBERTSON. I have no idea.

Mr. KOPETSKI. That 640 acres.

Mr. CULBERTSON. That land has been in our ownership a long time and I have no idea who it was actually even purchased from.

Mr. KOPETSKI. Do you think it was originally purchased from the Federal Government for \$2.50?

Mr. CULBERTSON. I doubt it. I think it was probably held in private ownership.

Mr. KOPETSKI. It couldn't have always been. Maybe they got it under the Homestead Act.

Mr. CULBERTSON. It could have been originally claimed, yes.

Mr. KOPETSKI. And then you guys harvest it.

Mr. CULBERTSON. Yes, we have harvested timber off the property. About 20 years ago, we harvested and reforested the property.

Mr. KOPETSKI. So most of the trees there won't be available for harvest for 60 years?

Mr. CULBERTSON. I wouldn't say that that is entirely true, because one of the things we have done is invested in forest managers on that property. And our goal is to get a significant part of our raw material needs off of our own private lands, so it is very important to be able to be free to do that.

Mr. KOPETSKI. But the stand is roughly 20 years old now?

Mr. CULBERTSON. I believe it is.

Mr. KOPETSKI. And what is the earliest you could do any harvest beyond thinning?

Mr. CULBERTSON. Well, we are thinning stands of timber in similar site classes in the Blue River area right now that were logged between 1955 and 1960.

Mr. KOPETSKI. Beyond the thinning, when do you think some full—

Mr. CULBERTSON. Typically, our rotation age in that kind of land a lot of times is about 50 years.

Mr. KOPETSKI. Fifty years, so you got another 30 years before you can get any significant timber out of there?

Mr. CULBERTSON. Other than commercial thinning, yes. But the important thing about sustained yield, if you understand, is that you harvest each year what you grow on your own property and if you don't have a land base to grow on that property, you are taking away from future harvests.

Mr. KOPETSKI. Right, I understand that. I do want to say that Rosboro, I think, is a very responsible company. It treats its workers well and I think you manage your lands very well.

Also, Mr. McCauley, you said that the President's plan does enough to protect this area so that means you are supportive of the President's plan?

Mr. MCCAULEY. No. We have on record not agreed with the land allocations that are presented within the President's forest plan. A number of the objectives that are included within the plan that include protection of water quality, maintaining adequate fish habitat, as well as species' diversity, are certainly supported because of the national laws or the national regulations that we have to operate under.

Mr. KOPETSKI. Then you support the President's plan for the Opal Creek area?

I am trying to understand your testimony, because you said it was, the President's plan is good enough for this, and so if you don't support that, then that sort of takes away your testimony, I think.

Mr. MCCAULEY. No. We understand that the President's plan, as it is overlaid within the Opal Creek drainage, is going to provide for protection that is out there. Now, we are a part of a legal challenge on procedural grounds and things of that nature, and we would expect that the management activity that would end up taking place up there would probably protect the actual Opal Creek drainage itself.

Mr. KOPETSKI. And do you agree with the testimony from the first panel, that if the President's plan was put in place there is less than 7,000 acres that would be industrial lands or have potential harvested on it trees less than 80 years of age?

Mr. MCCAULEY. I haven't actually seen those figures, but since it came from the Forest Service I trust that their figures are accurate.

Mr. KOPETSKI. So there really isn't much recourse in the President's plan, is there?

Mr. MCCAULEY. That is correct.

Mr. KOPETSKI. Do you think Mr. Hirons is right, this sort of visceral opposition to permanently preserving Opal Creek because it

was the symbol, it was the cause that—it was the indicator; it was what people rallied around on the old ancient forest issue?

Mr. McCAULEY. Well, there is no question that that is part of the opposition that is out there, Congressman. But I think the larger question that we faced when we reviewed this language before we came here today was that this is something that is very specific to a selected area within a Federal forest system, and we would never condone or support any legislation that would essentially establish a private reserve for an organization.

Mr. KOPETSKI. Have you guys ever supported some areas?

Mr. McCAULEY. Yes, actually our organization before I came to AOL supported certain wilderness expansion back in the 1980's.

Mr. KOPETSKI. And final question, Mr. Hirons, aren't you also president of the Oregon Lands Coalition?

Mr. HIRONS. Yes, Congressman, I am.

Mr. KOPETSKI. Do you think you are going to get impeached because of this testimony?

Mr. HIRONS. I don't think so.

Mr. KOPETSKI. OK.

Mr. HIRONS. I don't think so. No. I will be OK.

Mr. KOPETSKI. All right. If you need any help, I will endorse your opponent or whatever. Thank you. Thank you, Mr. Chairman.

Mr. ROSE. All right. Let me ask a question. Where do they file deeds in Marion County, Oregon?

Mr. CULBERTSON. That would be at the county courthouse in Salem.

Mr. ROSE. Is that in your district?

Mr. KOPETSKI. Yes.

Mr. ROSE. Can you get somebody to go there and check the title on section 36 proposed by Rosboro Lumber Company, that section they own? I am just curious as to how long it has been in the company.

Mr. KOPETSKI. OK.

Mr. ROSE. Don't hire nobody, I can show you how to do it. Don't have a lawyer out there that could just look it up for you.

Mr. KOPETSKI. We can find that.

Mr. ROSE. But that is really the key to this, you are right in the middle of the deal here.

Mr. KOPETSKI. I should say, Mr. Chairman, that the intent of the legislation is to protect the rights of private property inholders. On page 12 of the bill there is a section that reads "In the case of private inholdings located with the boundaries of the preserve, the Secretary shall authorize the use of Federal land in the preserve by the holder of the inholding to assure adequate access to the inholding under applicable law."

That was our intent, was to allow access. If we didn't get there, it is a technical problem. We would be glad to work with you on that.

Mr. ROSE. Are any of you all logging now in this area?

Mr. CULBERTSON. No.

Mr. McCAULEY. We are not logging anywhere in that portion of the Willamette National Forest or throughout most of the system.

Mr. ROSE. Why not?

Mr. McCAULEY. To the north——

Mr. ROSE. Wait a minute. Why aren't you logging in there?

Mr. MCCAULEY. Because the implementation of the President's plan hasn't taken place yet.

Mr. KOPETSKI. There is an injunction on all the timbering, that is why.

Mr. MCCAULEY. And to the north, Mr. Chairman, is actually a wilderness area which extends for quite a portion of that northern boundary.

Mr. KOPETSKI. Mr. Chairman, this has been as was pointed out, 20 years of history at least, and it was considered for part of Bolica Woods Wilderness. If you look at many of the wilderness areas, they are high elevation and this was low elevation and is very accessible therefore to timber harvest, and that is what is significant about Opal Creek is that, your mom can drive up there and look at this. My mom. Old people can access this. Young people can access this. You don't have to be a mountain climber to get in there to enjoy this beauty that we have there.

Mr. HIRONS. But you do have to walk 3 miles, Mike.

Mr. KOPETSKI. It is good for you, Tom.

Mr. HIRONS. If you can walk.

Mr. ROSE. Has anybody talked about maybe Rosboro swapping its section for one of these other sections?

Mr. CULBERTSON. No, sir.

Mr. ROSE. You haven't had those discussions.

Mr. CULBERTSON. No.

Mr. ROSE. Would you propose anything like that?

Mr. CULBERTSON. Well, we would willingly enter into discussions to discuss a land exchange.

Mr. ROSE. Why don't you be a little bolder than that and propose something to me.

Mr. CULBERTSON. Well, because I have been involved with land exchanges with the Federal Government in the past and sometimes they can be very difficult.

Mr. ROSE. I understand. You are dealing with the executive branch. Why don't you deal with the legislative branch of Government and tell us what you will take and maybe we can tell them to swap.

Mr. CULBERTSON. OK.

Mr. ROSE. Why don't you try a little different angle because it looks like there are a lot of sections around there that you might find more interesting.

Mr. KOPETSKI. He may even find one more interesting in Lane County because then you wouldn't have to transport those logs so far.

Mr. CULBERTSON. Well, it might be.

Mr. ROSE. We have jurisdiction in this subcommittee over the whole noodle. And we could get it out of here, we would be a little bolder.

All of you have been very forthright and, Mr. Kopetski, thank you for bringing all this to our attention.

Mr. KOPETSKI. Thank you, Mr. Chairman.

Mr. ROSE. And we appreciate the hearing and we will await from you, Mr. Culbertson, from your comments and I wish you would go back and deal with us directly on some kind of swap ideas. You

don't have to put in writing. You can just call me and we will talk about it over the telephone.

Mr. CULBERTSON. Sir, I will go back and speak with our counsel and make you a proposal.

Mr. ROSE. Thank you. You all are excused.

And our last witness, Dr. Norm Johnson, professor of forest resources, Oregon State University.

Dr. Johnson, your full testimony is in the record, and will be made a part of the record. Why don't you practice in your role as a teacher and an enlightener of people and just summarize all of this and give us your general reaction to it.

STATEMENT OF K. NORMAN JOHNSON, PROFESSOR, COLLEGE OF FORESTRY, OREGON STATE UNIVERSITY, ALSO ON BEHALF OF JERRY FRANKLIN, PROFESSOR, ECOSYSTEM ANALYSIS, UNIVERSITY OF WASHINGTON

Mr. JOHNSON. Thank you, Mr. Chairman. I will summarize my remarks. These are for myself and Dr. Jerry Franklin from the University of Washington.

Mr. ROSE. I am saying you not only can summarize your remarks but kind of react to what you heard here today. If you don't choose that role, I understand.

Mr. JOHNSON. Well, the President's plan has gone a long way toward resolving the Opal Creek dispute and the dispute on the Little North Santiam. The President's plan, based really on previous work authorized by this committee, the Gang-of-Four report, and then FEMAT does provide significant protection for the late-successional forest and also the key watersheds, especially the Little North Fork of the Santiam.

Also, it is true as pointed out by the administration and in discussions I have had with Congressman Kopetski's staff that actually under the rules of option 9, the President's plan, there will not be very much potential for thinning in the near future within the reserve because in fact most of the timber is too old to be thinned under the rules.

So there would be under this administration's plan little activity, little timber harvest, and certainly little roadbuilding in that preserve if the plan went forward.

The issue is more the permanence of that protection and the long-term outcome for Opal Creek and the Little North Santiam because it is the entire drainage. And about that I have no better crystal ball than anyone else that is here.

Permanence is important. It is hard to get and certainly a congressional act dealing with Opal Creek might settle it even more, but the President's plan has gone a very long way toward doing it.

You saw today with the testimony that has been a very hard fought issue and there are many different views.

The one thing I would say that if the committee is going to go forward with the bill, in the testimony we point out some changes in the boundaries that we might suggest contracting it on the French Creek side and expanding it down Elkhorn Creek to programs that a little better reflect the theme of what is in the legislation.

Thank you. Now I would be glad to answer any questions.

[The prepared statement of Mr. Johnson appears at the conclusion of the hearing.]

Mr. ROSE. Mr. Kopetski.

Mr. KOPETSKI. Yes, just briefly, Mr. Chairman.

First, I would like to thank Mr. Sedell for being available to the hearing here, but also Dr. Johnson, this is one of the original Gang-of-Four, Mr. Chairman. This is one of the esteemed members of that great scientific report.

Mr. JOHNSON. Mr. Chairman, that gang worked for your committee.

Mr. KOPETSKI. Dr. Johnson, I think you have walked every forest in the Northwest from a scientific point of view and studied everything. Do you know all these pristine, we can't harvest here, we can't harvest there. Qualitatively, where do you rank Opal Creek on the scheme? Is it special or am I dreaming? Is it special to Oregonians? Special for people in Connecticut, and Europe that come over? Is it the same?

Mr. JOHNSON. Mr. Chairman, for 3 years I worked for Governor Goldschmidt when he was Governor of Oregon and I was his forestry advisor. He said to me, I don't want to make any recommendations in any area you haven't seen, so he sent me out to hike for a year or so, which wasn't too bad for Government work.

In the process, I did see much of Oregon. I would say the Little North Santiam drainage, and especially Opal Creek and Elk River, I believe are the two most spectacular places in Oregon in terms of forests and streams. Elk River is in southwest Oregon so they are right at the top in terms of spectacular and ecologically important.

Mr. KOPETSKI. Are you including wilderness areas in that statement?

Mr. JOHNSON. Yes, I am.

Mr. KOPETSKI. I rest my case.

Mr. ROSE. All right.

I thank everybody for being here today and this hearing is adjourned.

[Whereupon, at 11:55 a.m., the subcommittee was adjourned, to reconvene subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]

TESTIMONY OF THE HONORABLE MIKE KOPETSKI
BEFORE
THE SUBCOMMITTEE ON SPECIALTY CROPS
AND NATURAL RESOURCES
COMMITTEE ON AGRICULTURE

May 18, 1994

Chairman Rose, Mr. Lewis, and members of the subcommittee, thank you for giving me the opportunity to speak before you today, and thank you for holding a hearing on H.R. 3905, my bill to preserve the Opal Creek forest.

I want to start this morning by giving you a little background. The Opal Creek forest is in northwestern Oregon, on the west slope of the Cascades, and contains one of the largest intact stands of low elevation old growth in the Pacific Northwest. Walking through the forest, you cannot help but look up, as the douglas firs and hemlocks tower around you. The forest spans over three watersheds, and covers about 32,000 acres. It is, quite plainly, one of Oregon's, and America's, last uncut gems. This preserve lies entirely within my Congressional district.

I have many reasons to legislate the Opal Creek preserve, including its biological significance, the popular support for protecting it, and the minimal economic impact of giving it permanent protection. Many of today's witnesses will speak to these reasons. But alongside these solid, logical arguments is my deeply held belief that Opal Creek

is a special place that deserves to be set aside for people to enjoy today and forever. This sentiment is shared by citizens in my district and Oregonians throughout the state.

During my campaigns for the House, I made the preservation of Opal Creek a top priority. I tried to legislate the preserve back in 1991, when I sat on this subcommittee, and we wrote a timber bill. Now I am in my final months in Congress, and I have put Opal Creek at the top of my agenda for my remaining months here.

I have worked hard to ensure that this bill is fair, and that all stakeholders have been involved in its creation. The details of protection and management in this bill have been negotiated, written and rewritten, but they are not set in stone. I am certain that the members of this panel will have constructive ideas to improve this legislation, and I look forward to working with you to make this bill even better. The most important goal here is to ensure that the forests and watersheds of Opal Creek are protected. The first point that I want to stress is that while the President's Plan for forests in the Pacific Northwest will designate the Opal Creek forest as an old-growth, late-successional reserve, it is only through legislation that we can ensure that the protection is permanent. Because of the designation in the President's plan, there will be very little logging at Opal Creek even without legislation. Let me mention, also, that both Administration and industry representatives have conceded to me that it would be very surprising if Opal Creek were ever cut, given the likelihood that a sale in this area would be litigated. Our self-deceiving attitude towards places like Opal Creek

contributed to the unsustainable harvest levels of the 1980's, because although there was a tacit recognition that Opal Creek would never be cut, the inclusion of Opal Creek's trees in the timber base falsely elevated the volume that could be harvested annually on a sustainable basis. Thus I maintain that an act of Congress is absolutely necessary, in order to ensure that protection is permanent. Forest preservation is tenuous as long as its security is based on the whims of succeeding Administrations. Consistent policy objectives in this controversial, and highly political and emotional arena of forest management are not guaranteed as long as America has four year limits on the Presidency.

I have not yet seen the statement from the Clinton Administration that will be presented here today. I suspect you will hear that there is no real opposition to the goal of preserving Opal Creek. I can assure you that the differences between the borders of the Administration's late-successional, old-growth reserve and my proposed preserve are minimal. My preserve is slightly larger, as I would like the preserve to include important watershed lands for the little north fork of the Santiam River and for French Creek.

What I do expect to hear from the Administration is that 1) the Forest Service does not like the piecemeal approach of protecting lands bit-by-bit, and that 2) the Administration is concerned that this legislation may serve as a vehicle for unwanted amendments on the Senate side.

In response to the concern for piecemeal protection, all I can say is that it is unlikely that the Congress will ever be able to protect lands in any other way. Yet we should not abandon this important obligation, as only Congress can ensure that land preservation is permanent. When we can find a way, we need to have the political will to direct our legislative agenda to the preservation of special places. We owe this to the people we represent.

As for the issue of unwanted amendments in the Senate, let me say that I share this concern. This bill is meant to legislate protection for one forest in Oregon, not to address the complex and longstanding problem of timber management on the Pacific Northwest national forests and the legal obligations the government has to provide habitat for threatened and endangered species. I absolutely will not entertain any such amendments in the House bill. I have personally raised this concern with my colleagues in the Senate, and I certainly hope that it will not be a problem. I would support any efforts by the Administration in the other body to ensure that this bill does not become a vehicle for unwanted amendments.

Let me reiterate the basic objective of my bill: to create permanent preserve status for Opal Creek.

Because of the nature of the battle that has been waged over Opal Creek for the last several decades, this legislation has been the target of many rumors and allegations. Briefly, I would like to address the concerns that I have heard, and I will also be

available to answer any questions.

I want to begin by addressing the allegation that this bill is being offered to make certain individuals wealthy. First, realize that 97% of the land in the proposed preserve is federal land; less than 3% of the 52,000 acres are privately owned. And nothing in this bill requires the government to make any land acquisitions. At the same time, I have stipulated in the bill that the government may not take any inholdings through condemnation. In fact, the costs to the government as a result of this bill may be negligible.

In addition, I have made a special rule for the potential acquisition of recently patented lands. I have taken a cautious approach, anticipating reforms in mining law, and so the bill states that the patent named Santiam #1, which was awarded in 1992, may not be acquired by the government for more than it was patented for, plus the cost of any improvements made on the property since then.

I would like to make a further point about the Santiam #1 patent. It is currently owned by the Friends of Opal Creek, and it crosses the main entrance road to Opal Creek forest. Only after Senator Hatfield included in legislation that the government had to award the patent, was the Santiam #1 patent awarded to the mining company that was planning to donate its old patent lands to a conservation organization. This was done to satisfy the concerns of groups such as the Nature Conservancy that there would be some way to control vehicular access to the area. The Friends of Opal

Creek, ultimately the recipient of the lands, erected a gate across the road on the Santiam #1 patent land. This has kept visitation to Opal Creek limited to foot traffic, and has aided in the preservation of the area. I intend for the preserve to stay vehicle-free, and for the gate to remain. The Friends of Opal Creek have agreed to enter a binding contract that will grant complete pedestrian right-of-way through the gate, and will grant to the Forest Service an administrative right-of-way. This will perpetuate the status quo. The Forest Service may argue that it needs this land back, but I contend that it is wrong. The Forest Service will have complete access to manage the preserve.

Another allegation I want to confront is that this bill guarantees, and ushers through the regulatory process, the Bornite mine proposal, which is a project of the Kinross company in the Opal Creek area. Nothing could be further from the truth. Any mining operation on federal lands must meet not only the regulatory standards of the federal government, and be approved in the federal record of decision, but must also meet the test of the local regulatory process. The Kinross company is in the midst of this process, and my bill will neither promote nor hinder their cause. If the mine gets all the permits it needs to operate, there will be a "donut hole" in the preserve that will allow them to operate. Once the mining operation is completed and environmentally mitigated, that "donut hole" will be added to the preserve. It is my hope that the mine will eventually operate, for it will provide 80 full time, decent-paying jobs for at least 10 years for the local community. We all know that projects like this that diversify the economy in traditionally timber dependent towns are sorely needed. However, this bill

in no way exempts the project from any aspect of the regulatory process.

Before closing, I would like to address the section of the bill that calls for cooperative management of the preserve. My objective in requiring a cooperative management plan for Opal Creek is twofold: it will allow stakeholders to be heard in the process of developing a management plan for the area, and it will remove some of the burden of implementation of work plans for the preserve from the Forest Service. This idea is neither original nor unprecedented: there are numerous examples of Memoranda of Understanding between the Forest Service and non-profit organizations that formalize a role for extra-governmental management on National Forest lands. Notably, there are two well known examples, one on either coast of the nation. The Appalachian Mountain Club runs cabins and huts along the Appalachian Mountain Trail, which traverses National Forest land over much of the East Coast. The Club provides trail work and educational programs, and is allowed to charge a fee for their overnight facilities. On the West Coast, the Pacific Crest Trail Association has a similar Memorandum of Understanding, and provides similar services. In Oregon, the Friends of Bagby Hot Springs have an agreement whereby their volunteers staff and maintain the hot springs, and the Forest Service has managerial oversight, and provides materials such as cleaning equipment and supplies.

Although the bottom line in managing the preserve will still rest with the Forest Service, I believe that it is imperative that all interested parties should be at the table as a management plan is written. Opal Creek has been the focus of much contention

in Oregon; the community, including the Forest Service, has been polarized by the debate. The debate has had such a high profile that a book was written about it, David Seideman's Showdown at Opal Creek. The only way that trust will be rebuilt is if the process of determining management in the area will be if all stakeholders are invited to weigh in. Cooperative management will be an essential part of the healing that needs to go on.

In conclusion, let me say that although this legislation has been subject to an extraordinary amount of nitpicking--surely the product of Opal Creek's contentious history--its substance remains important, and worthy of Congressional action. I would like to emphasize that this legislation will protect forever one of Oregon's most spectacular forests, a place that is enjoyed by thousands of people every year, a habitat that supports some of the rarest life in Oregon, and a watershed that provides outstanding spawning habitat for wild salmon stocks. Opal Creek is precious, and I would like to ensure that it stays that way.

Mr. Chairman, members of the committee, thank you for your time.

STATEMENT OF
JAMES R. LYONS, ASSISTANT SECRETARY
NATURAL RESOURCES AND ENVIRONMENT
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Subcommittee on Specialty Crops and Natural Resources
Committee on Agriculture
United States House of Representatives

Concerning H.R. 3905, the
"Opal Creek Forest Preserve Act of 1994"

MAY 18, 1994

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the opportunity to offer our views on H.R. 3905, a bill "To provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon."

Accompanying me today is Dr. James Sedell, Forest Sciences Laboratory, Corvallis, OR, and Bill Funk, District Ranger, Detroit Ranger District, Willamette National Forest, Oregon.

Although we agree with many of the objectives of H.R. 3905, the Department of Agriculture recommends that this bill not be enacted at this time. The President's Forest Plan for the Pacific Northwest, which we have just begun to implement, will accomplish many of the same goals and objectives as H.R. 3905. This bill, however, goes beyond some of the proposals in the President's Forest Plan.

H.R. 3905 would establish the "Opal Creek Forest Preserve" on the Willamette and Mt. Hood National Forests in Oregon for the

purposes of protecting and preserving the forests and watersheds, promoting non-destructive research and educational programs, and providing for recreation within the Preserve.

The bill would require the Secretary of Agriculture to:

- (1) develop a cooperative management plan, (2) inventory cultural and historic resources, (3) provide technical assistance to landowners, organizations, and other entities holding private lands within the boundaries of the Preserve, (4) inventory all non-Federal lands and interests in lands which would serve as a basis for the acquisition of these lands and interests in lands, and (5) authorize the use of Federal land for access and utilities for facilities at the area known as Jawbone Flats.

Subject to valid existing rights, the bill would also:

- (1) prohibit the cutting of trees within the Preserve even in the event of disease or insect infestation, or to protect and enhance critical habitat for sensitive, threatened, or endangered species, (2) withdraw the lands from entry location, and patent under the general mining laws, (3) prohibit the use of a primary access road by the general public, and (3) prohibit new road construction, with some exceptions. The Preserve would encompass approximately 35,000 acres of National Forest. State and private land totalling 896 acres, would be located within the Preserve boundaries, but would not be part of the Preserve unless the Secretary subsequently acquired the lands.

The Opal Creek drainage, which is the heart of the proposed Preserve, 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 Preserve and the area 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 Preserve.

The President's Plan designates approximately 85 percent of the area that would be included in the Preserve as a Late-Successional Reserve. Late-Successional Reserves will be 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. The reserve encompassing the Opal Creek area is one portion of a late-successional reserve system which contains 7,430,800 acres and is designed to maintain a functional, interacting, late-successional and old-growth forest ecosystems.

Under the President's plan, silvicultural treatments inside the Late-Successional Reserve are subject to review by the Regional Interagency Executive Committee to provide assurance that the treatments are beneficial to the creation of late-successional forest conditions. There is no harvest allowed in stands over

80 years old. Thinning may occur in stands up to 80 years old. The purpose of these silvicultural treatments is to sustain late-successional forest conditions. The President's Plan also requires the preparation of a management assessment before habitat manipulation activities are designed and implemented. In addition, 83 percent of the proposed Preserve is identified as a key Tier 1 watershed. This is part of a system of large refugia comprising watersheds that are crucial to at-risk fish species and stocks. Watershed analysis is required prior to resource management activities, including thinning and salvage.

H.R. 3905 represents an inflexible approach for protecting and preserving the Opal Creek Forest. The bill would legislate management prescriptions which do not recognize that ecosystems are dynamic and that management of problems with insects and disease, fuel build-up, and other threats, may be necessary to perpetuate old-growth stands. H.R. 3905 would segregate out and prescribe management for a small part of a larger ecosystem. Such an action would inhibit our ability to implement ecosystem management. Ecosystem management suggests that we take a broader view as exemplified in the President's Forest Plan. In order for ecosystem management to be successful, land management agencies must have the flexibility to adapt and respond to new information.

Many of the requirements of H.R. 3905 have been addressed previously or are covered by existing law. The Forest Service

has authority to develop and has developed management plans, including the President's Plan, for which the Record of Decision was signed on April 13, 1994. The agency also has existing authority to: provide assistance to private landowners, acquire lands, provide access to private inholdings, and authorize uses. The Forest Service has previously conducted an inventory of existing cultural and historic resources and reported the results to Congress, although this inventory did not encompass the entire proposed Preserve. We also have technical and administrative concerns with several of the bill's provisions.

Mr. Chairman, the forest lands in question contain some of the premium old-growth areas of the Pacific Northwest, as well as other resource attributes, and they deserve protection. The Administration's plan for the Pacific Northwest is a flexible ecosystem approach which addresses the needs of providing old-growth stands over time. This is the most prudent and scientifically defensible approach of achieving our goals of protecting these lands. While we understand the concern and intent of Mr. Kopetski, we oppose enactment of H.R. 3905 because it would impede the successful implementation of the President's Forest Plan for the Pacific Northwest.

This concludes my prepared statement. We would be pleased to answer the Subcommittee's questions.

Supplemental Statement
Comparison of
President's Forest Plan Designations
To H.R. 3905

	<u>Acres</u>	
Total acres within the boundaries of the Proposed Preserve	33,626	
Private/State Ownership	896	
Federal Ownership	32,730	
Late-Successional Reserve (LSR)	27,850	85%
Total Key Watershed		27,450
Key Watershed within LSR		26,700
Key Watershed outside LSR		750
Administratively Withdrawn Areas	1,460	
Matrix	3,420	
Bornite Project Area (excluded from the Preserve)		1,290

NOTE: These calculations are based on Forest Service GIS interpretation.

Comments on H.R. 3905, Opal Creek Forest Preserve Act of 1994

by

George Atiyeh
 Preserve Director
 Friends of Opal Creek



Opal Creek

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"Oregon's Uncut Gem"

The battle to save Opal Creek as raged for over 25 years. The battle has evolved from confrontation, political action and now cooperation, all in an effort to resolve fate of this magnificent forest. While most of the threat of logging Opal Creek will be removed by the adoption of Option 9. There is more and there should be more to Opal Creek's resolution than just a temporary removal of the threat of logging. Opal Creek was called the conservation community's flagship during the Ancient Forest debate. It is now time to remake the Opal Creek flagship as a model for cooperation between old adversaries. The proposal to create the Opal Creek Forest Preserve just recognizes what is and sets up a framework and a set of rules for all interested parties. The result will be to create a world class scientific and educational facility. That facility will become example of cooperation rather than confrontation.

The group I represent, Friends of Opal Creek is a non-profit (501-3C) organization. The mission of Friends is to provide stewardship and management in cooperation with the U.S. Forest Service of the Opal Creek Ancient Forest Preserve and to further understanding of old growth ecosystems through education and scientific research.

For the past twenty years, efforts have been on-going to protect the Opal Creek Ancient Forest, often referred to as Oregon's uncut gem. Friends of Opal Creek was established five years ago to aid in that effort through environmental education. Opal Creek has become known nationally and internationally through a successful media campaign. It has appeared on all the major television networks along with CNN. It has had 3 major national documentaries done about it. It has been on BBC, and TV AM in Great Britain and ARD television in Germany. In the print media it has been featured in Time Magazine, US News and World report, Boston Globe, The New York Times, The Oregonian and The Statesmen Journal to name just a few. Finally a novel "Showdown at Opal Creek" has been written by Time Magazine's David Seidemen in which Mr. Seidemen put a very human face on the Old Growth forest debate.

In December, 1992, Friends of Opal Creek received a remarkable gift of land, valued at 12.6 million, within the Opal Creek Ancient Forest from Shiny Rock Mining Company, owned by Persis Corporation. It is believed to be the

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largest gift to a conservation organization in U.S. history. Included in the gift are 155 acres of forest land, including magnificent stands of ancient forest, 133 mining claims covering 2660 acres and the historical town of Jawbone Flats. Jawbone Flats contains a number of buildings, including a lodge, residential cabins and a building suitable for a meeting/dining hall. This land gift has provided an extraordinary setting and unique opportunity to establish an exemplary program of forest conservation, scientific study and environmental education. In response to the gift, Friends established the Opal Creek Ancient Forest Scientific and Educational Preserve.

The Opal Creek Ancient Forest is approximately 35,000 acres, primarily the headwaters of the Little North Fork of the Santiam River watershed. The watershed includes the largest unprotected contiguous area of old-growth Douglas-fir forest on the western slope of the Cascade Mountains in the Pacific Northwest. Opal Creek is 34 miles east of Oregon's State Capitol Salem. Most of this unique forest is located within the Willamette National Forest. Approximately 720 acres are in the private ownership of the Times Mirror Corporation and Roseboro Lumber. Friends of Opal Creek now owns 155 acres, 133 mining claims covering 2660 acres and a mineral leasehold interest on the 80 acre Times Mirror property.

While the average age of the trees within the Opal Creek Ancient Forest are 450 years while there are individual trees over 1000 years in age that are up to ten feet in diameter. This forest is of unique ecological significance because the entire watershed has been substantially untouched by logging and has been minimally impacted by recreation and development. Critical habitat is provided for several species of endangered plants and animals, including the northern spotted owl. The area is also noteworthy for streams exemplary in their purity, excellent aquatic habitat and native salmon and steelhead runs. Especially significant is that Little North Fork system is the only large drainage in the Willamette River System that is free flowing from its source to the sea.

U.S. Forest Service scientist, Dr. Jerry Franklin, along with Dr. Jim Trappe at Oregon State, Shara Green at Oregon Range and Experiment Station at Oregon State, Dr. Joy Belsky at Oregon Natural Resources Council, Dr. Peter Schoonmaker at Ecotrust, and Dr. Bob Admundson Plant Physiologist, have all recommended that the Opal Creek Ancient Forest be set aside for scientific study. H.R. 3905 was introduced by the Oregon Congressmen Mike Kopetski to permanently protect the Opal Creek Ancient Forest as a special management area for scientific study and educational purposes.

During 1993-94, the Opal Creek Ancient Forest Preserve operated by Friends of Opal Creek provided environmental education programs for community groups including the Governor's Leadership School and numerous high school classes. Participation in these programs included 235 adults and 549 students. Highly trained volunteers provided interpretive tours for over 358 people. The Visitor Education Program has provided information to reduce recreational impact. There were over 14,000 visitors in 1993. Three issues of the newsletter were produced, mailed to over 4,800 members, and distributed to visitors. Three weekend accredited Educator's Retreats were conducted for teachers to study curriculum in forest and watershed ecology. Many of these teachers are now undertaking environmental restoration and outdoor education projects within their

communities.

Presently the Preserve operated by Friends has established the following programs:

FOREST PROTECTION

- In cooperation with the U.S. Forest Service the preserve is developing plans for protective management and additional low impact trails.
- The Preserve provides information for visitors on low impact hiking.
- The Preserve conducts periodic water quality studies.
- The Preserve is working with the Forest Service in and attempt to withdraw the mining claims from further mineral entry.
- The Preserve is identifying and attempting to provide protection for rare plant and animal habitat.

SCIENTIFIC RESEARCH

The preserve works with Universities to recruit non-destructive independently funded scientific research projects. Mycorrizal fungi research is currently being conducted by Oregon State University under Dr. James Trappe which was featured in the January issue of Smithsonian Magazine.

- The preserve is constructing a canopy research station for both scientific and educational projects.
- The preserve works to recruit field biologists to complete a scientific inventory base of the watershed.
- The preserve provides professional facilities at Jawbone Flats for researchers.

ENVIRONMENTAL EDUCATION

- The Preserve continues to maintain and upgrade the Jawbone Flats facilities for environmental education programs.
- The Preserve continues the Visitor Education Program. Volunteers meet visitors at Jawbone Flats and provide information about the Preserve, old growth forest ecology and practices which minimize recreational impact.
- The preserve continues the Docent Interpretive Tours which are guided hikes by trained volunteers, describing the natural and cultural history of the Opal Creek

Ancient Forest.

- The Preserve continues to develop and expand the Educator's Retreat. This is a national program accredited program for teachers on resource management, forest and watershed ecology.
- The Preserve continues to expand programs for high school classes and youth training programs. Make the Preserve available to high schools for ecological field studies, taught by their science teachers. Provide a weekend training for high school students in natural science.
- The Preserve is publishing a guidebook to the Opal Creek Ancient Forest including natural history and geology.
- The Preserve continues to provide individualized tours and forest flights for scientists, natural resource specialists, and local, national and international leaders.
- The Preserve continues the development of the International Sister Forest Program. The first sister forest relationship was established in 1990 with the Bosque Eternal De Los Ninos in Monteverde, a similar research and educational forest in Costa Rica. The sister forest program provides an opportunity for the exchange of teachers, students, scientists, and biological information.
- The Preserve continues to publish a newsletter to provide information on the Opal Creek Ancient Forest and the Preserve. The newsletter contains information on forest ecology, environmental impact, programs and volunteer opportunities.
- The Preserve provides a slide show and speaker for community groups and schools which has reached thousands of people over the last several years.

While the programs operated by Friends of Opal Creek are significant they are nothing compared to what could be accomplished by the passage of HR 3905 and with the cooperation of the U.S. Forest Service.

What HR 3905 does is to recognize what is already happening at the Opal Creek Preserve. It sets up a format to resolve conflicts between the Willamette National Forest Plan, Option 9 and the reality of what is happening on the ground today. While Friends of Opal Creek has made great strides in the development of the research and educational programs we have not come close to realizing the full potential of this area offers. By passage of HR 3905 we will establish the protection and the direction for the Opal Creek forest for a variety of interested groups. The Forest Service will have a clear direction on how to manage Opal Creek and be encouraged to enter into cooperative agreements with a variety of interested groups and individuals. Non-Profits and researchers will be able to do non-destructive research on a landscape basis. Education programs will continue to flourish and grow, giving more and more people the opportunity to learn about the value of the

forest. And recreation will be managed to provide for a quality experience while protecting the eco-system.

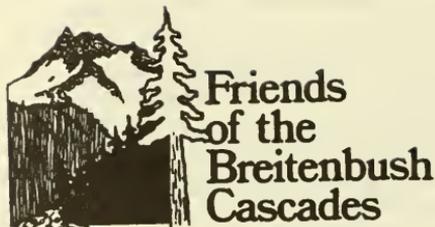
The need for quality research on forest ecosystems continues to grow, especially the need to conduct interior forest old-growth forest research on a landscape level. While we have some excellent forest research facilities such as H.J. Andrews the research community still has a real need for large intact eco-systems to conduct non-destructive research. The size of this proposal is critical in order to do the kind of research needed. We must have a landscape that is large enough to represent a variety of eco-systems such as sub-alpine, lakeside, riparian, to low elevation old growth forest. All the systems must be included on a watershed basis in order to study the interaction between the eco-systems. Education is also a critical need. Over half of the student population of Oregon is within 60 miles of Opal Creek. What better place in which conduct educational programs on the forest than in the forest? A place where students can experience hands on education right where it all happens, the forest.

Finally, the best thing about this legislation is that the Federal Government can take advantage, through cooperative agreements, of the ability to expand the science and education programs with a minimal investment by the taxpayer. Much of the groundwork has already been done by non-profits. Most of the infrastructure is in place. By expanding the Federal Government's ability to work with non-profits you will be creating true synergy. By working together the public will get a lot more for every dollar invested than by either group going it alone.

We urge the House Agriculture Sub-Committee on Specialty Crops and Natural Resources to pass H.R. 3905 and protect the Opal Creek Forest once and for all, it deserves no less. Doing so will create a win win for the all parties involved.



George Atiyeh
Preserve Director
Friends of Opal Creek



P. O. Box 482 • Salem, Oregon 97308 • (503) 585-8551

Testimony
of Michael Donnelly,
President, Friends of the Breitenbush Cascades
Salem, Oregon.
May 18, 1994

The House Agriculture Subcommittee
on
Specialty Crops and Natural Resources
Hearing on H. R. 3905,
the Opal Creek Forest Preserve Act of 1994

I want to thank the chairman and the subcommittee for holding this historic hearing and for the invitation to come and speak to our support for H.R. 3905. My name is Michael Donnelly. I am president of the Friends of the Breitenbush Cascades, a Salem, Oregon-based conservation group with 72 members that monitors activities on the Detroit Ranger District of the Willamette National Forest.

Over a century ago when Congress was considering setting up the Cascade Forest Reserve, the Chief Justice of Oregon's Supreme Court, Judge John Breckenridge Waldo wrote President Grover Cleveland in support saying,

"There are educational uses in mountains and the wilderness which might well justify a wise people in preserving and reserving them for such use...where, in communion with untrammelled nature and the free air, the narrowing tendencies of an artificial and petty existence might be perceived and corrected, and the spirit strengthened and enlarged."

The wise people of that era did indeed set up the Reserve, which eventually became the National Forests of the Oregon Cascades. The Reserve was also supported by the local timber industry. The vast amounts of timber on the public's land was seen as less-desirable, less-accessible and as competition, which would drive down prices of timber cut from private holdings.

Now, the prized centuries-old trees from the once vast unbroken forest that greeted Lewis and Clark when they crossed the mountains into Oregon in 1805 have been liquidated on private timber lands. The once undesirable old growth on public lands is now the cream of the crop and the only game in town. And, with the advent of industrial forestry — not at all inaccessible.

The rush to convert the original forest to timber plantations has been so thorough that there is but one intact lower elevation watershed left in Western Oregon. That unique, special place is Opal Creek and the Little North Fork Santiam River ecosystem. So pervasive has been modern humanity's impact on that pristine wilderness that greeted Lewis and Clark that the Little North Fork is also the only river out of sixty in the entire Willamette River system that is undammed from its source at Opal Lake to the ocean.

I have personally been involved in the efforts to protect, preserve and restore America's publicly-owned forest lands since I was 16 and worked on a citizen trail-building project on the Huron National Forest in Michigan.

I became fully engaged in the way our public lands are managed in 1977 when I appealed a Forest service decision concerning the leasing of large tracts on the Colville National Forest in Washington state for wholesale uranium mining. Later that year, I lost my job as a Forest Service counselor in the Job Corps program because I questioned the widespread application of herbicides in public watersheds.

From 1984 through 1987, I was business manager for Breitenbush Hot Springs, an historic resort surrounded by the Detroit Ranger District of the Willamette National Forest in the Oregon Cascades, eight miles from Opal Creek. Breitenbush hosts over 20,000 visitors per year from around the world who come to experience the , "untrammled nature and the free air" of the ancient forests of Breitenbush and Opal Creek.

In 1986, as the clearcuts relentlessly encroached on the resort, I filed a lawsuit challenging the Forest Service's management of our dwindling ancient forest heritage. I was elected vice-president of the Oregon Natural Resources Council, a state-wide conservation coalition and have since written extensively on the forest issue, including scripting the highly-acclaimed video, *Opal Creek: Ancient Forest Endangered*.

I first visited Opal Creek in 1985. My family and I spent the Summer of 1988 living and working at the mining camp at Jawbone Flats. I explored extensively. I once traveled the entire length of Opal Creek with my son and nephew, both then nine, rock-hopping down the creek and swimming in the pools at the bases of the creek's many waterfalls. I personally have visited 50 waterfalls over 10 feet high in the immediate vicinity of Jawbone Flats. The pristine waters of these creeks are cleaner than that coming from the taps of any municipal system. And, this is the source of drinking water for Salem and other downstream communities.

The unbroken canopy of the forest provides a home for thousands of old growth dependent species. And, all this beauty is within a short drive of the majority of the residents of Oregon. It is the largest, unbroken low elevation tract of public forest left in the Western Cascades and, as such, enjoys an international reputation and ever-increasing visits by an appreciative public. I firmly believe that if Opal Creek was located in any number of other countries on earth it would be a treasured National Park.

Now, thanks to the vision of Congressman Mike Kopetski, we have a bill before this subcommittee and a chance to do a wonderful thing. Judge Waldo himself must surely look down with favor on those of us here today who have the great opportunity to see that generations to come can experience the same pristine Opal Creek area that Waldo visited in the 1870's. To pass this bill is, not only, a great gift to unborn generations, but an homage to all the efforts of all the spiritual descendents of Judge Waldo who have struggled for decades to preserve, protect and restore our publicly-owned natural heritage.

Thank you.

STATEMENT FOR THE RECORD
OF
TOM HIRONS

I INTRODUCTION

My name is Tom Hirons I own and operate Mad Creek Logging Company a small, nine man operation in Gates, Oregon. I am here today representing the 875 timber families of the North Santiam Canyon.

I appreciate the invitation to testify today. I hope to provide you with a perspective not often heard from loggers. Most of my entire life has been spent living and working in the North Santiam Canyon including the little North Fork, Opal Creek, Cedar and Elkhorn Creeks. While I have not covered every square inch of the ground addressed in this resolution I think I can safely say that I know the area and its history.

In the summer of 1972, at the invitation of George Atiyeh I moved with my family to Jawbone Flats where Opal Creek and Battle Ax Creek join to form the Little North Fork of the Santiam River. We spent a little over a year living in that beautiful spot. While we were there the interests of former Governor Atiyeh and his family in the area, were acquired by the Twigg-Smith family owners of the Honolulu Advertiser. Shiny Rock mining Corporation, was formed and possession of the mining claims in the area including the mining camp at Jawbone Flats was placed

in its name. In addition, Shiny Rock became my new employer. My background was in logging not mining but many uses were found for my talents as a logger.

In the spring of 1973, it was decided by the management and board of directors of Shiny Rock, to form a sister corporation. North Fork Logging Company was formed to engage in contract logging for local sawmills, in order to produce some positive cash flow as Shiny Rock was in a negative cash flow situation. I became the President and general manager of North Fork Logging and moved from Jawbone Flats to Elkhorn in the fall of 1973.

From 1972 until the Spring of 1978 I served as President of North Fork Logging and Vice-President of Shiny Rock Mining Corp. In the spring of 1978 it was decided by the principals of North Fork Logging's parent corporation, Persis Corporation, which was formed as a holding company for the various assets of the Twigg-Smith family, that being in the logging business was not compatible with their long term goals. I was called over to the home office of Persis in Honolulu and told to rewrite my budget in order to liquidate the assets of the logging company and be out of business in two months. In order to fulfill commitments that I had made to local sawmills and to continue in a lifestyle that was fulfilling my dreams, my wife and I purchased enough of

North Fork's assets to form Mad Creek Logging Company.

II OPAL, CEDAR, AND ELKHORN CREEKS, THE LITTLE NORTH FORK
OF THE SANTIAM RIVER

This Resolution encompasses some 35,000 acres on the Detroit District of the Willamette National Forest. It does not take 35,000 acres to protect Opal Creek. Cedar and Elkhorn Creeks are apart from Opal Creek separated by high mountain ridges and are not necessary to its protection. Both have been subject to past management activity, in particular Cedar Creek is highly fragmented from past timber harvest and has an extensive road system in place. I personally logged on the private land in the headwaters of Elkhorn Creek in 1966 and 1967 and while there is no road down the length of the creek it offers many opportunities for creative management technics expressed in the concepts of "New Forestry". Elkhorn Creek presents an opportunity to correct the mistakes of the past and pave the way to the future in Forest Practices.

The resolution specifically prohibits timber harvesting in the entire area and refers to that practice as destructive. That is a value judgment and that language should be stricken from the resolution. It is hard for me

to understand how an area such as Cedar Creek can be so fragile as to prohibit timber harvest yet a commercial mining operation can continue with out hurting it.

III SPECIAL RELATIONSHIP FOR A SPECIAL INTEREST GROUP AND PUBLIC LAND.

From the time that the Twigg-Smith family acquired their interest in the area from the Atiyeh family it has always been their objective to preserve the area as much as possible in the way they found it. Their decisions through Shiny Rock Mining Corp to get in and out of the logging business, to use the mining laws to strengthen their stake in the area, to donate their interest to a non-profit charitable group were all consistent with their history of altruism and their objective of saving Opal Creek. I have no argument with their right to pursue that objective. But it is not right for Congress to require the Secretary of Agriculture to enter into a privileged agreement with special interests group for the management of public land. NEPA and NFMA already require public input into forest plans.

IV WHOSE LAND IS IT ANYWAY?

While serving as Vice President of Shiny Rock I recall

discussions that took place at board meetings regarding the patenting of mill sites and certain mining claims in order to establish a better position in the area with fee simple land. Historically, Shiny Rock and it's predecessors had claimed their rights under the Mining law of 1872. With the exception of a clouded title to the Princess the Black Prince and the King #4 on Stony Ridge, that was settled with the Miller family in the late 1970's, Shiny Rock had no fee simple land in the area.

Application for patent was initiated in the late 70's on the mill sites comprising Jawbone Flats and several mining claims controlling vehicular access to and from Jawbone Flats and several thousand acres of public land. In fairness it must be pointed out that there has always been a Forest Service gate on the mining road to Jawbone Flats on both the Santiam and Morning Star claims and that the mining company and the Forest Service have had keys. Recently, with the help of Senator Hatfield and the appropriations process, patent was finally granted on the mill sites and mining claims conveying title of some 150 acres of public land to Shiny Rock Mining Corporation under the mining law of 1872 at 2.50 per acre.

Shiny Rock, its management and owners have subsequently donated their entire interests in the area to the Friends of Opal Creek. The question begs to be asked

at whose expense? The people of the North Santiam Canyon, suspect the answer is the American taxpayer. Who funds and manages Friends of Opal Creek? Again, the People of the North Santiam Canyon suspect the same people who owned and managed Shiny Rock Mining Corp. To be sure, Friends of Opal Creek, has many small individual contributors, but we are not so naive to know that the largest benefactors wield the largest influence.

By this Act The Secretary is directed to inventory and may purchase the 3 patented mining claims on Stony Ridge from Friends Of Opal Creek at fair market value. I can not speak to the mineral value of those claims but the timber value has increased dramatically since Shiny Rock acquired clear title to those claims and I believe the tax payers have already paid once for those claims by whatever tax credit was taken by Shiny Rock and its owners. The Secretary is also directed to purchase 80 acres owned by Times Mirror Corporation in Gold Creek. The Secretary is further directed to inventory and may purchase 640 acres of cutover and replanted land of Rosboro Lumber Company in Cedar Creek. If Rosboro activities are inconsistent with the purposes of the Act the Secretary may acquire Rosboro's land without their consent. (the harvesting of trees is inconsistent with the purposes of the Act). This would also apply to Times-Mirror claims on Gold Creek. I could never imagine the Friends of Opal Creek being a

willing seller of Jawbone Flats or the Ruth, Santiam and Morning Star claims.

Until recently all of Friends of Opal Creeks land holdings except for the Stony Ridge claims were public land purchased at 2.50 per acre. And at one time even those claims were public land acquired through the patenting process. In effect the public is paying twice for the Stony Ridge claims, but will not have the opportunity to buy back the heart of the whole area, Jawbone Flats.

V OPAL CREEK AS A MICROCOSM OF THE ENTIRE FOREST DEBATE

For the people of the North Santiam Canyon whose lives are tied so closely to the timber industry it is virtually impossible to be supportive of this bill. More land than is necessary to protect Opal Creek is put off limits to timber harvesting. The Resolution sets a terrible precedent by granting self-serving privileges to individuals and special interest groups in the management of public land. It reflects a typical modern day tactic of the environmental movement by asking for more than what is necessary to do the job.

If Congress finds it in the public interest to go beyond the administrative protection required by NEPA NFMA and the Endangered Species Act and provide additional protection for Opal Creek by statute, the precedent has been established through the Wilderness Act there have been previous additions to existing wilderness in the past. The French Pete addition to the Three Sisters Wilderness comes to mind.

The Timber Families of the North Santiam Canyon are being asked to sacrifice their jobs, their homes, their culture and way of life for the so called public good. The Friends of Opal Creek want a special relationship with the government and they want a special privilege in the forest. They have private ownership of what was once public land, not for the purpose of which the law gave Shiny Rock Mining that land, which was mineral extraction, but to preserve it and to control the public's access to its own land. The new trail that has been built around Jawbone Flats is only an attempt to discourage the public from passing through a place that is suppose to have significant historical value. Indeed, Jawbone residents are no different today then when I lived there, the rhetoric might be more polished but the hiking public is still discouraged from passing through the mining camp.

We have said from the beginning that we could not

look at Opal Creek in a vacuum, that the issue must be addressed in the context of the entire forest debate. I would urge congress to take up that debate immediately, it has gone on to long now. The administrations efforts to resolve the debate without Congress have only made the situation worse. The promise to bring balance has only brought more dissension and confusion. The promise of financial aid and retraining is a cruel hoax to proud people who only want government to leave them alone. The promise to empower local stake holders has been replaced by the heavy hand of big brothers experts. To us the Administration seems bent on carrying out its agenda for the Pacific Northwest regardless of the body count. Just because both sides are opposed to the administration's plan does not make it good public policy.

VI THE RIGHT THING TO DO

It seems to me that if the current laws and their entailing administrative regulations do not offer enough protection, a 12,000 acre addition to the Bull Of The Woods Wilderness would assure the Friends Of Opal Creek that Opal Creek, and its tributary streams, the entire area from ridge top to ridge top from the Santiam patented mining claim to Beechey Saddle would be protected forever from timber harvest.

The Stony Ridge and Gold Creek claims belonging to Friends of Opal Creek and Times Mirror Corp. should be acquired through trade for other government land.

If the Friends Of Opal Creek are truly acting in the public interest, let them deed back to the public the patented mill sites and claims recently received from the public and gifted to them by Shiny Rock, to be held in trust by the public. If Congress finds in the public good, Friends of Opal Creek can lease back Jawbone Flats to manage it for its historical value.

In adding a Opal Creek Extension to the Bull of the Woods Wilderness Congress can make any exclusions or exceptions it wants to, accommodate the historical significance of Jawbone Flats, the Ruth Mine and other patented lands the public would receive as a gift from Friends of Opal Creek.

Cedar Creek and Elkhorn Creek should remain under the forest plan as required by the National Forest Management Act. They should be managed under the concept of multiple use. To do the right thing will require a cooperative effort between three disciplines, political and social science, life sciences, and engineering sciences.

VII A TIME FOR HEALING

While many would claim that the forest needs to go through a healing process in order to recover from mans past activities. Urban and rural people need to go through a bonding process, in order to reach a greater understanding of each others values. Much of the rhetoric that we have heard in the last five years, that has been passed off as science, are, in reality, value judgments. Who is to say that one set of values is of greater merit than another? Those of us who live in the North Santiam need to realize that urban people who drive through the canyon on their way to somewhere, don't want to look at butt-ugly clear cuts, indeed people who live in Cleveland, Ohio don't want to see aerial photos of them on the evening news. When people come to the canyon to recreate or sightseeing they want to have an enjoyable experience, hunters, fishermen and hikers all need a place to go and enjoy. Urban people on the other hand need to realize that there is more to the North Santiam and Little North Fork than beauty. Beneath the beauty there is a human community of individuals that have their own love affair with the land. For over one hundred years, they have been logging, milling and planting trees, helping provide the raw materials that have enabled the nations people to achieve the American dream. In spite of a hundred years logging activity people still think its a great place.

Congress needs to do what it can to reverse this ever widening gap between urban and rural peoples. It can start by making the debate over Opal Creek part of the over all debate of forest land allocation. Congress can start by reaffirming what our fathers and grandfathers before them recognized. That is, that the public's forests ought to contribute to the public's demand for wood and wood products. The body politic, science and engineering can provide us a better way, for no matter how good we think we are doing we can always do better.

**Testimony Regarding the Opal Creek Forest Preserve Act of 1994
House Agriculture Subcommittee on Specialty Crops and Natural Resources**

**Gordon Culbertson, Operations Manager-Timber/Timberlands
Rosboro Lumber Company, Springfield, Oregon**

May 18, 1994

The Opal Creek Forest Preserve Act of 1994 (H.R. 3905) proposes creation of a 35,000 acre forest preserve which permits no logging. The lands within the proposed reserve are predominately National Forest land. However there are blocks of private land, including 640 acres of land owned by Rosboro Lumber Company, encompassed in the proposal. Section 7(a) directs the government to acquire lands the “. . .Secretary determines. . .(are) being developed or managed (or is proposed to be developed or managed) in a manner inconsistent with the purposes of this Act.” Rosboro objects to any attempt by the government to acquire or restrict Rosboro's use of the land in question.

Rosboro Lumber Company is a small business which operates a wood products mill in Springfield, Oregon. The company is owned by the families of two of the three original founders who started the company 54 years ago. The company employs approximately 400 employees in family wage jobs with an annual payroll of approximately 12 million dollars. Our annual production of building products could construct 10,000 single family homes.

Since 1940, Rosboro Lumber Company has continually acquired forest lands to manage as a timber supply for our operations. At the present time, Rosboro owns about 50,000 acres of forest lands. We manage our lands well and our reforestation and forest practices far exceed requirements of either state or federal law. Nevertheless, this land base does not provide enough logs for the continued operation of our facility.

Rosboro continues to rely upon the purchase of logs from private and public land owners to supplement the logs from our own lands.

For many years, Rosboro has purchased timber from Federal lands to supplement harvest of company-owned timber. Since 1990, the Federal timber program has declined more than 80% in Western Oregon. Presently, wilderness areas account for 2.3 million acres of National Forests in Western Oregon. In addition, another 3.3 million acres is otherwise set aside for uses prohibiting timber management. The remaining lands theoretically available for timber harvest are, as a practical matter, unavailable due to environmental litigation.

Even today, the ability to meet our raw material needs from our own lands is being restricted by a variety of forces. For example, we own a 40 acre stand of approximately 50 year old timber which we have proposed to harvest. The 40 acres is in an area that contains a mix of private and public lands. Because spotted owls have nested on adjacent federal land, Rosboro is the target of a lawsuit which is currently pending before the 9th Circuit Court of Appeals seeking to enjoin Rosboro from harvesting our timber. The lawsuit has delayed the harvest over two years and there is no solution in sight.

New forest practices regulations at both the state and federal level have further restricted the amount of Rosboro's private timber available to harvest. Requirements for wider stream buffers; preservation of more wildlife trees; and restrictions on harvesting in areas suitable for sensitive or threatened species, whether they are present or not, substantially reduce Rosboro's ability to harvest our own private lands.

Rosboro's private lands are, in some places, interspersed with federal land. Frequently, access to Rosboro's lands requires crossing roads over Forest Service or BLM property. Before Rosboro can make use of our property and harvest the timber, we must often go through expensive and protracted biological evaluations

and assessments to establish that use of our private land will not adversely affect any threatened or endangered species. If we cannot conclusively establish such fact, Rosboro cannot use the roads across public lands which are often the only means of ingress and egress. The net result is that Rosboro cannot harvest our private timber.

Clearly, our company needs the assurance we can wisely manage our timberlands without undue interference from the outside.

Without a doubt, we face increased regulation and an overlay of land use restrictions threatening the very survival of Oregon's independent family-owned timber industry. I am here today to warn the Committee H.R. 3905 will not only burden Oregon with further prohibition of multiple use on National Forest lands, but also threatens the taking of private property rights. Rosboro, as the largest private landholder in the proposed Opal Creek Preserve, has never been consulted in the drafting of proposed legislation.

Rosboro is greatly disturbed with the prohibition of forestry included in H.R. 3905. Sections of the Act include the following prohibitions:

Section 6(a)(1) " . . .cutting of trees in the Preserve is prohibited."

Section 6(b) " . . .prohibit open fires in the Preserve. . ."

Section 6(c)(2) " . . .use of motor vehicles off or outside of the established roadbed of roads in the Preserve is prohibited."

These prohibitions serve as an effective ban on the practice of forest management within the Opal Creek Preserve. Please note there is no distinction between Federal lands and the rights of private property owners. Onerous and oppressive regulation precludes Rosboro from seeking the best and intended use for our property.

Section 7(a) declares in part: "The Secretary may not acquire, for inclusion in the Preserve, any lands or interests in lands within the boundaries of the Preserve without the consent of the owner, unless the Secretary determines that the land is being developed or managed (or is proposed to be developed or managed) in a manner inconsistent with the purposes of this Act". Considering the prohibition of forestry and the Secretary's remedy to rid the Preserve of private timberland ownership, this sanctions the taking of Rosboro Lumber Company property without hope of adequate compensation or recognition of the contribution to our future timber supply. This is bad public policy.

The only way Rosboro and other similar companies will be able to survive is to permit continued ownership, management and harvesting of our private timber lands. Rosboro's company policy is to aggressively defend and protect all of our private land holdings for forest management purposes. Under no circumstances will Rosboro willingly sell our 640 acre tract of land in the area proposed for the Opal Creek Forest Preserve. Rosboro will consider exchanging the property for other timberland of comparable value. We will not willingly surrender our private resource lands. H.R. 3905 does not represent the best interests of Oregonians. The Opal Creek Forest Preserve Act is an unnecessary special interest proposal detrimental to National Forest policy. We strongly urge the Committee to reject this ill-conceived piece of legislation.

**Testimony of
Associated Oregon Loggers, Inc.
Presented by James E. McCauley**

**Before the
House Agriculture Subcommittee on
Specialty Crops and Natural Resources**

**Regarding H.R. 3905 the
Opal Creek Forest Preserve Act of 1994**

May 18, 1994

Chairman Rose, I appreciate the opportunity to offer comments on the Opal Creek Forest Preserve Act of 1994, H.R. 3905. I am a graduate forester from Oregon State University and a resident of Salem which is west of the proposed preserve. I have also had the benefit of seeing this area, having physically visited the Opal Creek drainage as well as flying over a major portion of the other areas.

I am here today representing Associated Oregon Loggers, Inc. AOL is a trade organization that is made up primarily of family owned businesses. These 700 plus member companies are largely responsible for the harvest and road building activities conducted on public and private forestland in Oregon.

In the past, our members have relied heavily on a predicable and stable timber supply from the federal forestland which in some Oregon counties make up 80 percent of the forestland. You are well aware that present conditions in the

northwest have seen a third consecutive year in which little federal timber has been sold. Even the President's Forest Plan will not see full implementation until 1999. What will continue, will be further loss of businesses in the rural communities and dislocation of families as workers try to find suitable work that does not exist or utilize training or "Jobs in the Woods" programs that are little more than a cruel hoax.

The debate over additional protection of Opal Creek is comparable to the larger land issues that remain unresolved on the Willamette National Forest and throughout the National Forest system. That debate centers on the question of balance between public demand for wood products that are generated from the forests and what level of protection is needed for the environment.

The disposition of Opal Creek has been considered by the citizens of Oregon, and a number of legislative and federal committees. Each time the question of added protection for this area was evaluated, the final outcome was the same, no additional protection! Opal Creek was not included in wilderness expansion in 1984, it did not meet the qualifications as a state scenic waterway in 1985, it did not qualify as a federal wild and scenic waterway in the 1989, and it was not supported for inclusion into a the State Park system in Oregon during 1989 legislative session.

Except for wilderness designation, each of these attempts would not have satisfied the special interests for the same reason the President's forest plan is not accepted by extremists. These people advocate a no-harvest option from all federal lands. Their philosophy in Opal Creek is the same. Total control over land use decisions is their objective. I suspect that if passed, this Act will not end debate over management of Opal Creek, because it is very likely this bill does not meet all the wishes of the supporters.

I would not be surprised to be in front of this committee or another one within the next five years to add another layer of control or refinement of regulations to tighten control of this preserve to a few selected individuals. I think this is a supportable opinion given previous versions of this Act that included provisions for the Friends of Opal Creek to be empowered as the decision makers.

Today, Mr. Chairman, we find yet another attempt at satisfying a special interest and more specifically a single interest in this legislation. This proposed legislation would establish a special relationship between the government and a narrow special interest group. I was under the impression that public lands should be managed for all of the public, but this Act will not accomplish this. The benefit to the American public would be little, but the benefit to the Friends of Opal Creek would be great.

The proponents of this Act are obviously not satisfied with President Clinton's forest plan given the present management overlays of the proposed Preserve. Nearly the entire area, including Opal Creek drainage is in a Late Successional Reserve (LSR) or Key Watershed. The management options available are restricted to thinning young stands less than 80 years of age. The Standards and Guidelines require any stand treatment to result in the acceleration of late successional forest development and requires the Regional Ecosystem Office (REO) approval. In addition, a Key Watershed overlay requires detailed analysis of the watershed conditions and will result in a greater level of security of any operation having a remote impact to the water quality or present fish habitat.

We urge you and the other committee members to reject H.R. 3905. As a tax payer, we don't need to pay for more land transactions. We also don't need to duplicate management objectives that are already contained in the President's forest plan.

If indeed the supporters of this legislation are interested in the public good perhaps a permanent solution would be Congressional action to add a portion of this area to existing wilderness. This would require parity for all activities in the preserve including mining, recreational use and any potential education or research. AOL however does not support wilderness expansion of this area at this time.

Allow me to make a few comments regarding the specifics of this Act.

Sec. 2. Findings and Purposes

a(1) findings...

Old growth forests are truly unique in the range of habitat conditions present, but old growth forests alone are incapable of supplying all habitat needs to species that use a variety of habitat conditions. What is unique about forests is the connection of different species to a variety of habitat types, not one isolated forest condition.

a(2) findings...

Protecting clean water, maintaining plentiful water and providing streams that are capable of supporting anadromous fisheries are not limited to a specific forest type or age as the extremists would have you believe. There are literally thousands of miles of streams located in managed forests that are perfectly capable of supplying clean, plentiful water and supporting sustainable fisheries. Having been through a three year process in Oregon to develop more stringent stream protection regulations for non-federal land, I know the scientific literature supports the point that the presence of structural characteristics are clearly more important when evaluating fish habitat, then a forest age class relationship.

Since water quality is important to all of us Opal Creek and downstream locations, may well be more at risk from the potential leaching associated with past mining activities than any harvest activity located in the drainage. Virtually all municipal water systems in the northwest originate from watersheds managed for some level

of timber production. Major watersheds that have been managed for a programmed timber harvest include the Green River Watershed that supplies high quality water to Seattle, Washington, and the Bull Run Watershed that supplies Portland, Oregon with its supply. Neither has experienced any water quality problems resulting from forest management activities and each could be considered the most highly monitored watersheds in the northwest.

Anadromous fisheries are not "wholly dependent" on fresh water habitat for survival. Fresh water habitat is extremely important for fisheries, but there are several other factors that play a much larger role in sustaining fish populations. These management factors include hydroelectric facilities, hatchery programs and fish harvest levels set by various agencies. Other factors include ocean conditions and over-fishing which have more significant impacts to fish populations. Certainly some forested watersheds have suffered from practices long ago, but studies show in total, forest management is a minor factor that has contributed to fish decline compared to other direct sources. There are a number of examples where world class fisheries still exist. These, in many cases, are located within forestland that has been managed over the past one hundred years.

a(3) findings...

High quality water can be maintained and has been maintained in these watersheds with the historic form of management found on the National Forests. The latest proposals contained in the President's Forest Plan further increase the level of

certainty for protection of water quality in the Opal Creek drainage and surrounding areas. Timber harvesting, done correctly has little if any detrimental impact to water quality. Bull Run Watershed has had at least three independent studies completed that assessed the impacts of timber harvest on water quality. Each of these studies showed no negative water quality related impacts associated with timber harvests that have taken place over the last 40 years.

a(4) findings...

Old growth forests provide an excellent opportunity for research, educational study and recreation. This drainage, however, is not the only location available to the public or academia. Within a fifty mile radius of Opal Creek there are eight wilderness areas, totaling 327,000 acres. Over 60 percent of this acreage is in mature and old growth conditions and offers a wide range of recreational use. Each wilderness area represented in these permanent land withdrawals have large blocks of lower elevation old growth stands located below three thousand feet.

In addition, the Willamette and Mt. Hood National Forests have several Research Natural Areas (RNA's) which total over 40,000 acres on the Mt. Hood and 23,000 acres on the Willamette National Forest. Included in the research sites, is the world famous H.J. Andrews experimental forest on the Willamette National Forest. The vegetative characteristics found in the Opal Creek and adjoining drainages is represented within the present system of RNA's and research forests and does not require replication.

These areas already have budgetary constraints that limit research opportunities and we expect there is little if any value in additional research areas when current research remains under funded.

In reference to research of "non-destructive" (no timber harvest) is an obvious value judgement that has no place in establishing research that should be unbiased, scientifically credible research. This should account for a full range of operational research activities. If it is desirable to study "locked up areas," the Willamette National Forest has over one million acres of non-timber harvest acreage to choose from.

a(5) findings..

All of the objectives in the finding of this Act outlined can and will be met with the present system of land allocations and future management objectives. Even under the final Willamette National Forest Plan, Opal Creek and the surrounding area would have been allocated for a variety of purposes. In fact, a total of eight land allocations were represented in the area with less than 25 percent available for timber harvest. This did not satisfy the Friends of Opal Creek at that time.

Under the President's plan the area is almost entirely within a Late Successional Reserve (LSR) or Key Watershed allocation. Management activities permitted in the LSR can only include commercial thinning, but only if the activity will accelerate the development of later successional forests.

This thinning is limited to stands less than 80 years of age and can only be implemented after a detailed management plan is prepared and approval from the Regional Ecosystem Office (REO). The Friends of Opal Creek apparently are not really interested in creating spotted owl habitat as might be done with the management direction selected for thousands of acres of young forestland. Furthermore, the majority of the same area is within a Key Watershed which requires detailed watershed analysis over the next two years to determine future management direction.

Contrary to the findings, the Opal Creek Preserve Act of 1994 will not contribute to the quality of life for the residents of Oregon. There is clear guidance already in place under the President's Forest Plan that will address recreation values, research opportunities and will protect water supply. This Act will only add an unnecessary layer of planning to Opal Creek without any added benefits for the public while creating what will likely be special rights for a selected few.

a(6) findings...

We know of no information that can support the allegation that Opal Creek Forest is the largest, intact old-growth forest ecosystem in Western Oregon. The Timber classification for the Preserve shows that at best, only 25 percent of the proposed preserve is in old growth condition. However, this acreage is not contiguous in nature, because it includes a mix of stand conditions that range from at least 20 percent of the area in young stand conditions to as much as 50 percent in small to

medium stand classes that do not meet current definitions of old growth ecosystems. Contrary to what the proposed Act says, forest management activities are the reason much of the proposed area is still in young stands, not forest fires!

Information from the President's Forest Plan clearly establishes the fact that 8.5 million acres (35 percent) of the 24 million acre spotted owl region is in mature and old growth conditions. Of the 8.5 million acres of mature and old growth forests, only 13 percent is represented in the matrix (land allocated for timber production). In other words, the President's forest plan has allocated 86 percent of the mature and old growth forests to land allocations that will be permanently reserved from programmed timber harvest and limited to activities that will accelerate the development of old growth conditions in younger stands. Adding Opal Creek would be adding to the over-kill of Oregon's number one industry.

The questions begs to be asked; why should we do more for Opal Creek? It is not more special than millions of other acres. In fact, with roads, mining activity and hazardous waste cleanup it is certainly of less value than most other areas.

The only historical and cultural history that will be preserved with this Act will be the conflict and debate, because the public already benefits from the protection provided to this area outlined under the President's Forest Plan.

a(8)&(9) findings...

Recreation use can be regulated through the forest planning process and can achieve desirable conditions that meet with the qualities found in the Opal Creek drainage. If recreational use increases to an unacceptable level it is possible to regulate the use patterns and distribute activity throughout the area. This is a requirement under the Standards and Guidelines outlined in the President's Forest Plan.

a(10) findings...

The Preserve will not contribute to the present research opportunities already present in the Willamette or Mt. Hood National Forests. These two Forests alone have more than 60 thousand acres of RNA's that are capable of conducting all forms of research. It is not possible to expect research funding in an additional Preserve when existing research is considered under funded.

b(1)&(2) purposes...

The purposes lined out in this section can be achieved with the application of existing RNA's and other areas currently designated for research of a variety of different forms including research that does not involve the harvest of trees. The establishment of the Preserve will not offer any unique opportunities that are not already represented in RNA's located in geographic proximity to the Preserve.

Sec. 5. Development of Cooperative Management Plan.

This section offers more questions than answers for what will be a critical factor in any future management activity across preserves. We strongly object to any Act that attempts to create a special process of involvement by selected interests. We already have detailed public involvement process under the National Environmental Policy Act (NEPA) and a multitude of other regulations that describe public input.

Although the Act directs that the cooperative management plan will receive significant input, it does not define what parameters this input will be evaluated on or how this process will be established. In addition, the encouragement for a Memorandum of Understanding (MOU) with interested parties is undefined. No discussion of what entity has clear decision authority has been presented. In fact, we do not know if the NEPA process will be followed under this provision. Why would the US Forest Service need an MOU? If they do this for Opal Creek, certainly other groups or individuals could qualify for other locations on National Forests. This is not the Friends of Opal Creek Forest, it is the forest for the entire public of the United States.

Sec. 6. Prohibitions Regarding the Management of the Preserve a(2).

It is not clear what is meant by "administrative use" as it pertains to the exemption from timber harvest. There should be specific descriptions of administrative activities that may require the removal of timber from the area. This section also allows unregulated collection of dead and downed wood for use in the Preserve.

We find this somewhat inconsistent with the purpose of the Act, because a significant amount of research has been conducted on the role of dead and decaying material has on the old growth ecosystem. We would be interested in some justification as to why timber harvest or even salvage harvest is not permitted, yet removal of dead and downed material is seemingly permitted without regard for its role in the ecosystem. This obviously is included so that the Friends of Opal Creek can have what amounts to free firewood for their cabins and campfires. Furthermore, it would be of interest to the public as to why mining still appears to be a permitted activity.

Sec. 7. Access to and Acquisition of Non-federal lands.

We strongly object to language that amounts to giving the government ability to exercise eminent domain on selected non-federal lands and permits for this type of preservation program. It is clear that the intent of this language is to have all non-federal land or selected permits within the Preserve be purchased by the federal government. The Secretary and landowner or claim holder is given three choices for changing the management direction. They include an exchange, donation, or purchase by the federal government.

If the landowner were to exercise either an "equal value" exchange or outright purchase of the non-federal component, taxpayers would be footing a substantial bill. As one example, the Stoney Ridge claims were valued at \$476,000 in the mid to early 1970's based on timber values alone. Prices today are three to six times

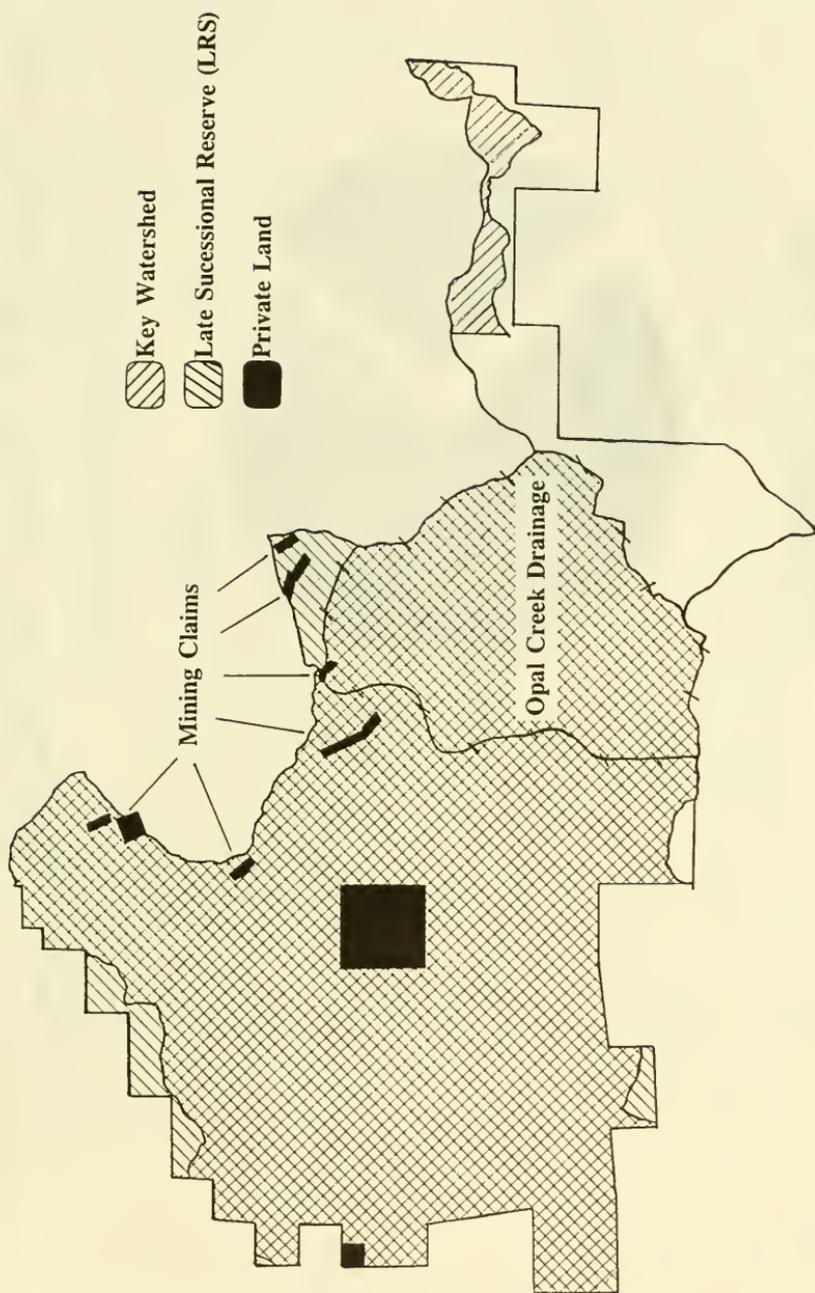
those values in timber, therefor the potential cost to the taxpayer for satisfying just one land owner may be close to 2.8 million dollars. This is the value for just the timber resource and not the potential mineral deposits I am not qualified to speak about. Needless to say, when other inholdings are considered the costs of this proposal will be a significant subsidy financed by the American taxpayers that may run above 10 million dollars.

Conclusion...

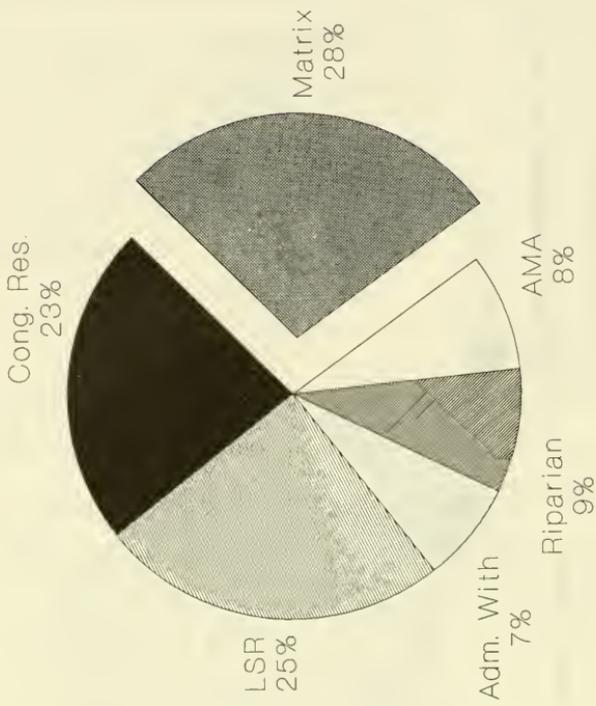
In conclusion let me ask the rhetorical question; If the President's Forest Plan already provides numerous layers of protection for this area, then why would the proponents of the Bill want even more preservation? We believe the answer is that the so-called Friends of Opal Creek view this section of public forestland as their own. They want complete control over the land use decisions to satisfy their personal needs and desires.

This Act is all about power and the Friends of Opal Creek have shown little interest in sharing power with the rest of the citizens of the this country. These forests belong to every American and the public planning process that make decisions should not allow a special interest group to receive any more power or involvement over others. We strongly urge that there be no further consideration of this Act, thank you.

(Attachments follow:)

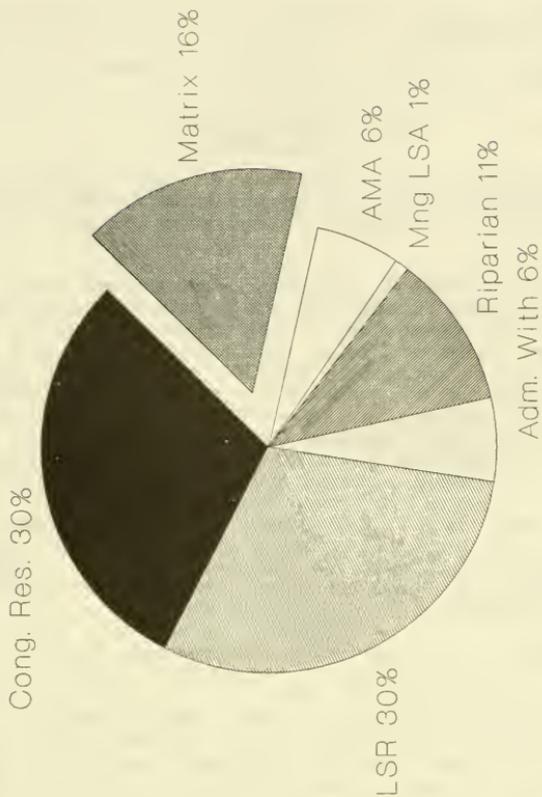


Federal Land Allocations President's Plan



Willamette National Forest

Federal Land Allocations President's Plan



Spotted Owl Region

Source: FSEIS, 1994

Testimony before the Subcommittee on Specialty Crops and Natural Resources of the Committee on Agriculture

HR 3905, the Opal Creek Forest Preserve Act of 1994

Dr. K. Norman Johnson
Dr. Jerry Franklin

I am Dr. K. Norman Johnson, Professor of Forest Resources at Oregon State University. I am here today speaking on behalf of myself and Dr. Jerry Franklin, Professor of Ecosystem Analysis, University of Washington.

My specialties are forest management planning and forest policy and I have worked on the forest resource issues of Oregon over the last 20 years. I am co-author of the "Beuter Report", the widely respected assessment of timber availability in Oregon done in the 1970s. I am senior author of FORPLAN, the planning model used by the Forest Service and others to estimate sustainable timber harvest levels. During the late 1980s, I was Forestry Advisor to Neil Goldschmidt when he was Governor of Oregon. With Jerry Franklin, Jack Ward Thomas, and John Gordon, I formed the "Gang-of-Four" which developed alternatives for the management of late successional forests of the Northwest for the Agriculture Committee. Finally, I headed the group estimating sustainable harvest levels and short-term sale levels in FEMAT, the analysis that developed 10 alternatives for federal lands in the region of the northern spotted owl including "option 9" selected by the Clinton Administration.

Jerry Franklin is a world-wide respected expert on ecology, silviculture, and management of old growth forests. He has worked in the Pacific Northwest for over thirty years, retiring recently as principal plant ecologist of the Forest Service. He is now Professor of Ecosystem Analysis, Univ. of Washington. For over 20 years, Jerry headed the HJ Andrews Experimental Forest, an interdisciplinary group that developed much of our current knowledge about old growth forests of the Western Oregon and Washington. Jerry served on the Gang-of-Four and led the effort there to map late successional and old growth forests on federal lands of the owl region and grade their significance. He also served on FEMAT where he led the effort to develop option 9--the basis for the President's plan for these forests. Jerry is currently President of the Ecological Society of America.

Jerry and I have both studied the forests covered in HR 3905, including Opal Creek. We have analyzed the significance of these forests in the Gang-of-Four Report and the FEMAT Report. We have both hiked, driven, and swam the forests and waterways of the area as part of our work and part of our life.

We would like today to discuss the significance of the forests,

waters, and timber resources of the area covered by HR 3905, and the evolution of recent forest policy for this area. Maps provided to me by the Forest Service suggest that the proposed preserve in HR 3905 is centered on the Little North Fork Santiam drainage of the Willamette National Forest, including Opal Creek, and also covers part of the upper Collawash drainage, portions of the Brightenbush drainage, and French Creek.

Most of the proposed preserve lies in the Little North Fork Santiam drainage which contains a number of large subdrainages: 1) Opal Creek, 2) Battle Ax Creek (largely in the Bull-of-the-Woods Wilderness), 3) Elkhorn Creek, and 4) Cedar Creek. Opal Creek and Battle Ax Creek run together to form the Little North Fork near the east end of the proposed preserve, while Cedar Creek and Elkhorn Creek run into the Little North Fork farther down in the watershed.

Most harvest in the proposed preserve has occurred in Cedar Creek. Much of the remainder of the Little North Fork was considered "roadless" in the RARE II inventory, including the vast majority of Opal Creek, Elkhorn Creek, Hemline Mountain, and the south side of the Little North Fork, and is still roadless today.

Our purpose is not so much to argue for or against HR 3905--you will surely hear enough of those arguments from other quarters. Rather, we wish to discuss some of the key values of the area covered by HR 3905 that you may wish to consider in your deliberations and treatment of the area in recent analyses, such as the FEMAT analysis that led to option 9 selected by the Clinton administration as its plan for Northwest federal forests.

We will start with a discussion of the forest and aquatic policies chosen for the area covered by HR 3905 under the succession of policy analyses that have been conducted over the last four years: Willamette Forest Plan, Thomas Report, Gang-of-Four Report, Scientific Assessment Team Report, and FEMAT Report. Then we will summarize some key resource values and policy issues.

The Willamette National Forest Plan

Under the Forest Plan for the Willamette NF, reserves were established for the Hemline Mountain roadless area, which is steep and has large areas physically unsuitable for timber production, and for 2000-acre Spotted Owl Habitat Areas in Elkhorn Creek and Upper French Creek. Much of the forest in Opal Creek and the remainder of the proposed preserve were scheduled for harvest over time in the Plan, although a number of acres, especially along the Little North Fork, were placed in visual management. Under the Willamette Forest Plan, an average harvest of approximately 10-12 million board feet/per year would have come from the proposed

preserve--approximately 2 percent of the total Willamette NF harvest under the Plan. Over 80 percent of the 12 million board feet/year would have come from the Little North Fork watershed (Table 1).

Table 1. Projected annual harvest levels for the next decade for the National Forest Lands within the proposed preserve of HR 3905.

	Total	From Little North Fork	From Opal Creek
	----Millions of board feet----		
Forest Plan	12	10-11	4-5
Thomas Report	10	8-9	3-4
Gang-of-Four			
option 8A	1-2	1-2	0
option 12A	0	0	0
Option 9 (original)	0	0	0
Option 9 (revised)	.5-1.	0	0

Thomas Report

The Willamette National Forest Plan was not fully implemented because of an injunction placed on the harvest of owl habitat on the National Forests of Region 6 by Judge Dwyer after the Forest Plan was issued. To address this injunction, the federal agencies commissioned a group of scientists (the Interagency Scientific Committee) to develop a scientifically credible plan for conservation of the northern spotted owl.

Until the recent adoption of option 9, Forest Service management in the preserve area was proceeding under the guidelines of the Interagency Scientific Committee Report (Thomas Report). In the Thomas Report, a Habitat Conservation Area (reserve) was established just north of the Little North Fork drainage centered on the Bull-of-the Woods Wilderness. Of the proposed preserve in HR 3905, the Thomas Report included only the Hemline Roadless Area in the HCA--an area which had already been withdrawn from timber production in the Willamette Forest Plan. Also, it dissolved the 2,000 acre owl reserves in Elkhorn Creek and French Creek that had been established in the Willamette Forest Plan.

Despite the significant acreage of old growth forests in Opal Creek, that drainage was not reserved. Maps used to develop the

Thomas Report did not indicate the presence of much owl habitat in Opal Creek or many owls there--an outcome due, in part, to the lack of surveys over much of the area and the conservative definition of owl habitat used by the Detroit District. Also, the scientists doing the Thomas Report attempted to minimize the impact on timber supplies of their proposal. Since much of Opal Creek and the Little North Fork were in the timber base of the Willamette Forest Plan, they tried to minimize the extent of reserves there.

Gang-of-Four Report

In 1991 the Agriculture Committee and the Merchant Marine and Fisheries Committee called for four scientists (Franklin, Thomas, Gordon, and Johnson) to develop alternatives for late-successional forests of the Pacific Northwest that looked broadly at the protection of old growth ecosystems. We gathered together leading scientists on old growth forests and knowledgeable specialists for the Forest Service and the BLM. Under Jerry Franklin's leadership, they mapped significant late successional/old growth forests and graded their significance in terms of three categories (LSOG1, LSOG2, and LSOG3). Jim Sedell and Gordon Reeves (Forest Service scientists) led a group of aquatic and fishery experts in mapping key watersheds. Jack Ward Thomas led an effort to identify needed additional reserves for the northern spotted owl and assess the level of species protection under any alternatives. I helped estimate sustainable harvest levels.

In total, we developed 40 alternatives which varied in the amount of LSOG forest reserved, the level of protection for key watersheds, and the rotation length for forest management on the rest of the forest. Then we evaluated the risk to species and ecosystems and the sustainable timber harvest level associated with these choices.

Six weeks after being given the assignment, the "Gang-of-Four" reported to Congress. I believe that the Agriculture Committee voted out a bill based on option 8A from the G-4 Report that reserved LSOG1 (most significant late successional/old growth forest) and gave special protection to key watersheds. Also, I believe that the Interior Committee voted a bill based on option 12A out of subcommittee but not out of full committee--an option that reserved LSOG1 and LSOG2 and gave special protection to key watersheds. The harvest level in the two bills ranged between 1.1 and 1.3 billion board feet/year for federal lands in the owl region.

The Gang-of-Four Report had two results of major importance for the proposed preserve in HR 3905. First the Report classified much of the proposed preserve, including Opal Creek, Elkhorn Creek, Hemline Mountain, and upper French Creek, as highly significant late successional/old growth forest (LSOG 1). The remainder of the Little North Fork drainage was classified as significant late

successional/old growth forest (LSOG2).

Second, the Gang-of-Four Report classified the Little North Fork drainage and the Collawash drainages (which covers a small part of the southern part of the proposed preserve) as key watersheds. The Little North Fork was recognized as a source of high quality water and the Collawash was recognized as providing protection for at-risk fish stocks.

SAT

Following the Gang-of-Four Report, the federal agencies convened a Scientific Assessment Team (SAT) to look broadly at the protection of old growth ecosystems. That team endorsed the guidelines of the Thomas Report augmented by an extensive system of buffers along streams.

The FEMAT Report and Option 9

The FEMAT Report first developed eight options for the management of federal lands in the owl region. These options combined different old growth reserve strategies, riparian strategies, and key watershed strategies drawing on the many previous studies of the region. Jerry Franklin then led an effort to develop a new option (option 9) that synthesized and integrated the best portions of the different strategies. That option was, of course, selected by the Clinton administration as its plan for federal lands in the owl region.

Option 9 drew heavily from the Gang-of-Four Report. It utilized the LS/OG system from the Gang-of-Four Report for delineating late successional reserves and the key watershed approach from the Report for designating watersheds. Option 9 did, however, attempt to overlap late-successional reserves with key watersheds more than occurred in the G-4 effort. I estimated the sustainable harvest level for option 9 as 1.2 billion board feet--exactly halfway between Option 8 and Option 12 of the G-4 Report.

Option 9 in the FEMAT Report generally follows the LSOG1 and LSOG2 boundaries from the Gang-of-Four Report in setting up in late successional reserves in the Little North Fork area and would have the entire preserve of HR 3905 within that reserve. In addition, it placed the BLM lands on Elkhorn Creek just west of the National Forests and much of French Creek in the reserve, again following the LSOG boundaries from the G-4 Report. Thus the proposed preserve of HR 3905 would have no impact on scheduled timber harvest compared to option 9 in the FEMAT Report.

Option 9 would, however, allow thinning of stands less than 80 years of age within reserves if such harvest would enhance the development of late successional characteristics. As discussed

later, however, few stands in the proposed reserve meet these standards. Therefore little thinning would occur there.

Revised option 9

Recently the Clinton Administration has released a revised version of option 9 which the Administration plans to implement as its plan for Northwest federal forests. It contracts the late successional reserve in the Little North Fork area to the little North Fork drainage on Forest Service land pulling it off the BLM portion of Elkhorn Creek and pulling it off the French Creek/Humbug Creek drainages of the Brightenbush system. Because the proposed preserve in HR 3905 covers some area in French Creek and Humbug Creek, it would slightly reduce the harvest level in revised option 9. I estimate that impact as .5-1. million board feet/year.

Summary and Conclusions

1. The preserve proposed in HR 3905 contains forests and waterways of enormous value from many different perspectives:

a). Its late successional/old growth forests were recognized as highly ecologically significant in both the Gang-of-Four Report and the FEMAT Report. In these studies, we acknowledged that the superlative stands of old growth forest in Opal Creek and the upper Little North Fork deserve special protection. The somewhat younger stands in the lower North Fork and Elkhorn Creek provide a mostly intact lower-elevation forest on the western edges of federal ownership. We identified these western-edge forests as of special ecological significance in the Gang-of-Four Report because of their relative scarcity in the Cascades and they were also recognized in the FEMAT Report.

b) The watershed covering most of the proposed preserve, the Little North Fork, was recognized as a key watershed in both the Gang-of-Four Report and the FEMAT Report. This watershed is a source of high quality water for both anadromous fish and domestic use.

c) Forests within the proposed preserve contain sizable volumes of commercial timber that could, if policy allowed, provide a source of raw material for surrounding mills on a continuing basis.

d) The forests and streams within the proposed reserve provide a spectacular backdrop for hiking, swimming, and camping close to Salem and the Willamette Valley. In my work as forestry advisor to Governor Goldschmidt, I discovered that many Oregonians have developed a special fondness for the intact forests and blue-green waters of the Little North Fork drainage.

2. The late successional/old growth stands within the proposed

reserve have great natural stability. We would expect that, short of catastrophic fire, they would maintain their compositional and structural integrity for centuries into the future. While fires do occur in the old growth forests west of the Cascades, their return interval is generally long--over 300 years as estimated in the FEMAT Report.

The FEMAT Report recognized different conditions in late successional reserves on the West Side and the East Side of the Cascades. While that Report recognized the potential need to treat late successional stands on the East Side to reduce fire danger, it did not foresee the same dangers in West Side forests such as those in the proposed preserve. Ecological conditions in the old stands within the proposed reserve are similar to what they have been for many decades, and will most probably continue to exist for the foreseeable future.

3. Under Option 9, most of the proposed preserve in HR 3905 would be part of a late-successional reserve. With option 9, harvest (though thinning) would be allowed only if it would benefit the creation of late-successional forest characteristics, as judged by an oversight group, and if the stands were less than 80 years of age. The stands in Opal Creek and the upper Little North Fork generally are older than 80 years and already possess late successional characteristics. Thus, they would not be eligible for this treatment, except for some young plantations at the fringes of the Opal Creek and other areas. No roads could be built into Opal Creek under Option 9, in any case, because it is a roadless areas within a key watershed.

Toward the western edge of the preserve, younger stands predominate. Most of these stands, though, are 80 years or older and well on their way to achieving late successional characteristics. A few stands right at the western boundary of the proposed preserve might meet the criteria for thinning, but there acreage is small. In the future, the young plantations in Cedar Creek and elsewhere might be judged as meeting the Option 9 criteria for thinning in late successional reserves, but that judgement probably awaits a study of their future development.

In sum, very little thinning volume in the next decade can be expected to come from application of the treatment provisions for late successional reserves in Option 9 to the area in the proposed preserve of HR 3905.

4. If the late successional reserve of Option 9 were dissolved, but the other provisions of Option 9 remained in place, the forests in the proposed preserve would produce some timber, perhaps 3-4 million year--much less than estimated under the Willamette Forest Plan. This drop would be due to two major reasons: 1) the extensive riparian reserves in Option 9 and 2) a more conservative estimate, by the Willamette Forest personnel, of what their

forested acres can produce.

5. Option 9 as developed in the FEMAT Report fully covered the proposed preserve of HR 3905 with a late successional reserve. Option 9 as revised by the Clinton administration leaves the French Creek/Humbug Creek portion of the proposed preserve (in the Brightenbush drainage) out of its late successional reserve system. With the prohibition on timber harvest in the proposed preserve, I would expect a reduction in the harvest level on the Willamette NF, beyond that in the Clinton administration's plan, of approximately .5-1. million board feet/year.

6. One objective of option 9 was to integrate the protection of late successional reserves and key watersheds. Along those lines, and considering the objectives of HR 3905, the Committee might consider the following changes in the boundaries of the proposed preserve:

a) Contracting the boundary on the south side to the Little North Fork and Collawash drainage, excluding upper French Creek/Humbug Creek on the Brightenbush drainage. The Little North Fork Santiam and Collawash are both key watersheds in Option 9; the Brightenbush River is not. Upper French Creek flows directly into Detroit Reservoir and does not have exceptional aquatic values nor contain threatened fish stocks. Similar comments can be made about Humbug Creek. In addition, the forests of upper French Creek in the proposed preserve are fragmented though past cutting. While upper French Creek was identified as an LSOG1 in the Gang-of-Four Report, and included as a late-successional reserve in FEMAT, subsequent analysis by Willamette National Forest personnel in developing the revised version of Option 9 resulted in eliminating the reserve there. In turn, they created additional reserves south of Detroit lake. This is exactly the process of refinement that we hoped would follow the Gang-of-Four Report and FEMAT, and we urge you to consider this revision.

b) Expanding the reserve boundary down Elkhorn Creek to include the BLM lands adjacent to the Willamette National Forest. Intact forest is rare on the western edges of federal ownership in the Cascades. Such a condition is found in much of the lower Little North Fork drainage and much of Elkhorn Creek. In addition, Elkhorn Creek is an important supplier of water quality to the Little North Fork River and an important part of the habitat for the Little North Fork's run of anadromous fish--a run that is now in some difficulty. Option 9 as devised in the FEMAT Report included the adjacent BLM sections as part of the late successional reserve. The revised Option 9 and HR 3095 excludes them. We urge you to consider them for the proposed preserve.

Congressional Testimony

Presented By
Robert Freres Jr.
Vice-President, Freres Lumber Company
Lyons, Oregon

H. R. 3083

Opal Creek Forest Preserve Act of 1994

Prepared For Consideration By
The U. S. House of Representatives
Committee on Agriculture
Sub Committee on Specialty Crops
and Natural Resources

The Opal Creek Forest Preserve Act of 1994 is bad legislation. From the basic findings set forth in section 2 of the act to the unreconcilable conflicts it creates with the National Forest Management Act of 1976 this legislation is grossly flawed.

Findings Flawed

The findings set forth in Section 2 of the Act are exaggerated, and do not support the action taken by the legislation.

The findings paint a picture of a large undisturbed natural area that, if Congress does not take immediate action to preserve, will be wiped clean from the face of the earth. Nothing could be further from the truth.

Opal Creek itself is a small mountain brook that flows 4.2 miles from Opal Lake to its confluence with Battle Ax Creek to form the Little North Fork of the North Santiam. Opal Creek represents only 1% of the Salem watershed.

Opal Creek is no stranger to public review and consideration for special protection. In fact, Opal Creek has been considered for special protection no less than 15 times over the past 15 years. Each time, under the eye of public review, it is determined that Opal Creek does not deserve special consideration.

Oregon's esteemed Senator Mark Hatfield has considered it for special preservation twice. Both times the acreage was removed from legislation because it failed to meet the requirements for special wilderness protection and scenic waterway protection.

The Oregon Legislature has considered preserving the area as a scenic waterway and as a state park on four separate occasions. Each time the body has determined that the area does not deserve protection over and above that provided by the national forest planning process.

The State of Oregon conducted a detailed administrative study of the area

to determine if it qualified for scenic waterway designation. The study concluded that the area lacked almost all of the requirements for scenic waterway designation. In fact, the report found that the area met only four qualifications; there was water - the water was clean and there was air - the air was clean.

We can all agree that a portion of our National Forests must be preserved for our children and grand children. It is important to set aside a piece of "old Oregon". The question is how much.

When determining what specific areas should be preserved, we as a society must balance amenities of wilderness and roadless areas with the benefits of managing our forests for their multiple uses.

Every time such an analysis is conducted it is determined that multiple uses are best for the area in and around Opal Creek.

What Is In A Name?

Although the preserve is named after the 6,800 acre Opal Creek drainage, it encompasses much more. Undoubtedly members of congress and their staff members have been lobbied heavily by the proponents of this legislation. You have probably seen pictures of the Opal Creek area. If the proponents efforts are consistent with previous attempts to convince policy makers of their views, they have likely misled you.

The fact is that the entire proposed preserve has been under general forest management since the inception of the National Forests. Multiple uses abound in the area. Timber harvesting, developed recreation, and mining are but a few of the multiple uses that have been managed by the Forest Service.

The area as a whole does not meet the criteria to be designated as a National Recreational Area. The area is not spectacular or unique. It is not any different than millions of acres of Oregon forest land.

This is not to say that there are not isolated areas that deserve special

protection for their scenic attributes. The Little North Fork and Opal Creek have both been designated Scenic Retention 1 by the Forest Service insuring that management in the area will place the recreational and scenic values of the area first. The pictures you have seen are a testimony to the fine job the Forest Service has done. I would venture to say that no picture you have seen is in danger of being destroyed. The Forest Service has every intention of preserving the special qualities of the area.

Managing our National Forests is not a casual affair. Thousands of professionals contribute to a final management plan. These documents are not unlike a city's land use plan. Through this process all of society decides how to manage the resources of our National Forests.

Prudent public policy dictates that an orderly and equitable process be established for producing the amenities and commodities that people expect from our national forests. At Opal Creek this process has created a quantity multiple use management plan. Because this process did not create a wilderness in this specific area, the proponents are before you seeking a congressional end run.

The National Forest Management Act A Congressional Victory

In 1976 this body passed monumental legislation. At that time I was a college student, but the National Forest Management Act of 1976 has impacted me and the people of rural Oregon arguably more than any other single piece of federal legislation. Over the years I have become a strong supporter of the NFMA.

In their 1976 action, Congress put a stop to fragmented planning. In 1977 the Willamette National Forest pioneered the process of forest planning and implemented the first forest wide plan. This was, perhaps, the first time the Forest Service sought and listened to public sentiment regarding how to manage our National Forest. The social, economic and environmental impacts of planning

decisions were considered forest wide. The 1977 plan was far from a perfect document. But it represented a genuine effort on the part of the Forest Service to meet Congress' concerns.

Subsequent opinions rendered by the Ninth Circuit Court supported the National Forest Management Act and further directed the Forest Service to consider cumulative impacts of their planning decisions.

Few people visualized in 1976 the impact that the NFMA would have on public forests. This single piece of legislation has directed the management of our National Forests for nearly 20 years. Every decision, in some way or another, is measured against the NFMA. Because of the National Forest Management Act, the citizens of the United States can truly claim ownership in their forests. Under the direction of the NFMA, forests today are managed in a way that attempts to address the concerns and values of the citizens of our nation.

The Opal Creek Legislation Is In Violation of NFMA

The Opal Creek Forest Preserve Act of 1994 is in direct conflict with the National Forest Management Act. The Act under consideration circumvents the National Forest Management Act and creates a defacto hand selected committee to develop a management plan for a portion of the Willamette and Mt. Hood national forests. The action of Congress and the creation of the committee would be directly contradictory to NFMA mandates for public participation in forest planning. NFMA also requires integrated management decisions for the entire national forest.

The National Forest Management Act imposed substantial public participation requirements upon the Forest Service. The participation requirements were liberally utilized in numerous efforts to resolve conflicts at Opal Creek and implement the forest plan in this section of public forest. The

National Forest Management Act repeatedly directs the Forest Service to include the public in every stage of the planning process. One entire section of the NFMA is completely dedicated to establishing public participation requirements. The act requires the Forest Service to provide the public adequate notice and an opportunity to comment upon significant management decisions.

Where Is The Public Participation Required By NFMA?

The NFMA administrative regulations further emphasize the importance of public participation and mandate that the Forest Service use public participation early and often throughout the development of forest plans. This process has been exhaustively followed in implementing management plans for the Opal Creek drainage of the Willamette National Forest. The product of this process was a series of management decisions derived from an extensive information base that represented the diverse needs, concerns and values of the entire public and not the special interests of any single group.

Congressional action on a small section of National Forest in direct conflict with developed management plans is an unreconcilable conflict with the National Forest Management Act. Furthermore, the Opal Creek Forest Preserve Act of 1994 in Section 5 (b) directs the Secretary of Agriculture to develop a Cooperative Management Plan outside the scope of the NFMA mandated process. The Opal Creek Act requires that the Cooperative Management Plan ignore two decades of public input and over a dozen administrative legislative and public reviews.

Don't Forget The Federal Advisory Committee Act

Furthermore it establishes a defacto advisory committee of "interested individuals and organizations". This committee is developed outside the scope of The Federal Advisory Committee Act. Although it could be argued that the

committee is intended to represent a cross section of the community, it is clearly an effort to circumvent the public interest. The management of Opal Creek should not be determined by a handpicked committee. Every member of the public deserves to have input into these decisions.

Unreconcilable Difference

Section 5 (b) further requires that management of the preserve be consistent with both the Opal Creek Act and the National Forest Management Act. This is impossible. The Opal Creek Forest Preserve Act is an attempt to circumvent the NFMA. The two can not be implemented concurrently. Either the public planning process is allowed to stand, or Congress circumvents it with this poorly crafted legislation. We can not have our pie and eat it too.

Before the 1976 passage of NFMA, the Forest Service prepared numerous independent management plans, usually at a district level and quite often at a sub district level. These plans almost never solicited or valued public participation. Our forests were managed by bureaucrats and interested individuals and organizations that had their ear. This fragmented planning had numerous shortcomings.

In an effort to provide sustainable timber harvest, quality wildlife habitat and recreational opportunities, Congress put an end to this type of planning. The passage of NFMA required that planning take place forest wide. By preparing a single plan for each forest, impacts of decisions in one area could be considered forest wide. The Ninth Circuit Court of Appeals has also required the Forest Service to consider the cumulative effects of its management decisions.

The Opal Creek Forest Preserve Act of 1994 focusses on one small section of a National Forest and makes sweeping management decisions for this isolated area. The act does not consider any of the impacts of this decision, let alone consider

how these decisions impact the balance of the forest as required by the 1976 Act or the cumulative impacts required by the Court of Appeals. The local communities that depend on the harvest of National Forest timber for their economic life blood deserve to have these impacts considered. The increasing number of homeless who can not afford housing deserve to have the impacts considered.

Although it could be argued that the OCFPA management impacts will be spun into the year 2000 planning process, practical reality is that the Opal Creek Forest Preserve Act ignores NFMA and implements management decisions for this section of forest independently from decisions made for the balance of the Willamette and Mt. Hood National Forests.

Not only does the Opal Creek Act make management decisions without considering their impact on the balance of the forest, it implements management decisions that are in direct conflict with those set forth under the National Forest Management Act. Furthermore, it implements these decisions without any consideration of impact.

CONCLUSION

Opal Creek is not deserving of special protection. Fifteen times in the past fifteen years Opal Creek has been considered for special protection over and above that afforded by the forest planning process. Each time public entities from congress to state agencies have determined that Opal Creek does not qualify for special protection.

If Opal Creek deserved special protection, society would have already afforded it. Fifteen government reviews cannot be wrong.

Not withstanding the above conclusion, Congress would be violating the 1976 National Forest Management Act to make management decisions at Opal Creek. This action would turn the clock back 20 years and resume a policy of backward planning that society has moved beyond.

The Opal Creek Forest Preserve Act of 1994 is grossly flawed and is in direct conflict with the National Forest Management Act of 1976.

KINROSS

Copper Corporation

May 13, 1994

The Honorable Charlie Rose
Chairman
Subcommittee on Specialty Crops and Natural Resources
105 Cannon House Office Building
Washington, D.C. 20515

Re: Opal Creek Forest Preserve - HR 3905

Dear Chairman Rose,

Kinross Copper Corporation is now in the process of permitting an underground copper mine in the Willamette National Forest, a process that began in 1990. If HR 3905 becomes law, the Bornite Project will be surrounded by the Opal Creek Forest Preserve. Quite naturally, we have followed the evolution of this legislation with keen interest and would like to address several key points with reference to the project.

First, we understand that there is some concern about the economic impacts of the bill: the loss of jobs from closing Preserve lands to logging and other economic activities. Kinross is not in a position to assess the impact of the bill on local employment.

We can tell you though, that Representative Kopetski and his staff have been very supportive of our project ever since they learned about it in 1991. They have taken great pains, in drafting this legislation, to insure that the jobs associated with the Bornite Project will be protected.

The U.S.D.A. Forest Service completed its final EIS for the Bornite Project in April of last year and approved the project, as described in the Plan of Operations, with minor modifications. The project has acquired permits from the Army Corps of Engineers, the Division of State Lands, the State Department of Geology and Mineral Industries, and the Oregon Department of Environmental Quality. The other major permits required before the company proceeds with mine development -- water rights and a water discharge permit -- will be acquired by the end of this year. We hope to commence construction of the mine, as soon as it is feasible, upon receipt of any remaining permits.

185 South State Street, Suite 400, Salt Lake City, Utah 84111 • Telephone (801) 363-9152 Fax (801) 363-8747

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The Honorable Charlie Rose
May 13, 1994
Page 2

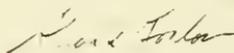
When the mine development proceeds, the Bornite Project will provide the area most affected by this bill with 100 immediate construction jobs, most of which will be filled by local workers. Once it is in operation, the mine will provide year round, family wage jobs for approximately 82 workers. Again, the vast majority will be local workers, trained to work in the underground mine setting. The local economy will also benefit from purchasing from local vendors, the employee's increased purchasing power, and an increased property tax base. It is estimated that an additional 40 or more jobs in the services and retail sectors will be created as an indirect result of the mine development.

With the mineral reserve inventory now identified, the mine is expected to have a productive life of about eight years. We intend, though, to continue exploration in the Bornite Project area. If additional underground deposits are found, as we believe they will, the life of the operation will be extended, with its jobs, many years into the future. Representative Kopetski and his staff have worked with us to ensure that the bill will not prevent extensions of the life of the mine.

I would also like to thank Representative Kopetski and his staff for their diligent and productive efforts to accommodate both environmental and economic concerns in this bill. The bill is a neutral factor with respect to the Bornite Project. It does not move the project forward, it simply deletes the project area from the original boundaries of the Preserve. The project must still obtain all environmental permits and comply with applicable state, federal and local laws. When mining activities are concluded in the Bornite Project area, that land will become a part of the Preserve.

We know that the bill is motivated by a genuine desire to preserve a unique area for its scenic, habitat and scientific values. At the same time, Representative Kopetski has recognized our project, which has been called "earth friendly" by local environmentalists, and which is consistent with the long-term preservation of Opal Creek. We applaud his balanced approach; we support the bill.

Sincerely,



Allen S. Gordon
Vice President
Technical Services

cc: Representative Mike Kopetski
Ms. Jennifer Pitt



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Prepared Statement of Russell S. Hoeflich
Vice President and Oregon Director of The Nature Conservancy
Submitted to the House of Representative's
Committee on Agriculture
Subcommittee on Specialty Crops and Natural Resources
May 18, 1994

Mr. Chairman, Members of the Subcommittee, Congressman Kopetski, my name is Russell Hoeflich and I am Vice President and Oregon Director of The Nature Conservancy.

The Nature Conservancy is an international non-profit, land conservation organization dedicated to the preservation of natural diversity through the protection of threatened species and ecosystems. Our membership includes more than 730,000 individuals and over 1,100 Corporate Associates.

For the past 40 years, The Nature Conservancy has preserved biological diversity through habitat conservation. Because of that approach, many people simply know us as the organization that "buys land." In the past, the land or property rights that we have acquired have typically either become part of our own preserve system, managed for the endangered plants and animals, or been transferred to government, a university, or private entity dedicated to conserving the special nature of the property.

In our efforts to secure land for protection of biodiversity, we have worked in partnership with other conservation organizations, businesses, individuals, and local, state, and federal government agencies. We have also provided technical assistance in the management of many millions of acres of land in this country, and increasingly, abroad.

While the work we have been engaged in to date is significant, we have come to see an even broader need. The science that drives our decision-making has shown us that to most reliably foster biodiversity we must do more than conserve isolated pieces of land. We must protect the ecological systems that are the mainstay and home of biodiversity. We must attend to the maintenance of natural processes where they exist in their increasingly rare actual state. Prudence tells us that we must preserve these functional ecosystems as unaltered genetic libraries for the long term benefit of the wealth of resources found with the system.

The Opal Creek Watershed, which is twenty-five miles long and seven miles wide, hosts five lakes, fifty waterfalls and forty-five miles of streams. Its pristine condition and low elevation make it one of the most diverse coniferous ancient forests remaining in the nation. It is one of the largest intact old-growth forest ecosystems remaining in the lower forty-eight states. The basin includes 105 tributaries which drain into the Santiam River and represents the headwaters of one of the Northwest's last rivers that have an undammed path to the ocean. The creeks and rivers in this basin support a high quality resident fishery of wild rainbow trout, spring chinook salmon and summer steelhead.

In Oregon, we are fortunate to have one of the most ecologically diverse, intact old growth forests in the nation. Mr. Chairman, members of the Subcommittee, we urge you to support H.R. 3905 which would establish the Opal Creek Forest Preserve.

Western Cascades Old-Growth Forest Ecosystem

At the time of pioneer settlement there were approximately 15 million acres of old-growth in the Douglas-fir region. Today it is estimated that between 80% to 90% of these forests have been logged (Norse 1990). The loss of low elevation old-growth is estimated to be over 95%. Remaining old-growth stands are further jeopardized by increased exposure to external factors such as wind, fire, and loss of species diversity due to fragmentation.

Ecologists are still in the early stages of learning about the organisms and processes that sustain productivity in these old-growth forests. More and more, they are recognizing the importance of organisms and processes occurring in the soil and canopy of these ecosystems. In the Western Cascades old-growth forests, epiphytic lichens such as *Lobaria* sp. fix 5-9 pounds of nitrogen per acre (Denison 1979). Fixed nitrogen in *Lobaria* sp. enters the nutrient cycle through ingestion by canopy organisms or as litter on the forest floor. Arthropods living in association with the epiphytic communities in the tree canopies and in the litter and soil layers of the forest floor play a critical role. The old-growth Douglas-fir canopy has the greatest diversity of arthropods of any temperate canopy system yet studied (Asquith, Lattin and Moldenke 1990). The soils of old-growth forests are equally impressive in the number of arthropod species they support (Asquith, Lattin and Moldenke 1990). A single square-foot soil sample in a Western Cascades old-growth forest is likely to contain 200-250 species.

The old-growth stage begins at approximately 200 years when the forest attains the structural diversity characteristic of old-growth forests. Truly climax forests are rare. In the absence of disturbance (generally 750 years or more) the dominant tree species, Douglas-fir, is replaced by western hemlock.

A number of wildlife species find optimum habitat for breeding or foraging in old-growth Douglas-fir forests including the northern spotted owl, goshawks, vaux's swift, northern flying squirrel, pine martin, red-backed vole, Pacific giant salamander, red-legged frog and hundreds of species of invertebrates (the distribution, abundances and therefore rarity of these species is just now beginning to be determined). The northern spotted owl (*Strix occidentalis caurina*) is of particular concern due to the recent controversy surrounding its federal protection. The spotted owl was listed in June of 1991 as a Threatened species pursuant to the Endangered Species Act. The present range of the subspecies extends from southwestern British Columbia through western California south to San Francisco Bay. The northern spotted owl is threatened throughout its range by the loss and modification of suitable habitat as the result of timber harvesting. Its status has been further exacerbated by catastrophic events such as fire, volcanic eruption, and wind storms that have occurred in the Western Cascades during the past decade. Northern spotted owls primarily occur in old-growth and mature forest habitats, but may also be found in younger forests that possess the appropriate structural and vegetational attributes, and prey populations.

Like the terrestrial old-growth ecosystem, aquatic systems within old-growth forests are structurally complex. The structural complexity results from large downed logs that act as long lived baffles and dams (Norse 1990). By slowing and diverting streamflow, logs form pools and allow coarse gravels and sediments to accumulate. This creates stable aquatic habitat with widely ranging flow rates and sediment sizes, greatly adding to habitat diversity in streams. As on land, the exceptional structural complexity in old-growth streams create opportunities for species with diverse habitat needs. These streams provide cool, well-oxygenated water for fish spawning and development while providing abundant food (primarily aquatic insects) and habitat for fish to grow. Old-growth streams also support other predators such as tailed frogs and Pacific giant salamanders.

Ecological Significance of Opal Creek Old-growth Watershed

The Opal Creek Old-growth Forest lies within the Willamette National Forest in the Oregon Cascade Range. The watershed contains one of the largest contiguous old-growth forest stands in the Western Cascades. Elevation within the basin ranges from 1500 feet to 5,000 feet and contains low elevation old-growth forest, steep valley slopes, numerous streams and waterfalls,

glacial cirques, high narrow ridge lines, and sub-alpine lakes. Included within this forest are excellent examples of all the West Cascade forest types, a diversity of species restricted to old-growth forests, and excellent quality aquatic habitats (Munn 1991) (Table 1).

Low elevation forests are dominated by Douglas-fir, western hemlock, western red cedar, and to a lesser extent by the deciduous species of red alder and big leaf maple. It is diverse in composition, structure and age class. Most of the low elevation forest is representative of 400 to 500 year old stands of Douglas-fir and western hemlock. Some individual trees in this stand are over 1000 years old, ten feet in diameter and have reached heights of over 270 feet.

The higher elevation forests are dominated by Pacific silver fir. Many of the same tree species that are present in the low elevation forests are also present in the silver fir zone. The primary difference is that snowfall becomes a prominent environmental factor at these elevations and overall temperatures are lower. Forest productivity is nearly as great as in the stands dominated by Douglas fir and western hemlock.

The Opal Creek old-growth watershed provides habitat for a number of old-growth dependent species including thirteen nesting pairs of northern spotted owls (federally threatened), wolverines (federal candidate), Townsend's big-eared bat (federal candidate), pine martens (species of concern), Gorman's aster (federal candidate), Cascade fleabane, northern bog clubmoss and moonwort (species of concern in Oregon). The creeks and rivers in this basin support a high quality resident fishery of wild rainbow trout, native spring chinook salmon and summer steelhead as well as tailed frogs (species of concern in Oregon). The large scale and extremely high quality of the Opal Creek Watershed provides an important opportunity to protect a unique genetic resource. The forest also provides a genetic reserve for the restoration of other Cascade range watersheds which must be rehabilitated to ensure the long term health of the Oregon Cascade range and all the species found within.

Mr. Chairman, Members of the Subcommittee, we urge you to support passage of H.R. 3905 to ensure that the Opal Creek old-growth watershed and the unique, complex ecosystem it represents is permanently protected.

Table 1: Element occurrences in the Opal Creek Old-growth Watershed

Element	Federal/State Status
<u>Rare Plants:</u>	
Aster gormanii (Gorman's Aster)	Federal Candidate
Erigeron cascadenis (Cascade fleabane)	Species of Concern
Botrychium lunaria (moonwort)	Species of Concern
Lycopodium inundatum (bog club-moss)	Species of Concern
<u>Rare Animals:</u>	
Strix occidentalis (northern spotted owl)	Listed Threatened
Gulo gulo luteus (California wolverine)	Federal Candidate
Martes americana (pine marten)	State Critical
Plecotus townsendii townsendii (Townsend's big-eared bat)	Federal Candidate
Ascaphus truei (tailed frog)	State Vulnerable
<u>Rare Community Types:</u>	
1st-3rd order stream segment West Cascades	NA
Sub-alpine Lake	NA
Western hemlock/salal-rhododendron	NA
Western hemlock/rhododendron-Alaska huckleberry	NA
Western red cedar/dwarf Oregon grape/twinflower	NA
Silver fir/salal-Oregon grape	NA
Silver fir/rhododendron	NA
Silver fir/Alaska huckleberry	NA
Silver fir/azalea-fool's huckleberry	NA
Silver fir/Devil's chub	NA

REFERENCES

- Asquith, A.; Lattin, J.D.; Moldenke, A.R. 1990. Arthropods: The Invisible Diversity. Northwest Environmental Journal. Vol. 6:2.
- Denison, W.C. 1979. *Lobaria oregana*, a Nitrogen-Fixing Lichen in Old-Growth Douglas fir Forests. In J.C. Gordon, C.T. Wheeler, and D.A. Perry, eds. Symbiotic Nitrogen Fixation in the Management of Temperate Forests. Forestry Research Laboratory, Oregon State University, Corvallis, OR.
- Munn, N.L. 1990. Opal Creek Report. Unpublished report to The Nature Conservancy, Oregon Field Office. 33p.
- Norse, E.A. 1990. Ancient Forests of the Pacific Northwest. Washington, D.C.: Island Press. 327p.

Trygve P. Steen
Biologist - Photographer
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May 12, 1994
Phone 503-645-1992

House of Representatives
Agriculture Committee
Subcommittee on Specialty Crops and Natural Resources
Room 1301, Longworth House Office Building
Washington, D.C. 20515

Re: HR 3905, the Opal Creek Forest Preserve Act of 1994

Gentlemen:

I am writing to strongly support HR 3905, the Opal Creek Forest Preserve Act of 1994. I do this from the perspective of a person who: 1) has spent substantial time in the Opal Creek area; 2) has an intense interest in environmental and land use planning issues; 3) has flown over and been on the ground in every national forest in the region; 4) has a Ph.D. in Biology and is professor of Biology at Portland State University; and 5) teaches Old Growth Forest Ecology and Understanding the Environment, a general environmental studies course.

Based on my extensive landscape level observations of the forests of the Pacific Northwest, **fundamentally intact forest ecosystems like those in this proposed preserve are unique and of exceptional biological value**, especially in Oregon. I would particularly draw attention to Opal Creek's value for preservation of species diversity and for the scientific knowledge it will make possible. In my view, the highest and best use for the Opal Creek drainage (and the selected portions of adjacent drainages included in this act) would be to protect them as a natural preserve, with a major focus on scientific research. The extensive area of intact forest, including significant stands of old growth, within the Opal Creek drainage offer a valuable alternative to the H.J. Andrews Experimental Forest. Unfortunately, the significant number of experimental clearcuts on the Andrews detract from that area's ability to offer landscape level opportunities for study as well as for biodiversity protection. Fortunately, this preserve will offer a place we can turn to for information when our current paradigms for management prove to be inadequate. Note, I am in the process of developing a canopy research project in an old growth stand within this proposed preserve area. Passage of this act will be invaluable for my project as well as any others that are begun, because ecological research typically requires long term access to a naturally functioning ecosystem.

I look forward to your appropriate protection of the **IRREPLACEABLE** biodiversity resource values we have in the OPAL CREEK area. **We need this area in its natural state for the sustained yield of information it can give**, as opposed to a few more board feet of lumber. Do not hesitate to contact me if I can be of further help. Please keep me posted in relation to the progress of this bill toward passage into law. Thank you.

Sincerely yours,



Trygve P. Steen, Ph.D.
Professor of Biology

DEPARTMENT OF FOREST SCIENCE



OREGON STATE UNIVERSITY

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26 October, 1993

Comments on H. R. 3905, Opal Creek Forest Preserve Act of 1994

by

James M. Trappe
Professor, Department of Forest Science
Oregon State University

Mr. Chairman and Members of the Subcommittee on Specialty Crops and Natural Resources:

I had hoped to present an oral statement and extend my appreciation to Chairman Rose and the Subcommittee for offering me that opportunity. To my great regret, scheduling conflicts prevent my appearance, so I offer these written comments.

I have been privileged to be involved in research and teaching on the role of fungi in forest ecosystems for the past 35 years. As Past President of the Mycological Society of America and the Northwest Scientific Association, I have had exceptional opportunity for in-depth association with researchers and educators in forestry and botany across the country. These contacts over the years have provided insights into teaching and research needed to develop the information and trained personnel required for sound, scientific management of the nation's forests, especially in the Pacific Northwest.

The proposed Opal Creek Forest Preserve is unique in being a large watershed largely undisturbed by man's activities but including excellent and historic facilities at Jawbone Flats for research and teaching of field courses. It ranges from low-elevation ancient forests to subalpine habitats. The Pacific Northwest has other environmental teaching and research centers, such as the Cispus Center in Washington State. None of them, to my knowledge, are situated in or close to a large tract of undisturbed forest. At Jawbone Flats, the researcher or student can enter the ancient forest with less than a five-minute stroll.

The report of the President's Forest Ecosystem Management Assessment Team (FEMAT) has brought to public attention the rapidly diminished area of old-growth forest in the Pacific Northwest. Yet it is through such forests that we can learn what constitutes ecosystem health and how to sustain productivity. Such forests represent the world's longest and most extensive experiment, evolution. No experiments man can contrive can offer better insights on how ecosystems as a whole sustain their productivity. Issues of biodiversity and global climate change can be probed deeply only by study of such forests. I cannot emphasize too strongly the need for a preserve such as Opal Creek for this purpose, especially in terms of the most highly productive, low elevation sites and their gradation to the higher elevation systems.

I have used Opal Creek reserve in some of my past research, and I intend to use it even more in the future. Perhaps even more importantly, I want to expose my students and other young people to the Opal Creek ecosystems as a nonpareil learning experience.

I urgently recommend adoption of H. B. 3905.



James M. Trappe

DEPARTMENT OF FOREST SCIENCE



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Comments on H. R. 3905, Opal Creek Forest Preserve Act of 1994

by

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Mr. Chairman and Members of the Subcommittee on Specialty Crops and Natural Resources:

I had hoped to present an oral statement and extend my appreciation to Chairman Rose and the Subcommittee for offering me that opportunity. To my great regret, scheduling conflicts prevent my appearance, so I offer these written comments.

I have been privileged to be involved in research and teaching on the role of fungi in forest ecosystems for the past 35 years. As Past President of the Mycological Society of America and the Northwest Scientific Association, I have had exceptional opportunity for in-depth association with researchers and educators in forestry and botany across the country. These contacts over the years have provided insights into teaching and research needed to develop the information and trained personnel required for sound, scientific management of the nation's forests, especially in the Pacific Northwest.

The proposed Opal Creek Forest Preserve is unique in being a large watershed largely undisturbed by man's activities but including excellent and historic facilities at Jawbone Flats for research and teaching of field courses. It ranges from low-elevation ancient forests to subalpine habitats. The Pacific Northwest has other environmental teaching and research centers, such as the Cispus Center in Washington State. None of them, to my knowledge, are situated in or close to a large tract of undisturbed forest. At Jawbone Flats, the researcher or student can enter the ancient forest with less than a five-minute stroll.

The report of the President's Forest Ecosystem Management Assessment Team (FEMAT) has brought to public attention the rapidly diminished area of old-growth forest in the Pacific Northwest. Yet it is through such forests that we can learn what constitutes ecosystem health and how to sustain productivity. Such forests represent the world's longest and most extensive experiment, evolution. No experiments man can contrive can offer better insights on how ecosystems as a whole sustain their productivity. Issues of biodiversity and global climate change can be probed deeply only by study of such forests. I cannot emphasize too strongly the need for a preserve such as Opal Creek for this purpose, especially in terms of the most highly productive, low elevation sites and their gradation to the higher elevation systems.

I have used Opal Creek reserve in some of my past research, and I intend to use it even more in the future. Perhaps even more importantly, I want to expose my students and other young people to the Opal Creek ecosystems as a nonpareil learning experience.

I urgently recommend adoption of H. B. 3905.



James M. Trappe



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