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Forest Conference-Opal Creek [1]

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8/5/94

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AMENDMENT IN THE NATURE OF A SUBSTITUTE
To H.R. 3905
OFFERED BY MR. VENTO

Strike all after the enacting clause and insert the
following:

1 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the

3 “Opal Creek Forest Preserve Act of 1994”

4 (b) TABLE OF CONTENTS.—The table of contents for

5 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. Authority of the Secretary and responsible parties to conduct environ-
mental response actions or pursue liability.

Sec. 9. Grandfather clause.

6 SEC. 2. FINDINGS AND PURPOSE.

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

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

11 (2) Old-growth forests provide clean and plenti-
12 ful water and support streams and rivers containing
13 runs of anadromous and resident cold water fish,
14 which are wholly dependent on high quantity and

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1 quality water for migration, spawning, rearing, and
2 cover.

3 (3) The high quantity and quality of water in
4 streams and rivers in old-growth forests can only be
5 maintained by protecting the watersheds of these
6 streams and rivers.

7 (4) Old-growth forests provide unique and out-
8 standing opportunities for educational study, sci-
9 entific research, and recreation.

10 (5) The establishment of a watershed and forest
11 preserve to protect areas of old-growth forests and
12 surface waters can contribute significantly to the
13 quality of life for the residents of the State of Or-
14 egon through education, recreation, and a protected
15 water supply.

16 (6) The area known as the Opal Creek Forest,
17 located on the upper Little North Fork of the
18 Santiam River in the State of Oregon, contains one
19 of the largest remaining intact old-growth forest
20 ecosystems in the Western Oregon Cascades. Al-
21 though the landscape mosaic in the Opal Creek For-
22 est may reflect some past logging, young stands of
23 trees in the area mainly owe their existence to natu-
24 ral disturbances, chiefly wildfire.

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1 (7) The Opal Creek Forest contains outstand-
2 ing geological and botanical features and contains
3 attributes of historic and prehistoric importance.

4 (8) The recreational use of the Opal Creek For-
5 est, typically in the form of hiking, sightseeing, and
6 the general enjoyment of the outdoor environment, is
7 significant and likely to increase.

8 (9) It is desirable to limit the human-related
9 disturbances and development of the Opal Creek
10 Forest in order to protect fully the special features
11 of the forest and maintain the full potential of its
12 watershed for scientific, educational, and research
13 purposes.

14 (10) Preservation of the Opal Creek Forest pro-
15 vides outstanding opportunities for scientists to con-
16 duct research regarding old-growth forests and for
17 educators to provide scientifically credible informa-
18 tion to the public.

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

20 (1) to protect and preserve the forests and wa-
21 tersheds contained in the Opal Creek Forest Pre-
22 serve;

23 (2) consistent with paragraph (1), to promote
24 and conduct—

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1 (A) research in the Preserve regarding old-
2 growth forests in a manner that does not in-
3 clude the harvesting of timber or otherwise
4 damage the ecosystem; and

5 (B) educational programs in the Preserve
6 on old-growth forests and cultural and historic
7 resources in the Preserve; and

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

10 **SEC. 3. DEFINITIONS.**

11 For purposes of this Act:

12 (1) **PRESERVE.**—The term “Preserve” means
13 the Opal Creek Forest Preserve established in sec-
14 tion 4(a).

15 (2) **MANAGEMENT PLAN.**—The term “manage-
16 ment plan” means the management plan for the
17 Preserve developed pursuant to section 5(b).

18 (3) **SECRETARY.**—The term “Secretary” means
19 the Secretary of Agriculture.

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

21 (a) **ESTABLISHMENT OF PRESERVE.**—There is here-
22 by established the Opal Creek Forest Preserve in order
23 to protect and preserve the forests and watersheds in the
24 Preserve and to promote the research, educational, and
25 recreational purposes of this Act.

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1 (b) DESCRIPTION OF PRESERVE.—The Preserve shall
2 consist of those Federal lands located in the Willamette
3 and Mt. Hood National Forests in the State of Oregon
4 that are generally depicted on the map dated August
5 1994, and entitled the “Opal Creek Preserve Area”. The
6 Preserve shall also include such lands as may be added
7 under section 7 of this Act. The map referred to in this
8 subsection shall be kept on file and made available for
9 public inspection in the Office of the Chief of the Forest
10 Service, United States Department of Agriculture.

11 SEC. 5. ADMINISTRATION OF THE PRESERVE.

12 (a) IN GENERAL.—The Secretary shall administer
13 the Preserve in accordance with this Act and with the
14 laws, rules, and regulations applicable to National Forest
15 System lands in a manner that will further the purposes
16 of this Act.

17 (b) MANAGEMENT PLAN.—The Secretary shall pre-
18 pare a comprehensive management plan for the Preserve
19 to achieve the purposes of this Act. The management plan
20 shall be considered to be a nonsignificant amendment to
21 the Willamette and Mt. Hood Forest Land and Resource
22 Management Plans. The management plan shall be pre-
23 pared with public involvement which shall include con-
24 sultation with interested individuals and organizations.
25 The Secretary may enter into memoranda of understand-

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ing with interested parties to accomplish the purposes of this Act. The management plan shall include analysis and direction on the use of campfires within the Preserve.

(c) PROTECTION OF CULTURAL AND HISTORIC RESOURCES.—Not later than one year after the date of the enactment of this Act, the Secretary shall review and revise the inventory of the cultural and historic resources in the area covered by the Preserve, which was originally developed pursuant to the Oregon Wilderness Act of 1984 (Public Law 98-328; 16 U.S.C. 1131 note). The Secretary shall submit a report to Congress describing the results of the review of such inventory.

(d) APPLICABILITY OF MINING, MINERAL LEASING, AND DISPOSAL LAWS.—

(1) RESTRICTION.—After the date of the enactment of this Act—

(A) lands within the Preserve shall not be open to the location of mining claims and mill and tunnel sites under the general mining laws of the United States;

(B) the Secretary shall not issue any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following) for lands within the Preserve; and

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1 (C) lands within the Preserve shall not be
2 available for disposal of mineral materials under
3 the Act of July 31, 1947, commonly known as
4 the Materials Act of 1947 (30 U.S.C. 601 and
5 following).

6 (2) ACQUIRED LANDS.—The restriction pro-
7 vided by paragraph (1) shall also apply to any Fed-
8 eral lands added to the Preserve after the date of
9 the enactment of this Act, except that the restriction
10 shall apply to such lands only upon addition to the
11 Preserve.

12 (e) PRIVATE INHOLDINGS.—The Secretary may co-
13 operate with, and provide technical assistance to, private
14 landowners, organizations, and other entities holding pri-
15 vate lands within the boundaries of the Preserve to pro-
16 mote the use and management of such lands in a manner
17 consistent with the purposes of this Act.

18 SEC. 8. PROHIBITIONS REGARDING THE MANAGEMENT OF
19 THE PRESERVE.

20 (a) PROHIBITION ON LOGGING OR OTHER TIMBER
21 HARVESTING.—

22 (1) PROHIBITION.—Except as provided in para-
23 graph (2), the cutting of trees in the Preserve is
24 prohibited.

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

5 (A) for public safety, such as to control the
6 spread of a forest fire in the Preserve or on
7 lands adjacent to the Preserve; or

8 (B) for administrative use related to activi-
9 ties permitted in the Preserve.

10 (3) LIMITATION ON EXCEPTION.—The cutting
11 of trees authorized under paragraph (2) may not in-
12 clude salvage sales or harvests of commercial quan-
13 tities of timber in the Preserve.

14 (4) COLLECTION OF DOWNED WOOD.—The col-
15 lection of downed wood for firewood by permit may
16 be allowed in a manner consistent with the purposes
17 of this Act.

18 (b) PROHIBITION ON OFF ROAD MOTORIZED TRAV-
19 EL.—

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

24 (2) EXCEPTION.—The prohibition contained in
25 paragraph (1) shall not apply to the extent that the

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1 Secretary determines that the use of a motor vehicle
2 off or outside of the established roadbed of a road
3 in the Preserve is necessary for administrative pur-
4 poses or to respond to an emergency.

5 (c) PROHIBITION ON USE OF CERTAIN ROADS.—

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

10 (A) Forest road 2209 from the gate in ex-
11 istence on the date of the enactment of this Act
12 eastward to the intersection of the road with
13 the wilderness boundary.

14 (B) Forest roads 290 and 330, which are
15 spur roads to the road described in subpara-
16 graph (A).

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

22 (3) RULE OF CONSTRUCTION.—Nothing in this
23 subsection shall be construed to prohibit inholders
24 and claim holders of valid mining claims from using
25 the roads described in paragraph (1) for ingress and

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1 egress to their inholdings or valid mining claims,
2 subject to such reasonable terms and conditions,
3 consistent with the purposes of this Act, as the Sec-
4 retary may prescribe. Nothing in this subsection
5 shall be construed to prohibit motor vehicle traffic
6 on other roads established in the Preserve, in par-
7 ticular those forest roads providing access for claim
8 holders of valid mining claims for the use of lands
9 in the Preserve or within the Cedar Creek watershed
10 within two miles outside of the boundaries of the
11 Preserve.

12 (d) PROHIBITION ON ROAD CONSTRUCTION.—

13 (1) PROHIBITION.—Except as provided in para-
14 graph (2) and subsection (e), and subject to valid
15 existing rights, the construction of new roads is pro-
16 hibited in the Preserve.

17 (2) EXCEPTIONS.—The prohibition contained in
18 paragraph (1) shall not apply to the extent that the
19 Secretary determines that the construction of new
20 roads, or the improvement of existing roads, in the
21 Preserve is necessary to accomplish the purposes of
22 this Act or to provide access to inholdings or for
23 claim holders of valid mining claims for the use of
24 lands in the Preserve or within the Cedar Creek wa-
25 tershed within two miles outside of the boundaries of

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1 the Preserve. The Secretary may maintain or im-
2 prove roads in the Preserve to the extent the Sec-
3 retary determines that such maintenance or im-
4 provements are necessary to accomplish the purposes
5 of this Act, to provide for the protection of the natu-
6 ral resources of the Preserve, to provide for public
7 safety, or to ensure access for inholders and claims
8 holders of valid mining claims for the use of lands
9 in the Preserve or within the Cedar Creek watershed
10 within two miles outside of the boundaries of the
11 Preserve.

12 (3) LIMITATION ON EXCEPTION.—The con-
13 struction or improvement of roads in the Preserve
14 pursuant to paragraph (2) or subsection (e) may not
15 include paving or any work beyond 50 feet on either
16 side of the centerline of the road bed.

17 (e) UTILITIES AND ACCOMPANYING ROAD.—In com-
18 pliance with applicable laws and the Willamette National
19 Forest Land and Resource Management Plan, the Sec-
20 retary may allow the installation and maintenance of
21 power lines and water lines (and an accompanying service
22 road) through the Preserve to serve authorized activities
23 conducted on land within the Cedar Creek watershed with-
24 in two miles outside of the boundaries of the Preserve.

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1 SEC. 7. ACCESS TO AND ACQUISITION OF NON-FEDERAL
2 LAND.

3 (a) INVENTORY AND ACQUISITION OF NON-FEDERAL
4 LANDS.—The Secretary shall conduct an inventory of all
5 non-Federal lands and interests in lands within the bound-
6 aries of the Preserve. The Secretary may acquire such
7 inventoried lands (or interests in such lands) for inclusion
8 in the Preserve. The Secretary may not acquire, for inclu-
9 sion in the Preserve, any lands or interests in lands within
10 the boundaries of the Preserve without the consent of the
11 owner, unless the Secretary determines that the land is
12 being developed or managed (or is proposed to be devel-
13 oped or managed) in a manner inconsistent with the pur-
14 poses of this Act. Nothing in this Act may be construed
15 to prevent the Secretary from increasing the size of the
16 Preserve.

17 (b) SPECIAL RULE FOR SANTIAM NO. 1 LODGE MIN-
18 ING CLAIM.—Notwithstanding subsection (a), the parcel
19 of real property located within the boundaries of the Pre-
20 serve that is known as the Santiam No. 1 lode mining
21 claim and identified in section 8140 of the Department
22 of Defense Appropriations Act, 1992 (Public Law 102-
23 172; 105 Stat. 1213), may be acquired by the Secretary
24 only—

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

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1 (A) the amount that the original patentee
2 of the parcel paid for the parcel; and

3 (B) the cost of any improvements made to
4 the parcel by the patentee; or
5 (2) by donation.

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

10 (d) ACCESS AND UTILITIES TO INHOLDINGS.—

11 (1) IN GENERAL.—In the case of private
12 inholdings located within the boundaries of the Pre-
13 serve, the Secretary shall authorize the use of Fed-
14 eral land in the Preserve by the holder of the
15 inholding to assure adequate access to the inholding
16 under applicable law.

17 (2) JAWBONE FLATS.—With respect to the
18 inholding known as the Jawbone Flats area, the Sec-
19 retary shall authorize the use of Federal land in the
20 Preserve by the owners of the inholding to provide
21 for access and utilities for a facility in the inholding
22 if the Secretary determines that the facility (and use
23 of the facility) is consistent with the purposes of this
24 Act.

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

6 **SEC. 8. AUTHORITY OF THE SECRETARY AND RESPONSIBLE**
7 **PARTIES TO CONDUCT ENVIRONMENTAL RE-**
8 **SPONSE ACTIONS OR PURSUE LIABILITY.**

9 (a) REMEDIATION ACTIVITIES.—Nothing in this Act
10 shall be construed to limit the authority of the Secretary
11 or a responsible party to conduct environmental remedi-
12 ation activities in the Preserve in connection with the re-
13 lease, threatened release, or clean up of any hazardous
14 substance or pollutant or contaminant, including response
15 actions conducted pursuant to the Comprehensive Envi-
16 ronmental Response, Compensation, and Liability Act of
17 1980 (42 U.S.C. 9601 et seq.).

18 (b) LIABILITY.—Nothing in this Act shall be con-
19 strued to limit the authority of the Secretary or a respon-
20 sible party to address questions of liability related to the
21 release, threatened release, or clean up of any hazardous
22 substance or pollutant or contaminant in the Preserve.

23 **SEC. 9. GRANDFATHER CLAUSE.**

24 Nothing in this Act shall be construed to affect the
25 operation of any timber sale contract entered into, or

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- 1 interfere with any activity for which a special use permit
- 2 has been issued (and not revoked), before the date of the
- 3 enactment of this Act, subject to the terms of the contract
- 4 or permit.

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JUNE 23, 1994

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
To H.R. 3905
OFFERED BY MR. ROSE**

Strike all after the enacting clause and insert the following:

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

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for

5 ~~this Act is as follows:~~

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

~~Sec. 9. Grandfather clause.~~

6 **SEC. 2. FINDINGS AND PURPOSE.**

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

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

11 (2) Old-growth forests provide clean and plenti-
12 ful water and support streams and rivers containing
13 runs of anadromous and resident cold water fish,

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1 which are wholly dependent on high quantity and
2 quality water for migration, spawning, rearing, and
3 cover.

4 (3) The high quantity and quality of water in
5 streams and rivers in old-growth forests can only be
6 maintained by protecting the watersheds of these
7 streams and rivers.

8 (4) Old-growth forests provide unique and out-
9 standing opportunities for educational study, sci-
10 entific research, and recreation.

11 (5) The establishment of a watershed and forest
12 preserve to protect areas of old-growth forests and
13 surface waters can contribute significantly to the
14 quality of life for the residents of the State of Or-
15 egon through education, recreation, and a protected
16 water supply.

17 (6) The area known as the Opal Creek Forest,
18 located on the upper Little North Fork of the
19 Santiam River in the State of Oregon, contains one
20 of the largest remaining intact old-growth forest
21 ecosystems in the Western Oregon Cascades. Al-
22 though the landscape mosaic in the Opal Creek For-
23 est may reflect some past logging, young stands of
24 trees in the area mainly owe their existence to natu-
25 ral disturbances, chiefly wildfire.

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1 (7) The Opal Creek Forest contains outstand-
2 ing geological and botanical features and contains
3 attributes of historic and prehistoric importance.

4 (8) The recreational use of the Opal Creek For-
5 est, typically in the form of hiking, sightseeing, and
6 the general enjoyment of the outdoor environment, is
7 significant and likely to increase.

8 (9) It is desirable to limit the human-related
9 disturbances and development of the Opal Creek
10 Forest in order to protect fully the special features
11 of the forest and maintain the full potential of its
12 watershed for scientific, educational, and non-
13 destructive research purposes.

14 (10) Preservation of the Opal Creek Forest pro-
15 vides outstanding opportunities for scientists to con-
16 duct nondestructive research regarding old-growth
17 forests and for educators to provide scientifically
18 credible information to the public.

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

20 (1) to protect and preserve the forests and wa-
21 tersheds contained in the Opal Creek Forest Pre-
22 serve

23 (2) consistent with paragraph (1), to promote
24 and conduct—

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1 (A) nondestructive research in the Preserve
2 ~~regarding old growth forests, and~~

3 (B) educational programs in the Preserve
4 regarding old-growth forests and cultural and
5 historic resources in the Preserve; and

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

8 **SEC. 3. DEFINITIONS.**

9 For purposes of this Act:

10 (1) **PRESERVE.**—The term “Preserve” means
11 the Opal Creek Forest Preserve established in sec-
12 tion 4(a).

13 (2) **NONDESTRUCTIVE RESEARCH.**—The term
14 “nondestructive research” means research conducted
15 in the Preserve that does not involve the harvesting
16 of timber or otherwise damage the ecosystem.

17 (3) **COOPERATIVE MANAGEMENT PLAN.**—The
18 term “cooperative management plan” means the
19 management plan for the Preserve developed pursu-
20 ant to section 5(b).

21 (4) **SECRETARY.**—The term “Secretary” means
22 the Secretary of Agriculture.

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

24 (a) **ESTABLISHMENT OF PRESERVE.**—There is here-
25 by established the Opal Creek Forest Preserve in order

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1 to protect and preserve the forests and watersheds in the
2 Preserve and to promote the research, educational, and
3 recreational purposes of this Act.

4 (b) DESCRIPTION OF PRESERVE.—The Preserve shall
5 consist of those Federal lands located in the Willamette
6 and Mt. Hood National Forests in the State of Oregon
7 that are generally depicted on the map dated _____, and
8 entitled the "Opal Creek Preserve Area". The Preserve
9 shall also include such lands as may be added under sec-
10 tion 7 of this Act. The map referred to in this subsection
11 shall be kept on file and made available for public inspec-
12 tion in the Office of the Chief of the Forest Service, De-
13 partment of Agriculture.

14 SEC. 5. ADMINISTRATION OF THE PRESERVE.

15 (a) IN GENERAL.—The Secretary shall administer
16 the Preserve in accordance with this Act and with the
17 laws, rules, and regulations applicable to National Forest
18 System lands in a manner that will further the purposes
19 of this Act.

20 (b) DEVELOPMENT OF COOPERATIVE MANAGEMENT
21 PLAN.—The Secretary, acting through the Forest Service,
22 shall develop a cooperative management plan for the Pre-
23 serve that is consistent with the requirements specified in
24 this Act and other laws applicable to the Preserve. The
25 cooperative management plan shall be prepared in con-

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1 sultation with, and with significant input from, interested
2 individuals and organizations. The Secretary is strongly
3 encouraged to enter into memoranda of understanding
4 with interested parties to accomplish the purposes of this
5 Act.

6 (c) PROTECTION OF CULTURAL AND HISTORIC RE-
7 SOURCES.—Not later than one year after the date of the
8 enactment of this Act, the Secretary shall review and re-
9 vise the inventory of the cultural and historic resources
10 in the area covered by the Preserve, which was originally
11 developed pursuant to the Oregon Wilderness Act of 1984
12 (Public Law 98-328; 16 U.S.C. 1131 note). The Secretary
13 shall submit a report to Congress describing the results
14 of the review of such inventory.

15 (d) WITHDRAWAL.—Subject to valid existing rights,
16 Federal lands in the Preserve are hereby withdrawn from
17 disposition under the public land laws, from location,
18 entry, and patent under the mining laws of the United
19 States, from the operation of the mineral leasing laws of
20 the United States, and from operation of the Geothermal
21 Steam Act of 1970 (30 U.S.C. 1001 et seq.). The with-
22 drawal provided by this subsection shall also apply to any
23 Federal lands added to the Preserve after the date of the
24 enactment of this Act, except that the withdrawal shall
25 apply to such lands only upon addition to the Preserve.

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1 (a) PRIVATE INTOLDINGS.—The Soocretary shall co-
2 operate with, and provide technical assistance to, private
3 landowners, organizations, and other entities holding pri-
4 vate lands within the boundaries of the Preserve to pro-
5 mote the use and management of such lands in a manner
6 consistent with the purposes of this Act.

7 SEC. 6. PROHIBITIONS REGARDING THE MANAGEMENT OF
8 THE PRESERVE.

9 (a) PROHIBITION ON LOGGING OR OTHER TIMBER
10 HARVESTING.—

11 (1) PROHIBITION.—Except as provided in para-
12 graph (2), the cutting of trees in the Preserve is
13 prohibited.

14 (2) EXCEPTIONS.—The prohibition contained in
15 paragraph (1) shall not apply to the extent that the
16 Secretary determines that the cutting of specific
17 trees in the Preserve is necessary—

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

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

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

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

5 (b) PROHIBITION ON OPEN FIRES.—The Secretary
6 shall prohibit open fires in the Preserve except in des-
7 ignated fire rings.

8 (c) PROHIBITION ON OFF ROAD MOTORIZED TRAV-
9 EL.—

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

14 (2) EXCEPTION.—The prohibition contained in
15 paragraph (1) shall not apply to the extent that the
16 Secretary determines that the use of a motor vehicle
17 off or outside of the established roadbed of a road
18 in the Preserve is necessary to respond to an emer-
19 gency.

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

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

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1 (A) Forest road 2209 from the gate in ex-
2 istence on the date of the enactment of this Act
3 eastward to the intersection of the road with
4 the wilderness boundary.

5 (B) Forest roads 290 and 330, which are
6 spur roads to the road described in subpara-
7 graph (A).

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

13 (3) RULE OF CONSTRUCTION.—Nothing in this
14 subsection shall be construed to prohibit inholders
15 and the possessors of valid claims from using the
16 roads described in paragraph (1) for ingress and
17 egress to their inholdings or in connection with the
18 exercise of their valid claims, subject to such reason-
19 able terms and conditions, consistent with the pur-
20 poses of this Act, as the Secretary may prescribe.
21 Nothing in this subsection shall be construed to pro-
22 hibit motor vehicle traffic on other roads established
23 in the Preserve, in particular those forest roads pro-
24 viding access for persons possessing valid claims for

1 the use of lands in the Preserve or within two miles
2 outside of the boundaries of the Preserve.

3 (a) PROHIBITION ON ROAD CONSTRUCTION.—

4 (1) PROHIBITION.—Except as provided in para-
5 graph (2) and subsection (f), and subject to valid ex-
6 isting rights, the construction of new roads is pro-
7 hibited in the Preserve.

8 (2) EXCEPTIONS.—The prohibition contained in
9 paragraph (1) shall not apply to the extent that the
10 Secretary determines that the construction of new
11 roads, or the improvement of existing roads, in the
12 Preserve is necessary to accomplish the purposes of
13 this Act or to provide access to inholdings or for
14 persons possessing valid claims for the use of lands
15 in the Preserve or within two miles outside of the
16 boundaries of the Preserve. The Secretary may
17 maintain or improve roads in the Preserve to the ex-
18 tent the Secretary determines that such maintenance
19 or improvements are necessary to accomplish the
20 purposes of this Act, to provide for the protection of
21 the natural resources of the Preserve, to provide for
22 public safety, or to ensure access for inholders and
23 persons possessing valid claims for the use of lands
24 in the Preserve or within two miles outside of the
25 boundaries of the Preserve.

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1 (8) LIMITATION ON EXCEPTION.—The con-
2 struction or improvement of roads in the Preserve
3 pursuant to paragraph (2) or subsection (f) may not
4 include paving or any work beyond 50 feet on either
5 side of the road bed.

6 (f) UTILITIES AND ACCOMPANYING ROAD.—The Sec-
7 retary may allow the installation and maintenance of
8 power lines and water lines (and an accompanying service
9 road) through the Preserve to serve authorized activities
10 conducted on land within the Cedar Creek drainage within
11 two miles outside of the boundaries of the Preserve.

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

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

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1 is proposed to be developed or managed) in a manner in-
2 consistent with the purposes of this Act.

3 (b) SPECIAL RULE FOR SANTIAM NO. 1 LODE MIN-
4 ING CLAIM.—Notwithstanding subsection (a), the parcel
5 of real property located within the boundaries of the Pre-
6 serve that is known as the Santiam No. 1 lode mining
7 claim and identified in section 8140 of the Department
8 of Defense Appropriations Act, 1992 (Public Law 102-
9 172; 105 Stat. 1213), may be acquired by the Secretary
10 only—

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

13 (A) the amount that the original patentee
14 of the parcel paid for the parcel; and

15 (B) the cost of any improvements made to
16 the parcel by the patentee; or

17 (2) by donation.

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

22 (d) ACCESS AND UTILITIES TO INHOLDINGS.—

23 (1) IN GENERAL.—In the case of private
24 inholdings located within the boundaries of the Pre-
25 serve, the Secretary shall authorize the use of Fed-

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1 eral land in the Preserve by the holder of the
2 inholding to assure adequate access to the inholding
3 under applicable law.

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

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

17 **SEC. 8. AUTHORITY OF THE SECRETARY AND RESPONSIBLE**
18 **PARTIES TO CONDUCT ENVIRONMENTAL RE-**
19 **SPONSE ACTIONS OR PURSUE LIABILITY.**

20 (a) REMEDIATION ACTIVITIES.—Nothing in this Act
21 shall be construed to limit the authority of the Secretary
22 or a responsible party to conduct environmental remedi-
23 ation activities in the Preserve in connection with the re-
24 lease, threatened release, or clean up of any hazardous
25 substance or pollutant or contaminant, including response

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1 actions conducted pursuant to the Comprehensive Envi-
2 ronmental Response, Compensation, and Liability Act of
3 1980 (42 U.S.C. 9601 et seq.).

4 (b) LIABILITY.—Nothing in this Act shall be con-
5 strued to limit the authority of the Secretary or a respon-
6 sible party to address questions of liability related to the
7 release, threatened release, or clean up of any hazardous
8 substance or pollutant or contaminant in the Preserve.

9 SEC. 9. GRANDFATHER CLAUSE.

10 Nothing in this Act shall be construed to affect the
11 operation of any timber sale contract entered into, or
12 interfere with any activity for which a special use permit
13 has been issued (and not revoked), before the date of the
14 enactment of this Act, subject to the terms of the contract
15 or permit.

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FROM OUR STAFF SEC

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5-11-94 : 9:58AM : HON. MIKE KOPETSKI-202 385 4028

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MEMORANDUM FOR: THE HONORABLE AL GORE
VICE PRESIDENT OF THE UNITED STATES

From: Mike Kopetski
 Member of Congress

May 10, 1994

Subject: SPECIAL REQUEST

My number one commitment during my campaigns for the House of Representatives was the preservation of a forest in the Central Cascades known as Opal Creek. I currently have legislation, H.R. 3905, to establish the Opal Creek Preserve. The legislation is consistent with the Administration's plans for the forests in the Pacific Northwest, both in terms of management guidelines, and in terms of borders. The Agriculture Subcommittee on Specialty Crops and Natural Resources, chaired by Congressman Charlie Rose, will hold a hearing on my bill this coming Wednesday, May 18, at 10:00 a.m..

I would greatly appreciate the Administration's support for H.R. 3905, and I respectfully request that Jim Lyons, Assistant Secretary for Natural Resources and Environment at USDA, testify at the hearing in support of this measure.

Thank you for your consideration. I am, of course, available at your convenience to discuss this matter further. Again, this legislation is one of the major reasons for my running for Congress, and is one of two priorities remaining for me to accomplish before leaving.

E (KIKI) DE LA GARZA, TEXAS,
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U.S. House of Representatives Committee on Agriculture

Room 1307, Longworth House Office Building

Washington, DC 20515-6001

Date: 2 March

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02-26-94

Opal Creek

Administration Agrees With Kopetski About Opal Creek Protection
By SCOTT SONNER=

WASHINGTON (AP) The Clinton administration supports an Oregon congressman's proposal to create a 30,000-acre forest preserve at Opal Creek and already has included the idea in its Northwest forest plan, an official says.

Rep. Mike Kopetski, D-Ore., said he will push for the legislation anyway because he wants the lands with some 1,000-year-old trees to be off limits to logging permanently.

Clinton's proposed reserve could be altered by future administrations or by an act of Congress. The president's plan also would allow for some thinning or salvage logging in the reserves, while Kopetski's bill would not, an aide to Kopetski said.

"Opal Creek is, plain and simple, among the crown jewels of Northwest old-growth forests," Kopetski said in introducing the bill on Thursday.

The congressman said the battle over Opal Creek has divided the local community.

"It is time to end this war," he said in a House floor speech. "For too long, this area has been left in limbo, with the continual threat of logging hanging like a storm cloud on the horizon of this gift of nature."

Kopetski added 1,000 acres to a similar proposal he introduced in 1992. The new preserve would encompass the Elkhorn, Cedar, Opal Creek and other valleys.

Lauri Hennessey, spokeswoman for the U.S. Office of Forestry and Economic Development in Portland, Ore., said on Friday that Kopetski has "a good bill."

"It is an important bill one that a lot of Oregonians care about," she said.

"Our one concern is that this forest plan is about resolving this issue across agencies, across boundaries, across all levels of government, rather than area by area. We hope our region-wide effort will provide an answer to the forest crisis."

The centuries-old forest includes four pristine lakes, 45 miles of free-flowing streams and 50 waterfalls. Kopetski estimated that the area draws 1,500 visitors annually.

Rob Freres, the vice president of Freres Lumber Co., said those who favor preservation of Opal Creek should offer a land swap that would free up logging in another section of the Willamette Forest.

"In comparison to the 20 million other acres that are proposed

~~CS 0015 2/26/94~~
**Clinton administration
supports proposal
for forest preserve**

The Clinton administration supports an Oregon congressman's proposal to create a 30,000-acre forest preserve at Opal Creek and already has included the idea in its Northwest forest plan, an official said Friday.

Rep. Mike Kopetski, D-Ore., said he will push for the legislation anyway because he wants the lands with some 1,000-year-old trees to be off-limits to logging permanently.

Clinton's proposed reserve could be altered by future administrations or by an act of Congress. The president's plan also would allow for some thinning or salvage logging in the reserves, while Kopetski's bill would not, an aide to the congressman said.

"Opal Creek is, plain and simple, among the crown jewels of Northwest old-growth forests," Kopetski said in introducing the bill Thursday.

The centuries-old forest includes four pristine lakes, 43 miles of free-flowing streams and 50 waterfalls. Kopetski estimated that the area draws 1,500 visitors annually.

Rob Freres, the vice president of Freres Lumber Co., said those who favor preservation of Opal Creek should offer a land swap that would free logging in another section of the Willamette National Forest.

"In comparison to the 20 million other acres that are proposed for lockup, Opal Creek isn't anything special," Freres said.

White House favors bill to protect Opal Creek

S-J 2/26/94

The Associated Press

WASHINGTON — The Clinton administration supports an Oregon congressman's proposal to create a 80,000-acre forest preserve at Opal Creek, an official said Friday.

In fact, President Clinton already has included the idea in his Northwest forest plan, said Lauri Hennessey, a spokeswoman for the U.S. Office of Forestry and Economic Development in Portland.

"Our one concern is that this forest plan is about resolving this issue across agencies, across boundaries, across all levels of government, rather than area by area," Hennessey said.

Rep. Mike Kopetski, D-Ore., said Friday that he would keep pushing for his bill because he wants the area to be off limits to logging permanently.

Clinton's proposed reserve could be altered by future administrations or Congress, he said. Clinton's plan also would allow for some thinning or salvage logging there.

"Opal Creek is, plain and simple, among the crown jewels of Northwest old-growth forests," Kopetski said Thursday in introducing his bill.

He added 1,000 acres to a similar proposal he had introduced in 1992. The preserve would encompass the Elkhorn, Cedar, Opal Creek and other valleys, containing 1,000-year-old trees and pristine waterways.

Rob Freres, the vice president of Freres Lumber Co., said Thursday that those who favor preservation of Opal Creek should offer a land swap that would free logging in another section of the Willamette National Forest.

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