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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

*file w/ E.P.,
"Opal Creek"*

September 30, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-3936

TO: Legislative Liaison Officer -

INTERIOR - Jane Lyder - (202)208-4371 - 329
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
EPA - Thomas C. Roberts - (202)260-5414 - 326
GSA - William R. Ratchford - (202)501-0563 - 237

FROM: RONALD K. PETERSON (for) *Ronald K Peterson*
Assistant Director for Legislative Reference

OMB CONTACT: Craig CRUTCHFIELD (395-3857)
Secretary's line (for simple responses): 395-6194
Adrienne ERBACH (395-3446)

SUBJECT: AGRICULTURE Proposed Testimony RE: HR 3905,
Opal Creek Forest Preserve Act of 1994

DEADLINE: 4:00 P.M. October 3, 1994

THIS TRANSMISSION CONTAINS _____ PAGE(S) (total).

COMMENTS: Hearing scheduled at short notice. If you do not respond by the deadline, we must assume your agency has no objection.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
K. McGinty/M. Davis
B. Burke
S. Mertens

USDA CLEARANCE DRAFT
9/30 12:30 pm

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

Before the
Subcommittee on Public Lands, National Parks and Forests
Committee on Energy and Natural Resources
United States Senate

Concerning H.R. 3905, the
"Opal Creek Forest Preserve Act of 1994"
and
S. 2359, the "Walnut Canyon National Monument
Boundary Expansion Act of 1994"

OCTOBER 5, 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" and S. 2359,
a bill "To modify the boundaries of Walnut Canyon National
Monument in the State of Arizona."

I will first address H.R. 3905.

The purpose and objectives of H.R. 3905 are basically
consistent with the Administration's plans for the area, as
described in the President's Forest Plan for the Pacific
Northwest. Therefore, we view H.R. 3905 as an acceptable
solution for providing permanent protection to the area and
would recommend enactment.

← Same as
testimony previously
given on HR 4697.
Carry-over clearance
provided.

If further amendments are possible, we would recommend consideration of amendments to address the issue of guaranteed public access.

H.R. 3905 would legislate many of the goals and objectives that were established for the Opal Creek area in the President's Forest Plan for the Pacific Northwest. 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) 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
- (4) authorize the use by Friends of Opal Creek of Federal land for access and utilities for a facility in the area known as Jawbone Flats, if the Secretary determines that the facility is consistent with the purposes of the Act.

The bill would also: (1) prohibit cutting trees within the Preserve except to provide for public safety, such as the control of a forest fire, for administrative use related to activities permitted in the Preserve, or for collection by

permit of dead wood for firewood, (2) withdraw the lands, subject to valid existing rights, from disposition under the public land laws, from entry location, and patent under the general mining laws and from operation of the mineral leasing laws and the Geothermal Steam Act, (3) prohibit the use by motor vehicles of a primary access road by the general public, (4) prohibit new road construction, with some exceptions, and (5) and authorize the Secretary to provide technical assistance to landowners, organizations, and other entities holding private lands within the boundaries of the Preserve.

The Preserve would encompass approximately 22,300 acres of National Forest. State and private land totaling about 256 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 notable 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 high quality water to a downstream anadromous salmon and steelhead fisheries. A wide array of outdoor recreation opportunities exist within the proposed Preserve.

The President's Plan designates approximately 87 percent of the Federal land within the proposed Preserve as a Late-Successional Reserve. Late-Successional Reserves are managed to protect and enhance conditions of late-successional and old-growth forest ecosystems and thereby serve as habitat for late-successional and old-growth related species including the northern spotted owl. The reserve that encompasses the Opal Creek area is one part of a late-successional reserve system of 7,430,800 acres and is designed to maintain a functional, interacting, late-successional and old-growth forest ecosystem.

Section 6(c) would prohibit, subject to valid existing rights, the use of motor vehicles on forest roads 2209, 290, and 330 by anyone other than Forest Service employees, mining claimants, and owners of private property within the Preserve. These roads provide one of the primary routes of access to the proposed Preserve. They cross several tracts of private property. Limiting public access on these roads raises concerns about preferential use for a limited group. We recommend that section 6(c) be deleted. We would prefer to deal with the subject of appropriate access in the development of a management plan, which would include public participation.

The Federal government does not have rights-of-way through these private properties. Although the bill would provide for the use of motor vehicles for administrative or emergency purposes and other limited access, motor vehicle use of the

roads by the general public effectively would be prohibited. Guaranteed public access to the Preserve is contingent on acquisition of, at a minimum, a right-of-way across these inholdings. The Friends of Opal Creek recognize the need for public rights-of-way across their lands and have indicated a willingness to grant a limited right-of-way. Discussions between the Forest Service and Friends of Opal Creek are continuing on the subject of access and other matters relating to Opal Creek. We would like to work with the Subcommittee to clarify the acquisition authority in section 7. Several inholdings owned by Friends of Opal Creek were patented in 1991 and then donated to the organization by the patentee. We are concerned with the potential cost of acquiring this land at fair market value. We would prefer that the bill be amended to condition the establishment of the Preserve upon the receipt of adequate rights-of-way donated by the Friends of Opal Creek.

In summary, 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 President's plan for the Pacific Northwest provides administrative protection for Opal Creek and we would support legislated protection for the area. We would be happy to work with the Subcommittee to develop mutually acceptable language to address our remaining concerns.

Supplemental Statement
Comparison of
President's Forest Plan Designation
To H.R. 3905 as Passed by the House

	<u>Acres</u>
Total acres within the Proposed Preserve Boundary	22,542
Private/State Ownership	<u>256</u>
Federal Ownership	22,286

President's Forest Plan Management Designations.	
Late-Successional Reserve (LSR)	19,413
Administratively Withdrawn Areas	1,440
Matrix (Subject to managed Timber Harvest	<u>1,433</u>
	22,286

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