

# MISCELLANEOUS PUBLIC LANDS AND FORESTS BILLS

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## HEARING BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE ONE HUNDRED TENTH CONGRESS FIRST SESSION ON

|                |                 |
|----------------|-----------------|
| <b>S. 1143</b> | <b>S. 1377</b>  |
| <b>S. 1433</b> | <b>S. 1608</b>  |
| <b>S. 1740</b> | <b>S. 1802</b>  |
| <b>S. 1939</b> | <b>S. 1940</b>  |
| <b>S. 2034</b> | <b>H.R. 815</b> |

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SEPTEMBER 20, 2007



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JEFF BINGAMAN and PETE V. DOMENICI are Ex Officio Members of the Subcommittee

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## Miscellaneous Public Lands and Forests Bills

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THURSDAY, SEPTEMBER 20, 2007

U.S. SENATE,  
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:30 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Ron Wyden presiding.

### OPENING STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN [presiding]: The subcommittee will come to order. I especially want to thank both Chairman Bingaman and our ranking minority member and friend from New Mexico, Senator Domenici for his thoughtfulness, my colleague who has come.

We're going to hear testimony today on several land use bills: S. 1377 to direct the Secretary of the Interior to convey to the city of Henderson certain Federal land located in the City; S. 1433 to amend the Alaskan National Lands Conservation Act to provide competitive status to certain Federal employees; S. 1608 and H.R. 815 to provide for the conveyance of certain land in Clark County, Nevada for use by the Nevada National Guard; S. 1740 to amend the North Dakota Statement Act and the Morrill Act to provide for the management of public land trust in the State of North Dakota; S. 1802 to adjust the boundaries of the Frank Church River of No Return Wilderness in the State of Idaho; S. 1939 to provide for the conveyance of certain land in the Santa Fe National Forest in New Mexico; S. 1940 to reauthorize the Rio Puerco Watershed Management Program; S. 1143 to designate the Jupiter Inlet Lighthouse and the surrounding Federal land in the State of Florida as an Outstanding Natural Area and as a unit of the National Landscape System and S. 2034 the Copper Salmon Wilderness Act, a bill I introduced to increase the existing wilderness and a natural treasure near the southern Oregon coast.

We anticipate these bills being non-controversial so hope to move very quickly. I'm going to recognize my friend in just a moment, but would just like to make a couple of quick comments about the Copper Salmon Wilderness Area which is on the beautiful Oregon coast. I am joined in this effort by my colleague, Congressman DeFazio and we are seeking protection for the lush rain forests of the Siskiyou River National Forest at the head waters of the North Fork of the Elk River which is a special gem known as the Copper Salmon area.

Our legislation would designate Copper Salmon as wilderness and provide permanent protection to 13,700 acres of new wilderness. It would also designate 9.3 miles of wild and scenic rivers. The designations, in particular, would protect the watershed and ensure that hunting and fishing opportunities are protected for all time in the Copper Salmon area.

Over the last decade and in particular, during town hall meetings that I've held on the Oregon coast I've been struck by the fact that so many local leaders have been working regardless of political philosophies and parties and different views on scores of subjects to protect Copper Salmon. Again and again they have urged me to introduce this legislation. When you make a trip to beautiful Curry County in Oregon what you will invariably see is supporters all through the community carrying buttons and banners and badges urging the Congress to protect their Copper Salmon. So I say to them, particularly the folks who have journeyed across the land from Curry County and this afternoon to be with the U.S. Senate, I have heard your plea.

I thank you for all of your involvement. It's time that we come together regardless of political philosophy and political party to permanently protect this special place. I'm very pleased that there has been strong support for this measure from the Port Orford Chamber of Commerce, the Mayor of Port Orford and the Curry County Commissioners, certainly the majority of the guides, lodges and local citizens are already on record of supporting the proposal. It is a renowned area for fishing families.

It is one of the last intact watersheds on the Southwest Oregon coast, 80 percent of the watershed still being intact. The Elk has healthy wild runs of winter steelhead and Chinook. It's also home to Coho salmon and sea run cut-throat trout as well as resident cut-throats and rainbow trout.

Oregon State University researchers, some of the best in the country, believe it is one of the healthiest fish streams in the lower 48. We think there's a reason for it and that is intact habitat. This habitat also supports healthy populations of black tailed deer, elk, black bear and mountain lion.

As our population grows we are going to have to make sure that we match this growth with protection of our natural heritage. Protection of these areas is going to ensure that Oregonians and visitors will continually enjoy opportunities to hike and hunt healthy populations of elk, black tailed deer, black bear and catch trophy size Chinook and steelhead.

I want to thank the witnesses who have made the trek across the land. We have only one non-stop to Washington DC and I know what it is like for them to make the journey, Jim Auburn, the Mayor of Port Orford and Jim Rogers with Friends of Elk River. I'm going to ask all of our witnesses to try to summarize their remarks in about 5 minutes.

Several of my colleagues have joined us. I'm very pleased that Senator Barrasso is here. He's going to be the ranking member for today's hearing. In addition to great expertise on natural resources, he brings similar expertise on health care so if we sit through these hearings we can take care of natural resources, health care and show the Congress the way to work in a bi-partisan fashion. I

thank my colleague for coming. We'll recognize you next. Then we have Senator Smith, my friend and colleague from Oregon who I know has strong feelings about the matter as well.

[The prepared statements of Senators Domenici and Martinez follow:]

PREPARED STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO, ON S. 1939 AND S. 1940

Chairman Wyden, thank you for holding this hearing today. I have asked Senator Barrasso to fill in as the Ranking Member of the Public Lands and Forests Subcommittee for today's hearing.

I want to spend just a moment on the two bills that Senator Bingaman and I have introduced.

S. 1939

In 2003, the Interior Board of Land Appeals ruled that a homestead patent for a tract of land in the upper Pecos River Canyon issued in 1888 to Ramona Lawson's grandfather, Cristino Rivera, erroneously failed to include the main house, cabin, and various outbuildings, corrals, etc., as part of the homestead entry.

This bill will authorize the Forest Service to resolve a longstanding land claim by conveying a small parcel of land (6.2 acres) directly to Ms. Ramona Lawson in return for a scenic easement over the property.

S. 1940

The second is S. 1940, to reauthorize the Rio Puerco Watershed Management Program. The Rio Puerco watershed is the primary source of undesirable fine sediment delivered to the Rio Grande River system. To help address this problem, in 1996, Congress directed the Bureau of Land Management, working with a committee of Federal and State agencies, to establish a clearinghouse for research and information on management within the area.

They have established an inventory of best management practices and related monitoring activities. They continue to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices. That initial authorization expired in November 2006.

S. 1940 extends that authorization for an additional ten year period at the same funding level it was authorized for in the past. I believe this legislation has been helpful and is working well.

Thank you Chairman Wyden, I look forward to this hearing.

PREPARED STATEMENT OF HON. MEL MARTINEZ, U.S. SENATOR FROM FLORIDA, ON S. 1143

Mr. Chairman, I want to thank you for including S.1143 in today's hearing before the Subcommittee on Public Lands and Forests. I am a proud cosponsor of this legislation with my colleague Senator Bill Nelson, and it is my hope that today is the first step in the process in getting the Jupiter Inlet Lighthouse and its surrounding federal lands designated as an Outstanding Natural Area in the National Landscape System.

The Jupiter Inlet Lighthouse has a very interesting and important cultural history in south Florida. The design plans for the lighthouse were drawn up by the Civil War hero, George Mead, years before his service at the Battle of Gettysburg in Pennsylvania. The government was very concerned that as American trade and ship traffic increased with the Caribbean, that a beacon was needed to warn mariners of the dangerous reefs off Jupiter Inlet that would also serve as guide for ships to travel through the inlet and reach the Atlantic gulf stream. The US Army also used the surrounding land around the lighthouse as a stockade and garrison during the Second Seminole War.

The Outstanding Natural Area designation was established by Congress primarily to protect unique scenic, scientific, educational, and recreational resources for the enjoyment of current and future generations. The designation has been used for conservation sites of approximately 100 acres in size that feature a lighthouse. Jupiter Inlet would be the second Outstanding National Area in the nation and the first east of the Mississippi River.

This designation is critical to help preserve an area around the Jupiter Inlet Lighthouse for its cultural and biological resources, in what is now a very urbanized part of Florida. Ironically, when the lighthouse was first completed in 1860, the nearest town or outpost was 120 miles away in Titusville. The lighthouse and the surrounding grounds were placed on the National Register of Historic Places in 1967. The site is also home to a myriad of special status species and provides critical habitat for endangered species like scrub jays and gopher tortoises.

S. 1143 has the support of the City of Jupiter and a dynamic preservation partnership with the Loxahatchee River Historical Society and several federal agencies in south Florida. It is my hope that this legislation will be swiftly considered and passed out of Committee so that future generations of young Floridians will be able to enjoy this unique cultural gem.

Senator Barrasso.

**STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM  
WYOMING**

Senator BARRASSO. Thank you very much, Mr. Chairman. Thank you for holding this hearing today. Senator Domenici has asked that I fill in at this meeting today as the ranking member of the Public Lands and Forests Subcommittee for the hearing. I look forward to working with other members of the subcommittee.

As you know, in Wyoming, as with you, the Forest Service and Bureau of Land Management are very important. Exchange processes are important to the people of Wyoming as well. When we look at legislative proposals to undertake exchanges, we say, should these have been able to be done administratively? I wonder about what we can do to do a better job in facilitating those exchanges. I may have a question or two about that.

I'm going to welcome the witnesses who are here today especially those who traveled such a great distance. I just spent the lunch hour with Senator Gordon Smith talking about the beauty of Oregon. I tried to get in a little bit about the beauties of Wyoming. But mostly we got to hear about the beauties of Oregon, which are many.

So with that, Mr. Chairman, thank you. I look forward to the hearing.

Senator WYDEN. I look forward to working with you.

Senator Smith.

**STATEMENT OF HON. GORDON SMITH, U.S. SENATOR  
FROM OREGON**

Senator SMITH. We were especially tasting Oregon peas and I'm sure you had your share.

Thank you, Senator Wyden, our subcommittee chairman and my colleague from Oregon for holding today's hearing. Of particular note is the bill we're focusing on, S. 2034, to designate wilderness and wild and scenic rivers in the Copper Salmon area of Southwestern Oregon. Wilderness is not a designation that I take lightly, nor is it something that I categorically oppose.

In my 10 years in the U.S. Senate, we've created Oregon's fourth largest wilderness at Steen's Mountain and are working on designating over 128,000 acres of wilderness on Mt. Hood. In both cases cooperation, support from local communities and user groups have been critical. With respect to the Copper Mountain proposal there's been tremendous if not a remarkable level of support from local elected officials, sportsmen and conservationists. This would not be



possible if we were not discussing a very special resource, unique both in its forests and its fisheries, or in more Oregonian terms, big trees and big fish.

There are only two sets of issues that I'd like to see addressed by the committee. The first being raised by the Forest Service. This has to do with a few miles of closed roads and plantation tree stands within the wilderness boundaries.

The second set of issues related to tribal access. The Copper Salmon area is of strong ancestral and historic interest to the Coquille Indian tribe. I want to be sure that the cultural gathering activities that they have historically practiced are not impeded by wilderness designation.

I believe that both sets of issues can easily be resolved in good faith between the committee, the Forest Service and the Coquille Indian tribe. That being the case, and I'm confident of that, Mr. Chairman, I ask you to add me as a co-sponsor to this legislation.

Senator WYDEN. Without objection and with considerable pleasure it is done.

Senator SMITH. I look forward to working with you on this issue. I'd also like to comment that while wilderness is indeed warranted in many areas, that we cannot lose sight of the need for active management in other areas of the Federal forest. Thank you, Mr. Chairman.

Senator WYDEN. I thank my colleague and we will work hard and together on Mt. Hood and Copper Salmon as well. I'm joined by a friend from Alaska, Senator Murkowski.

Would the Senator care to make a statement?

**STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR  
FROM ALASKA**

Senator MURKOWSKI. I would, Mr. Chairman. Thank you.

I appreciate the opportunity, Mr. Chairman, to just address very briefly one of the measures that we will have before us this afternoon. The Alaskan National Interest Lands Conservation Act, ANILCA, in 1980 set aside 100 million acres of Alaska's land to remain in Federal ownership for national interest. It doubled the size of our country's national park and refuge system, and tripled the amount of land designated as wilderness. It expanded our National Park System in Alaska by over 43 million acres, creating ten new national parks and increasing the acreage of three existing units.

At the time that ANILCA was passed, Alaskans had a lot of concerns. One of those concerns was that the Federal Land Management Agencies would bring in employees from the lower 48 to Alaska to manage these resources. We were concerned that the jobs in the parks and the forests and the refuges would be beyond the reach of the communities there.

So many of our lands are located in Bush Alaska, where opportunities for year round employment are scarce. So in response to these concerns Congress provided the Land Management Agencies with authority to hire locally. Local hire authority was limited to individuals who have special knowledge and expertise of the conservation systems that were established by ANILCA.

Now since ANILCA was enacted the Federal Land Management Agencies have sought to implement the local hire authority. But

they have been hampered in finding individuals who want to work as local hires because the local hire program doesn't allow for any career mobility. So for the past 25 years, the Federal Land Management Agencies have concluded and perhaps incorrectly, that an ANILCA local hire can only work in the Alaska Federal land unit in which he or she has special expertise or another Alaska Federal land unit with respect to which he or she can demonstrate their special expertise. This is in contrast with those with career status, who enjoy the opportunity to promotion within their agencies and not often have to move to other units for career mobility.

The present limitations are also inequitable for the 150 or so Alaskans who presently hold ANILCA local position. Many have performed in exemplary fashion but have been deemed ineligible to grow their careers through transfer or promotion. So that legislation that we have introduced, S. 1433, would address this problem by granting career status to ANILCA local hires who serve satisfactorily for a period of 2 years.

Now I understand that the Administration supports the concept of providing career status to ANILCA local hires but perhaps has a different idea of how to make that happen. I look forward to working with them on the proposed amendments that they plan to submit to committee.

I will note for the committee that this legislation is named after an individual by the name of Tom O'Hara. Tom was an Alaska Native who came from a very distinguished family in the Bristol Bay region. He lived in Napakiak and King Salmon. He worked for the National Park Service as a protection ranger and a pilot. He did so for 5 years before he was killed in the line of duty in a fatal airplane crash. His name appears on the National Law Enforcement Officers Memorial.

He was an ANILCA local hire. So we have named this Act in recognition of Tom. We know it's not going to make a difference for him, but we know that there are others who are similarly situated to Tom when he was alive and we would like to provide for these career advancements.

Thank you, Mr. Chairman for the opportunity to present this.

Senator WYDEN. Thank the Senator. We will work very closely with you on the legislation.

We're also going to enter into the record now statements from Chairman Bingaman, Senator Reid, and Senator Ensign. I will hold the record open for colleagues on both sides who'd like to make statements.

[The prepared statements of Senators Bingaman, Reid, and Ensign follow:]

PREPARED STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR FROM NEW MEXICO,  
ON S. 1939 AND S. 1940

Thank you, Mr. Chairman, for holding this hearing today. I have two bills that are of particular interest in my State of New Mexico: S.1939, the Santa Fe National Forest Title Claim Resolution Act, and S.1940, Rio Puerco Watershed Management Program Reauthorization Act.

S.1939 would resolve an ongoing dispute between a New Mexico family, Ramona and Boyd Lawson, and the Forest Service regarding a land title claim within the boundaries of the Pecos Wild and Scenic River in the Santa Fe National Forest. In accordance with an IBLA order and subsequent compromise between the Forest Service and the Lawsons, S. 1939 authorizes a small land exchange to the resolve

the title issue. I believe this bill is non-controversial and is supported by the Administration.

The second bill, S. 1940 is of particular importance to me. It reauthorizes the Río Puerco Watershed Act, which became law in 1996 and expired last year. That Act formalized the Río Puerco Management Committee, which over the past ten years has helped facilitate a collaborative approach for the restoration of the highly degraded Río Puerco Watershed, which is the largest tributary to the Río Grande in terms of area and sediment.

Over time, the Río Puerco watershed has experienced extensive ecological damage. According to the BLM, while the Río Puerco contributes less than 10 percent of the total water to the Río Grande, it represents the primary source of sedimentation entering the Upper Río Grande with far reaching effects throughout the lower portions of the river.

In my opinion, the Río Puerco Management Committee, despite being consistently underfunded, has become one of the most effective collaborative land management efforts in the Southwest. Much work remains to be done within this watershed, which is why I believe the committee should be reauthorized. I understand that a technical amendment may be needed, and I will work with the BLM to address this issue.

Senator Domenici is a cosponsor of both of these bills and with his support I hope to have both bills approved as quickly as possible.

Thank you.

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PREPARED STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM NEVADA, S. 1377

Thank you for allowing a hearing on this important legislation. The City of Henderson is now the second most populous city in Nevada and, like much of the southwest, is experiencing tremendous growth. The U.S. Census Bureau recently ranked Henderson in the top 20 growth cities in the nation. This legislation would allow Henderson to move forward with a smart growth plan and to diversify their local economy.

Specifically, this bill would direct the Bureau of Land Management (BLM) to convey approximately 502 acres near the Henderson airport to the City of Henderson for development as a business center, and for urban green spaces. Henderson would then do what cities do best—plan, zone, subdivide, and then sell the land for fair market value. The final use of the land would be restricted to nonresidential and recreational purposes. All proceeds from the sale of the land would go into the Southern Nevada Public Lands Management Act (SNPLMA) Special Account since the land sits within the disposal boundary for the Las Vegas Valley.

This legislation has garnered wide support from the City of Henderson, the Henderson Chamber of Commerce, the Henderson Development Association, and the National Association of Industrial and Office Properties, among others. This coalition has come together to support Henderson in its effort to diversify its economy, create space for important small businesses, and encourage appropriate development around an urban airport.

Finally, I have appreciated the input of the Bureau of Land Management on this legislation. Since the last hearing on this measure, I believe we have settled all of the outstanding concerns. I sincerely hope the Committee will see fit to move this bill expeditiously during the current session.

I would also like to express my support of Senator Ensign's Southern Nevada Readiness Center Act, of which I am a cosponsor. That bill would allow Clark County to transfer roughly 50 acres to the State of Nevada at no cost, for use by the Nevada National Guard. I am proud to have appropriated \$12.8 million for the construction of the new state-of-the-art military training center that now sits on the site in question.

This legislation is now necessary because Clark County, under SNPLMA, is required to charge fair market value for any lease or sale of the land. Because of the broad public benefit that would come from the conveyance of this parcel to the Nevada National Guard, this bill would waive those requirements and allow Clark County to transfer the land to the State without consideration. In sum, this legislation is an important final step toward providing Nevada's National Guard a first class facility needed to ensure proper training and troop readiness.

I greatly appreciate the distinguished Chairman and Ranking Member making time for this hearing and I look forward to working with the Committee to advance these bills.

PREPARED STATEMENT OF HON. JOHN ENSIGN, U.S. SENATOR FROM NEVADA, S. 1608

Chairman and Members of the Sub-Committee: Thank you very much for scheduling this hearing to discuss this important piece of legislation.

Mr. Chairman, this bill, which is co-sponsored by Senator Harry Reid and has already been approved by the House of Representatives thanks to Representative Jon Porter, is simple and technical in its form but profound in its implication. Simply stated, this bill would allow Clark County, Nevada, to convey land to the Nevada Division of State Lands for use by the Nevada National Guard. Broadly speaking, this bill would allow land that is already being occupied by the Nevada National Guard to be transferred to the Guard for important national defense and security purposes.

The purpose of the Nevada National Guard's new facility—the Las Vegas Readiness Center (LVRC)—is to prepare our soldiers, both physically and technically, to respond to the missions of the Governor of Nevada and the President of the United States. In addition to this facility, the National Guard will utilize the surrounding land for facility growth in vehicular maintenance and for emergency response support to first responders in weapons of mass destruction situations. Notwithstanding the various natural disasters that the National Guardsmen respond to, current conflicts abroad demand increased reliance upon the men and women who serve in the National Guard. It is only right that we do all we can to enable the National Guard to do its job.

Mr. Chairman, the LVRC has been a work in progress for a long time. It took seven years to acquire the land and funding and construct this 80,000 sq ft building. Now that the Armory is finished, between 300-400 Guardsmen are able to train and drill on the weekends. These Guardsmen include a Signal Battalion, and a Medical detachment. It is also the planned location for the 92 Civil Support Team.

Concerning the land in question, all rights, title, and interest to these lands were conveyed by the Bureau of Land Management (BLM) to Clark County, Nevada, in 1999, as directed by Section 4(g) of the Southern Nevada Public Land Management Act of 1998 (SNPLMA), for inclusion in the McCarran Airport Cooperative Management Act (CMA).

The CMA was established in 1992 through an agreement between Clark County and the BLM to manage development around McCarran Airport, which services the greater Las Vegas area. As directed by SNPLMA, approximately 5,000 acres of public land was conveyed by the BLM to Clark County for inclusion in the CMA boundary. SNPLMA requires that Clark County manage the lands in the CMA in accordance with 49 U.S.C. 47504, relating to airport noise compatibility planning, so that development in the CMA is compatible with the nature of airport operations. Further, section (4)(g) of SNPLMA requires that any conveyance of CMA lands by Clark County be for fair market value, and the revenue distributed according to the formula outlined in Section (4)(g) of SNPLMA. SNPLMA unintentionally made no provision for conveying lands at less than fair market value in cases such as the LVRC. This bill corrects that oversight.

The BLM understands that S. 1608 conveys land from one public entity to another for national defense purposes. In balancing these considerations against the provisions of SNPLMA that require the sale of CMA lands for fair market value, the BLM supports the bill and the conveyance of the CMA lands for no consideration.

Thank you Chairman and Committee Members for your time today. I hope you will join me in supporting this bill that will serve to support the men and women who stand in harms way to protect and defend our great nation.

Senator WYDEN. Let's bring forward our first panel members: Administration witness, Joel Holtrop, Deputy Chief of the National Forest System of the United States Forest Service. Mr. Michael Nedd, Assistant Director of Minerals, Realty and Resources Protection at the Bureau of Land Management which is part of the Department of Interior.

Gentlemen, we'll make your statements a part of the hearing record in their entirety and why don't, if you would beginning with you, Mr. Holtrop, if you could just summarize your comments.

**STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE**

Mr. HOLTROP. Mr. Chairman and members of the committee I appreciate the opportunity to appear before you to provide the Department's views on the bills which are on the agenda today.

S. 1802 Idaho Wilderness Boundary Modification Act. This bill would adjust the boundaries of the Frank Church River of No Return Wilderness and provide authorization for a land ownership adjustment to resolve conflicts related to unauthorized improvements. The Department would support the bill if amended to correct the survey description and provide for a more appropriate manner in which to resolve the associated land issues.

The Diamond D Ranch is located in the Challis National Forest and surrounded by the Frank Church River of No Return Wilderness. In 2001 a boundary survey identified several unauthorized improvements associated with the ranch on National Forest System lands including a portion of a water diversion and transmission pipeline in the designated wilderness. The ranch owner has offered to enter into negotiations with the Forest Service to affect an exchange of the lands containing unauthorized improvements for other interests that could be more desirable for National Forest management. The bill would retract the wilderness boundary to exclude 10.2 acres in the area of the unauthorized improvements and add approximately the same acreage to the wilderness in a nearby location.

The Department supports the bill's goals of improving wilderness characteristics while resolving long standing land management issues. We would like to work with the bill's sponsor and the committee to make technical corrections to the survey description and provide for a more appropriate land adjustment authority. We will support the bill with these amendments, and appreciate the opportunity to enhance the Frank Church River of No Return Wilderness.

S. 1939 Santa Fe National Forest Title Claim Resolution Act would authorize and direct the Forest Service to quit claim approximately 6.2 acres of Federal land to Ramona and Boyd Lawson in satisfaction of a long standing land title claim. The Department supports the enactment of this bill. The land in question is in the Santa Fe National Forest and within the boundaries of the Pecos Wild and Scenic River.

The Lawsons are successors to a land patent issued in 1888 and they claimed that a government survey of the patented land had erroneously excluded about 12 acres where their house and outbuildings were located. There were significant legal and factual issues in dispute between the government and the Lawsons that this matter could have ended up in court.

However the parties worked out a solution that is simple and equitable saving considerable time and expense for all. The Lawsons and the Forest Service agreed to limit the area of the claim to 6.2 acres which covers the land the Lawsons are actually occupying and using. In turn the Lawsons have agreed to convey to the Forest Service a conservation easement on the property to protect wild and scenic river values and to release the government from future

claims. S. 1939 will authorize the Forest Service to implement this agreement and thereby allow the Lawsons the quiet enjoyment of their home while at the same time preserving the scenic and natural environs of the Pecos Wild and Scenic River.

S. 2034 the Copper Salmon Wilderness Act. This bill would designate approximately 13,700 acres of the Rogue River-Siskiyou National Forest as wilderness and designate segments of the North and South Forks of the Elk River as additions to the existing Elk Wild and Scenic River. The Department supports this bill but requests some important adjustments to the wilderness boundary. These adjustments would allow for road maintenance activities within road clearing limits and accommodate treatments of plantations that would improve forest health and habitat diversity while increasing fire fighter safety.

The wilderness proposal comprises rugged forested land containing vast stands of Douglas fir and relatively rare Port Orford cedar trees. Most of the lands within the proposed wilderness are allocated as late successional reserves under the Northwest Forest Plan designed to serve as habitat for old growth related species. This allocation includes 2,267 acres of previously managed overstocked plantations.

Most of the plantations adjacent to forest roads that comprise a portion of the wilderness boundary, about 1,000 acres, were included in the Coastal Healthy Forest Environmental Analysis signed in 2007. Treatment of these stands would improve habitat conditions for fish and wildlife, reduce effects from insect and disease and provide defensible space for fire fighters in the event of a wildfire consistent with their allocation as late successional reserves. Wilderness designation would preclude this treatment.

The Department would like to work with the bill's sponsor and the committee to offset the wilderness boundary inward along perimeter roads to implement planned treatments within a reasonable distance of the road while providing for routine road maintenance and to decrease the likelihood of incompatible motorized use in wilderness.

Mr. Chairman and members of the committee, this concludes my testimony and I'm happy to answer any questions you may have. [The prepared statement of Mr. Holtrop follows:]

PREPARED STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM,  
FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you to provide the Department's views on the bills which are on the agenda today.

S. 1802, IDAHO WILDERNESS BOUNDARY MODIFICATION ACT OF 2007

This bill would adjust the boundaries of the Frank Church River of No Return Wilderness and provide authorization for a land ownership adjustment to resolve conflicts related to unauthorized improvements.

The Department would support the bill if amended to correct the survey description and provide for a more appropriate manner in which to resolve the associated land issues.

The Diamond D Ranch consists of three separate parcels of private land located in the Challis National Forest and surrounded by the Frank Church River of No Return Wilderness near Stanley, Idaho. In 2001, a boundary survey identified several unauthorized improvements associated with the ranch on National Forest System lands, including a portion of a water diversion and transmission pipeline in the

designated wilderness area. Most of the unauthorized improvements, which also include fences, roads, and borrow pits, predate wilderness designation. The ranch owner has offered to enter into negotiations with the Forest Service to effect an exchange of the lands containing unauthorized improvements for other interests that could be more desirable for National Forest management.

The wilderness configuration in this vicinity is an approximately 10.2 acre triangular shaped area between two private parcels. Due to the adjacency of private lands and the unauthorized improvements, this area lacks the characteristics normally associated with designated wilderness. The bill would retract the wilderness boundary to exclude the 10.2 acres and expand the wilderness boundary to add approximately the same acreage to the wilderness in a nearby location. This would adjust the Frank Church River of No Return Wilderness with no net loss of designated wilderness, while improving its overall wilderness characteristics.

In addition, through a waiver of qualifying criteria, the bill would give the Secretary the discretion to use the Small Tracts Act (P.L. 97-465) in order for the Forest Service to address the unauthorized improvements.

The Department supports the bill's goals of improving wilderness characteristics while resolving long standing land management issues. However, as written, the bill contains technical errors in the survey description of the lands proposed to be excluded and included in the wilderness. It also contains a technical error in the description of the lands that would be subject to the waiver of the Small Tracts Act acreage requirement. In addition, the Department would prefer to use a different land adjustment authority than the Small Tracts Act, which is not appropriate to this situation.

The Department would like to work with the bill's sponsor and the committee to make these technical corrections and provide for a more appropriate land adjustment authority. We will support the bill with these amendments and appreciate the opportunity to enhance the Frank Church River of No Return Wilderness.

#### S. 1939, SANTA FE NATIONAL FOREST TITLE CLAIM RESOLUTION ACT

S. 1939 would authorize and direct the Forest Service to quitclaim approximately 6.20 acres of Federal land to Ramona and Boyd Lawson in satisfaction of a long-standing land title claim.

The Department supports the enactment of this bill.

The land in question is in the Santa Fe National Forest and within the boundaries of the Pecos Wild and Scenic River. The Lawsons are successors to a land patent issued in 1888 and they claimed that a government survey of the patented land had erroneously excluded about 12 acres where their house and outbuildings were located.

There were sufficient legal and factual issues in dispute between the government and the Lawsons that this matter could have ended up in court. However, the parties worked out a solution that is simple and equitable, saving considerable time and expense for all. The Lawsons and the Forest Service agreed to limit the area of the claim to 6.2 acres which covers the land the Lawsons are actually occupying and using. In turn, the Lawsons have agreed to convey to the Forest Service a conservation easement on the property to protect wild and scenic river values, and to release the government from future claims. S. 1939 will authorize the Forest Service to implement this agreement and thereby allow the Lawsons the quiet enjoyment of their home while, at the same time, preserving the scenic and natural environs of the Pecos Wild & Scenic River.

#### S. 2034, COPPER SALMON WILDERNESS ACT

This bill would designate approximately 13,700 acres of the Rogue River-Siskiyou National Forest as wilderness and designate segments of the North and South Forks of the Elk River as additions to the existing Elk Wild and Scenic River.

The Department supports this bill, but requests some important adjustments to the wilderness boundary. These adjustments would provide for better separation of motorized use from the wilderness, allow for road maintenance activities within road clearing limits (such as ditch cleaning and culvert and bridge maintenance), as well as to accommodate treatments of plantations that would improve forest health and habitat diversity while increasing firefighter safety.

The wilderness proposal comprises 13,700 acres of rugged forested land surrounding Copper Mountain, Barklow Mountain, and Salmon Mountain adjacent to the Grassy Knob Wilderness. It contains vast stands of Douglas fir and relatively rare native Port Orford cedar trees. About ten percent of the proposed wilderness area is designated in the Siskiyou National Forest Plan as a "Supplemental Resource Area", considered highly productive habitat for wildlife and fish, critical for

the maintenance of watershed condition, and with special recreation values. Lands within the proposed wilderness are primarily allocated as Late Successional Reserves (LSR) under the Northwest Forest Plan. LSRs are designed to serve as habitat for old growth-related species. This LSR allocation includes 2,267 acres of previously managed overstocked Douglas fir plantations.

Using perimeter forest roads as the boundary designation would likely lead to unintended incursions of motorized vehicles and mechanized equipment into the wilderness. In addition most of the plantations adjacent to forest roads that comprise a portion of the wilderness boundary (about 1,000 acres) were included in the Coastal Healthy Forest Environmental Analysis signed in 2007. Treatment of these stands would improve habitat conditions for fish and wildlife, reduce effects from insects and disease, and provide defensible space for firefighters in the event of a wildfire, consistent with their allocation as Late Successional Reserve (LSRs). Wilderness designation would preclude this treatment.

The proposed wilderness includes about nine miles of designated roads. All but two of those road miles are currently closed to vehicular traffic; however, these roads are highly engineered up steep slopes, with significant cuts and fills, culverts, and other constructed features. If the area is designated as wilderness, the forest would consider converting some of these roads into hiking and equestrian trails to improve access, but most would require decommissioning to protect water quality and fisheries resource values. This would require heavy equipment to remove culverts and contour the land to reduce erosion, as well as significant investment.

The Department would like to work with the bill's sponsor and the committee to offset the wilderness boundary inward along perimeter roads to implement planned treatments within a reasonable distance of the road, provide for routine road maintenance, and to decrease the likelihood of incompatible motorized use in wilderness. We also request that the bill include the date of the map referencing the intended wilderness configuration.

The bill would designate segments of the North and South Forks of the Elk River as additions to the existing Elk Wild and Scenic River. The Rogue River-Siskiyou National Forest completed an extensive wild and scenic river inventory and, while both tributaries are free-flowing, neither was judged to have an outstandingly remarkable value. Nevertheless, in recognition of the value of managing the Elk River as a system that contributes to one of the most important and valuable runs of anadromous fish in coastal Oregon, the Department does not oppose the proposed additions in this bill.

Mr. Chairman and members of the committee, this concludes my testimony. I am happy to answer any questions you may have at this time.

Senator WYDEN. Very good. Mr. Nedd, welcome.

**STATEMENT OF MICHAEL NEDD, ASSISTANT DIRECTOR, MINERALS, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR**

Mr. NEDD. Mr. Chairman and members of the committee. Thank you for inviting me to testify today on a number of bills of interest to the Bureau of Land Management and the Department of Interior. Because I am presenting testimony on six bills I will very briefly summarize each and ask that my entire testimony be included in the record.

Senator WYDEN. Without objection, it's so ordered.

Mr. NEDD. The Department supports S. 1143 the Jupiter Inlet Lighthouse Outstanding Natural Area Act which would designate 126 acre, including Jupiter Inlet Lighthouse and the surrounding areas as an outstanding natural area within the Bureau of Land Management National Landscape Conservation System. This bill seeks to build onto many successful partnerships and the collaboration already in place for the Jupiter working group.

S. 1377, the Southern Nevada Limited Transition Area Act, would convey without consideration approximately 502 acres of BLM public land to the city of Henderson, Nevada by economic development adjacent to the Henderson Executive Airport. The bill



permits the city of Henderson to sell any portion of the conveyed land for non-residential development to a competitive bidding process. Eighty-five percent of the revenues generated from the sales would be deposited into this special account established by the Southern Nevada Public Land Management Act and used by the Secretary of Interior for the use specified in the Act.

During consideration of similar legislation in the 109th Congress we raised several concerns. We greatly appreciated the work of the sponsor of the bill to address those concerns as reflected in S. 1377. The BLM supports S. 1377.

S. 1433 the Thomas P. O'Hara Public Land Career Opportunity Act amends the Alaska National Interest Land Conservation Act to provide competitive status to local hire Federal employees in Alaska. In discussing this program with the Office of Personnel Management during the course of reviewing S. 1433, the Department of Interior and Agriculture learned that local hire employees have been mistakenly classified as being outside of the competitive service. According to OPM because ANILCA specifically provides the Veteran's preference applied to these positions, the positions are by their nature competitive and local hire employees should have been classified as being eligible for competitive status.

Therefore we suggest that S. 1433 be amended to de-reg the secretaries to reclassify as part of the competitive service those employees who are hired into permanent position under the local hire provision of ANILCA and are currently employed in those positions. In addition provisions should be made for former local hire employees who were competitively hired and who served the requisite amount of time in their position to apply to the Secretary for competitive status. We would be happy to work with the sponsor and the subcommittee to resolve these issues.

S. 1608 the Southern Nevada Readiness Center Act would convey without consideration land from Clark County, Nevada to the Nevada division of State lands for use by the Nevada National Guard. All rights, title and interest in these lands was conveyed by the Bureau of Land Management to Clark County, Nevada in 1999 as directed by the Southern Nevada Public Land Management Act of 1998 for inclusion in the McCarran Airport cooperative management area. The BLM is mindful that S. 1608 conveys these lands from one public entity to another for important national defense and security purposes. The BLM supports the legislation and we recommend some technical modification.

S. 1740 amends the North Dakota Enabling Act and related laws to provide for changes in the management and distribution of certain North Dakota trust funds. The Administration has no comments on or any objection to this legislation.

S. 1940 the Rio Puerco Watershed Management Program Reauthorization Act provides a 10-year reauthorization for the Rio Puerco Management Committee, a collaborative watershed organization established in 1996. Under this program the BLM has partnered with State, Federal and tribal entities, soil and water conservation district representatives of country government, residents from the rural communities within the watershed, environmental and conservation groups and the public to restore and pro-

tect the long term sustainability of the watershed. The BLM strongly supports enactment of S. 1143.

Mr. Chairman and members of the subcommittee, thank you for the opportunity to testify. I will be happy to answer any questions. [The prepared statements of Mr. Nedd follow:]

PREPARED STATEMENT OF MICHAEL NEDD, ASSISTANT DIRECTOR, MINERAL, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for inviting me to testify on S. 1143, the Jupiter Inlet Lighthouse Outstanding Natural Area Act. The Act would designate the 126 acres, including Jupiter Inlet Lighthouse and the surrounding area, as an Outstanding Natural Area (ONA) within the Bureau of Land Management's (BLM) National Landscape Conservation System (NLCS). The Department supports S. 1143.

#### BACKGROUND

The 126-acre site proposed for designation as the Jupiter Inlet Lighthouse Outstanding Natural Area is an oasis of green in highly urbanized Palm Beach County, Florida and straddles the borders of the Village of Tequesta and the Town of Jupiter. The lighthouse, which stands 156 feet above the surrounding coastline, is the oldest existing structure in Palm Beach County, dating from 1860. The lighthouse continues as an active United States Coast Guard aid to maritime navigation. The Loxahatchee River Historical Society manages portions of the site through a license and conducts popular tours of the lighthouse. On the remaining southern portion of the tract, the Town of Jupiter manages intensive recreation on an 18-acre public park.

Aside from the natural significance of this site, the dynamic partnerships of the Jupiter Working Group and collaborative relationships make this site quite unique. The management of the 126 acres rests with six separate entities, BLM, U.S. Coast Guard, Palm Beach County, Town of Jupiter, Village of Tequesta, and Loxahatchee River Historical Society. These entities currently work cooperatively through BLM's Jupiter Inlet Coordinated Resource Management Plan (CRMP) and the Jupiter Inlet Working Group (working group) to manage the area as a harmonized unit. For example, Palm Beach County's Department of Environmental Resources Management has partnered directly with BLM on habitat improvements, providing matching funds and labor for virtually all habitat-related projects. One activity was the restoration of significant scrub and wetland communities within the area. Emphasis was placed on habitat improvements for the 18 special status species found within the area, including the removal of thousands of exotic trees and shrubs along with replanting of native vegetation. This work has significantly improved the habitat for scrub jays, gopher tortoises and federally endangered plant species. The working group combined resources to build an award-winning tidal lagoon and wetland connected to the Indian River Lagoon, which is one of the most diverse estuaries in the country. Among the many tools used to improve the habitat are successful prescribed burns, which reduced fuel loads on this urban tract.

The community involvement at Jupiter Inlet Lighthouse goes beyond the governmental agencies. For example, the Loxahatchee River Historical Society actively manages the Jupiter Inlet Lighthouse and grounds, and provides interpretive tours to tens of thousands of visitors each year. They have procured grants and worked with the Town of Jupiter to complete nearly one million dollars in restoration of the Jupiter Inlet Lighthouse, as well as complete the renovation of a WWII vintage building that now houses the museum. Additionally, the Jupiter High School Environmental Resources and Field Studies Academy has donated thousands of hours of hands-on restoration work within the proposed ONA.

#### S. 1143

S. 1143 seeks to build on the many successful partnerships already in place by designating the 126-acre site as the Jupiter Inlet Lighthouse Outstanding Natural Area within the BLM's NLCS. The bill follows in the footsteps of the Yaquina Head Outstanding Natural Area along the Oregon coast established by Congress in 1980. In order to safeguard the buildings and public lands surrounding the Jupiter Inlet Lighthouse, the bill provides protections for the area while encouraging and enabling active community support and involvement.

The Department would like the opportunity to work with Senator Nelson and the committee on some technical amendments including a correct map reference and other minor issues.

Thank you for the opportunity to testify in support of S. 1143. I will be happy to answer any questions.

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PREPARED STATEMENT OF MICHAEL NEDD, ASSISTANT DIRECTOR, MINERALS, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF INTERIOR

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on S. 1377, the Southern Nevada Limited Transition Area Act. S. 1377 would convey without consideration approximately 502 acres of BLM public lands, defined in the bill as the “transition area,” to the City of Henderson, Nevada, for economic development adjacent to the Henderson Executive Airport. The BLM recognizes the extensive residential growth occurring in the City of Henderson and understands the need for the City to plan land use in such a way that development around the Henderson Executive Airport is compatible with the nature of airport operations. During consideration of similar legislation in the 109th Congress (S. 1056), we raised several concerns. The BLM greatly appreciates the work of the sponsors of the bill to address those concerns, as reflected in the text of S. 1377. We support S. 1377 as introduced.

S. 1377 establishes development areas around the Henderson Executive Airport similar to the Airport Environs Overlay District—otherwise known as the McCarran Airport Cooperative Management Area (CMA)—established by the Southern Nevada Public Lands Management Act (SNPLMA), Public Law 105-263, that ensures compatible development around McCarran Airport. The public lands proposed for conveyance in S. 1377 are directly west and south of the Henderson Executive Airport, which is east of Interstate-15 and north of the Sloan Canyon National Conservation Area. These lands are within the disposal boundary established in SNPLMA and have been identified for disposal by the BLM as part of SNPLMA’s land disposal process.

S. 1377 directs the City of Henderson to plan and manage the lands for nonresidential development, and requires that any development comport with noise compatibility requirements defined in section 47504 of title 49, United States Code. The bill permits the City of Henderson to sell any portions of the conveyed lands for nonresidential development through a competitive bidding process, but for not less than fair market value, and subject to the noise compatibility requirements. The City of Henderson may also elect to retain parcels for recreation or other public purposes consistent with the Recreation and Public Purposes Act.

The revenue generated from any sales of the lands by the City of Henderson would be distributed consistent with the provisions of Section 4(e)(1) of SNPLMA, which allow for the deposit of 85 percent of the proceeds from land sales into the Special Account; 10 percent paid directly to the Southern Nevada Water Authority; and 5 percent paid directly to the State of Nevada for use in the general education program of the State.

Again, thank you for the opportunity to work with the sponsors of this bill in addressing our various concerns, including modifications relative to the terms and conditions of future land sales by the City of Henderson; the reversionary language; and the revised map. We support S. 1377 and efforts to appropriately plan for development around the Henderson Executive Airport.

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PREPARED STATEMENT OF MICHAEL NEDD, ASSISTANT DIRECTOR, MINERAL, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF INTERIOR

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 1433, a bill to amend the Alaska National Interest Lands Conservation Act to provide competitive status to certain federal employees in Alaska.

S. 1433 is named after Thomas P. O’Hara, a National Park Service employee who was a pilot at Katmai National Park and Preserve. Tom and an employee of the U.S. Fish and Wildlife Service were on a mission in the Alaska Peninsula National Wildlife Refuge on December 19, 2002, when their plane went down. Unfortunately, Tom did not survive the crash.

Tom O’Hara was an experienced pilot with thousands of hours of service, whose skills benefited the residents of Bristol Bay communities—an area where Tom grew

up and lived. Tom was hired because of a special local hire program for conservation units in Alaska, which was authorized by Section 1308 of the Alaska National Interest Lands Conservation Act (ANILCA). This program allows bureaus in the Department of the Interior and the Forest Service in the Department of Agriculture to hire "any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit . . . ." These local individuals may be selected without regard to normal civil service rules requiring formal training or experience.

The program has been used with great success across Alaska. The Departments have been administering this program as an excepted service program meaning that local hire employees are at a disadvantage when applying for other jobs within Alaska or elsewhere in the country. Some employees have overcome this disadvantage because of additional formal education, training or experience. But for others, particularly in small, remote locations, this transition to competitive status is difficult.

In discussing this program with the Office of Personnel Management during the course of the review of S. 1433, the Departments learned that local hire employees have been mistakenly classified as being outside of the competitive service. Because ANILCA specifically provides that veterans preference applies to these positions the positions are by their nature competitive and local hire employees should have been classified as being eligible for competitive status.

S. 1433 provides that local hire employees, after two years of satisfactory service, will be converted to competitive status. There are many excepted services and positions within the Federal government. The Office of Personnel Management is rightly concerned about providing a group of excepted status employees with this benefit which many others have sought and been denied. However, in this case, it appears these local hire employees were mistakenly placed into excepted service status. Therefore we suggest that S. 1433 be amended to direct the Secretary of the Interior and the Secretary of Agriculture to reclassify as part of the competitive service those employees hired into permanent positions pursuant to the local hire provisions of ANILCA and currently serving in those positions. In addition, provisions should be made for former local hire employees who were competitively hired and who served the requisite amount of time in their positions to apply to the Secretary for competitive status.

This legislation will provide a lasting memorial to the excellent work of Tom O'Hara and other employees who serve the public with their expertise and knowledge of Alaska and help preserve our public lands for others to enjoy. We would be happy to work with the Committee on bill language that would accomplish our suggested amendments.

Thank you for the opportunity to testify in support of S. 1433. I will be happy to answer any questions.

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PREPARED STATEMENT OF MICHAEL NEDD, ASSISTANT DIRECTOR, MINERALS, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF INTERIOR

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on S. 1608, the Southern Nevada Readiness Center Act. S. 1608 would convey without consideration between 35 and 50 acres of land from Clark County, Nevada, to the Nevada Division of State Lands for use by the Nevada National Guard for defense and security training. All right, title, and interest to these lands was conveyed by the BLM to Clark County, Nevada, in 1999, as directed by Section 4(g) of the Southern Nevada Public Land Management Act of 1998 (SNPLMA), for inclusion in the McCarran Airport Cooperative Management Area (CMA).

The CMA was established in 1992 through an agreement between Clark County and BLM to manage development around McCarran Airport, which services the greater Las Vegas area. As directed by SNPLMA, approximately 5,000 acres of public lands was conveyed by the BLM to Clark County for inclusion in the CMA boundary. SNPLMA requires that Clark County manage the lands in the CMA in accordance with 49 U.S.C. 47504, relating to airport noise compatibility planning, so that development in the CMA is compatible with the nature of airport operations. Further, section (4)(g) of SNPLMA requires that any conveyance of CMA lands by Clark County be for fair market value, and the revenue distributed according to the formula outlined in Section (4)(g) of SNPLMA.

The BLM is mindful that S. 1608 conveys the CMA lands from one public entity to another for important national defense and security purposes. In balancing these considerations against the provisions of SNPLMA that require the sale of CMA lands for fair market value, the BLM supports the bill and the conveyance of the

CMA lands for no consideration. However, we suggest that the bill be amended to include a provision that if the State of Nevada ceases to use the lands for the purpose intended in S. 1608, the lands revert to the County to be managed consistent with the provisions of SNPLMA. We also recommend an amendment to correct the acreage identified in S. 1608 from “between 35 and 50 acres” to “approximately 51 acres.”

Thank you for the opportunity to testify on S. 1608. We look forward to working with the sponsor and the Committee on this important piece of legislation.

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PREPARED STATEMENT OF MICHAEL NEDD, ASSISTANT DIRECTOR, MINERAL, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF INTERIOR

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on S. 1740, the North Dakota Enabling Act and First Morrill Act Amendments Act of 2007.

S. 1740 would amend the Act of February 22, 1889 and the Act of July 2, 1862 to provide for changes to the management and distribution of North Dakota trust funds into which proceeds from the sale of public land are deposited. It also includes language providing for Congress’ consent to amendments to the Constitution of North Dakota proposed by House Concurrent Resolution No. 3037 of the 59th Legislature of the State of North Dakota and approved by the voters on November 7, 2006. This resolution requires permanent trust funds to be managed to preserve their purchasing power, to provide stable distributions to fund beneficiaries and to benefit fund beneficiaries.

The Office of Legal Counsel of the Department of Justice has advised us that Congress may amend State enabling acts. As S. 1740 relates to North Dakota’s use of its trust funds, the Administration has no comments on or objections to the bill.

Thank you for the opportunity to testify.

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PREPARED STATEMENT OF MICHAEL NEDD, ASSISTANT DIRECTOR, MINERAL, REALTY AND RESOURCE PROTECTION, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF INTERIOR

Thank you for the opportunity to testify on S.1940, the Rio Puerco Watershed Management Program Reauthorization Act. The legislation provides a 10-year reauthorization for the Rio Puerco Management Committee (RPMC), a collaborative watershed organization established by Section 401 of the Omnibus Parks and Public Lands Management Act of 1996 (P.L. 104-333). Through the collaborative processes of the RPMC, the BLM has partnered with Federal, state, and Tribal governments, private individuals, and environmental organizations, to improve management practices and protect the long-term sustainability of the watershed. The legislation also adds the Environmental Protection Agency (EPA) as a member of the RPMC, formalizing the cooperative role it has played in these efforts. The BLM strongly supports enactment of S.1940.

The Rio Puerco Watershed, located in west-central New Mexico, contributes less than 10 percent of the water, but nearly 70 percent of the silt, to the Rio Grande north of the Elephant Butte Reservoir. According to the Corps of Engineers, soil erosion within the basin surpasses that of any other watershed in the country. The New Mexico Environment Department has classified the Rio Puerco as a Category I impaired watershed, primarily because of the high levels of sedimentation.

#### RPMC ACCOMPLISHMENTS

The RPMC has effectively built on initiatives begun by a locally led public-private stakeholders group based in Cuba, New Mexico. The RPMC is a collaborative watershed organization consisting of state, Federal, and Tribal entities, soil and water conservation districts, representatives of county government, residents from the rural communities within the watershed, environmental and conservation groups and the public. It is a consensus group charged with compiling data and developing best management practices to reduce erosion, increase native vegetation, and improve riparian habitat while supporting the watershed’s rural, agrarian, and cultural traditions.

The RPMC and its partners received grants and awards, in part based on the diversity of entities participating and on its track record in showcasing how the watershed approach can yield measurable success. The EPA Administrator identified the RPMC as one of the winners of the 2003 Watershed Initiative grants, with an award

of \$700,000. The Rio Puerco Alliance, a 501(c)3 non-profit organization formed in 2006, received a grant of \$840,000 in August 2007 for the Targeted Watershed Restoration Initiative in Torreon Wash. Projects on which the RPMC have worked collaboratively have received 319 grants from the New Mexico Environment Department and the EPA's Watershed Initiative Program.

Among its accomplishments, the RPMC has:

- launched a community involvement initiative that started with listening sessions held in local communities and developed into a series of training and demonstration workshops on conservation practices;
- developed a Watershed Restoration Action Strategy, to address specific water quality problems.

In cooperation with the New Mexico State Highway and Transportation Department, the RPMC is redirecting the Rio Puerco from an unstable artificial 1.1 mile channel to its natural 2.2 miles of meandering channel. This project is funded through a New Mexico Environment Department Clean Water Act grant and through assistance from Sandoval County and the New Mexico Highway and Transportation Department. This project will reduce approximately 21 tons of sediment that have been lost annually since the river was diverted.

Through another New Mexico Environment Department Clean Water Act grant, the RPMC worked with private landowners in two degraded tributaries to the Rio Puerco to create a showcase water quality improvement project through erosion control, livestock grazing management, and control of undesirable vegetation.

The 1996 Act that created the RPMC authorized \$7.5 million over 10 years. The authority expired on November 12, 2006. Prior to its expiration, the RPMC used this funding to leverage grants for resource protection and has accepted in-kind contributions for on-the-ground project work.

#### NAVAJO YOUTH PROJECTS

In 2007, the BLM, the Navajo Water Resources Department and the State of New Mexico provided funding for on-the-ground Navajo Youth Projects in six Chapters of the Eastern Navajo Agency. Through this collaborative effort, six youth Projects have hired about 100 Navajo youth to construct erosion control structures on Tribal, BLM, and state lands within grazing allotments held by the Navajo Nation. The program also included environmental education training on the concepts of watershed management. Several leaders of the Navajo Nation have expressed their conviction that Navajo youth need this important tie back to the land.

Thank you again for the opportunity to testify on S.1940. The collaborative nature of the Rio Puerco Management Committee has resulted in successful implementation of activities to restore and protect the watershed, and the BLM looks forward to continuing this important work. I would be glad to answer your questions.

Senator WYDEN. Gentlemen, thank you both for being here and for the constructive approaches that the Department of Interior and the Department of Agriculture have had with respect to this. Both sides of the aisle and this side of the dais are anxious to work with you.

Senator Craig has joined us. It's always been our custom to let our colleagues make any statement they would choose. Then we'll go straight to questions.

Senator Craig.

Senator CRAIG. Why don't I just take my round with questions? I've got a couple of comments I'll make at that time. Thank you, Mr. Chairman.

Senator WYDEN. Very good. Gentlemen and maybe I'll start with you, Mr. Holtrop.

On the Copper Salmon, as you know, there's been broad support for this in the communities trying to find some person on the coast who's not just cheering for this legislation because there is that kind of grassroots support. You all have reflected some concerns about the boundaries. I think it's fair to say we'd all consider them fairly minor. Let me just ask a couple of questions.

Mr. Holtrop, you noted that there were some old roads included in our proposal. The roads are currently drivable and what is your sense about decommissioning efforts that you would think might be necessary given the state of those roads?

Mr. HOLTROP. Yes, my understanding is there's about nine miles of existing roads inside the proposed wilderness and of those nine miles, seven of them are currently closed to public use and two are open. There's work that would need to be done on those roads because several of them are fairly highly engineered roads because of the steep and rugged terrain that they're in. It would be necessary to do some work to remove culverts, restore the roads into a more appropriate status for use as trails or just completely restore the roads so that events over time would not cause those roads to become a problem in terms of water quality and some of those types of things.

Our sense is—we've got a very rough estimate of maybe 300,000 dollars worth of work in order to accomplish that. If the legislation passes as we're supportive of that happening, what we would intend to do would be do a minimum tools analysis. If that minimum tools analysis required us to do some mechanized activity in the wilderness after its designation in order to restore those roads, that's what—that's the approach we would take.

Senator WYDEN. That was really my second question. So you would think this minimum tools policy that you all have would be sufficient to essentially address the decommissioning work. Is that correct?

Mr. HOLTROP. That's correct.

Senator WYDEN. Ok. One other area you mentioned concerns with the boundaries selected and a debate about how you go about, you know, choosing exactly these boundaries. Now, doesn't the Forest Service Guidance Policy suggest ease of management as a basis for selecting boundaries?

Mr. HOLTROP. Yes, it does.

Senator WYDEN. So, from the standpoint of trying and to address these boundary, you know, issues, we can use the Wilderness Act, is one way to go about doing it.

Mr. HOLTROP. That's correct. I think what—the position that we're taking on that is, and this is done fairly commonly in many wilderness designations. Where there's an offset from the road that's provided of a standard length so that if there's a situation in which some ditch work needs to be done, or if a road slides because of a weather event and there needs to be some reconstruction done on it and the most logical approach to get that work done is to—moving inside what is currently designated wilderness if it were right at the road prism by having some offset. It provides us some opportunity to accomplish that type of work while not having to seek Congressional authority to make those types of adjustments.

Senator WYDEN. That was exactly what we've been interested in. We want to make sure that you all can essentially use tools you've got today. You know, this question of the minimum tools policy as it relates to decommissioning work. The question of the Wilderness Act and how you would use that as a tool to deal with boundaries and address these managing, essentially manageability issues, that

all sounds like something we can work together on. Do it quickly and cooperatively.

Mr. Nedd, I appreciate your testifying and really don't have any questions for you because you were so cooperative in your opening statement. We can kind of spare you the battering and the punishment that witnesses often get. But seriously, we thank you for your cooperation.

Both of you have been very helpful and we're going to get these bills passed. It is a good package and a bipartisan package of colleagues have noted. Let me let Senators now speak starting with Senator BARRASSO.

Senator BARRASSO. Thank you very much, Mr. Chairman. I agree that it is non-controversial, no real objections.

It does raise the question that I mentioned earlier about some of these land exchange processes. Did this just not become non-controversial after it came legislatively? Or how is the best way to do that? That's something that concerns people in Wyoming. Where do you go legislatively? When do you try to get an exchange done? I hear that exchanges can take ten to fifteen years possibly, protracted length of time.

So, No. 1, could you spend a couple of minutes describing the process. How it works? How long it takes for even a non-controversial exchange? Then are there additional tools you need to see if we are able to do some things there so you don't have to have folks coming legislatively?

Mr. HOLTROP. I'd be happy to do that. I want to say that that's a very good question. One of the reasons I know it's a very good question is it is one of the questions I asked my own staff to provide some advice on that just in the last few years as well. One of the things that I found out, not surprisingly really, is that those exchanges that arise to my level or even more so that rise to your levels tend to be the ones that are very controversial and difficult and have some issues related with them.

Over the past 10 years or an analysis from 1995 through 2004, the average length of an exchange is around two and a half years. Now that doesn't mean that there aren't some that do take many years more than that, but generally those tend to be the more controversial ones.

In terms of the way this process works is the parties to a proposed exchange sign an instrument that they both agree that this is something they want to pursue. That instrument includes information around who's going to pay the costs of any environmental analysis and the other, some of the survey standards or some of the title standards that are going to be expected. All of that work gets laid out with this instrument. Then it works its way through all those processes to the final recording of the deeds.

One—the other question that I heard in your question was when is it time for—when is it necessary for legislation as opposed to an Administrative process to carry it out? I think the two pieces of legislation that I, other than the Copper Salmon that I testified on just this afternoon are a couple of examples of those types of situations where legislation is needed. I would say that legislation is needed when we don't have the authority to do something administratively.



In the case of the Frank Church River of No Return Wilderness we don't have the authority to do an exchange that includes—that's inside the wilderness. So what—the legislation that was needed in this case was to resolve the unauthorized improvements inside wilderness. In the case of the Santa Fe National Forest and the Pecos Wild and Scenic River, that is a piece of property that required both our authority to dispose of property which we don't have the authority to do except if authorized on a case by case basis. Plus it's property within a Wild and Scenic River designation which also requires your attention in order to have us have the authority to do that.

Senator BARRASSO. Thank you. That was a very thorough, a good explanation. Thank you very much. No further questions, Mr. Chairman.

Senator WYDEN. I thank my colleague.

Senator Smith.

Senator SMITH. Mr. Holtrop, generally does wilderness designation affect tribal access to Federal land with respect to gathering of foods and materials for cultural use?

Mr. HOLTROP. No, it does not. I appreciated the concern that you expressed in your statement about a relationship with the Coquille tribe. The Rogue River and Siskiyou National Forest has a regular on-going consultation relationship with that tribe. It is our expectation and I'm convinced that this piece of legislation, other than the reduction or the elimination of the use of mechanized equipment in the wilderness which would apply to all users. The tribe would continue to enjoy the access that they need for their cultural activities and that would be our intent.

Senator SMITH. That is my understanding as well. I appreciate your reasserting it. But I wonder if it would be possible for the Forest Service to go the next step and memorialize that understanding to increase the comfort level of the Coquille tribe with some kind of memorandum of understanding. Would that be acceptable?

Mr. HOLTROP. We would be happy to work with you, with the tribe to pursue whether that would be helpful to them. We could pursue looking into that.

Senator SMITH. I think that is important as a show of respect and according to dignity to Native Americans that their sovereign governments deserve. I think that kind of a memorialization would be appropriate and would allay any remaining questions. So I would encourage that and will work with you on that.

Senator WYDEN. I thank my colleague.

Senator Craig.

Senator CRAIG. Mr. Chairman, thank you very much. Gentlemen, thank you. I had one piece of legislation and I think Joel spoke to it in relation to what the Forest Service can and cannot do and that's 1802 as it relates to some boundary modification and some element at the edge of the Frank Church with the Diamond D Ranch.

I understand you support this legislation and it resolves that question and creates some boundary corrections that are necessary for the integrity of the wilderness and for the private property involved. But there was another piece of legislation that we pulled at the last moment because the Administration of the Forest Serv-

ice spoke to it. Some concern about language and in a negative way.

I say to you, Mr. Chairman, to you, Joel, this is an interesting situation. It has to do with some land exchanges up in the Ketchum, Idaho, Sun Valley area consistent with what the community of Ketchum needs and what Sun Valley Company needs and not inconsistent with use and the Forest Service. But I was told, that the language could not be supported because it didn't provide anything of real benefit to the Forest Service. However it should be noted that it didn't hurt the Forest Service either.

The reason I say this is because of the uniqueness of this summer in Idaho and in other Western States. We burned all during the month of August. The great community of Ketchum and the great resort of Sun Valley, the mother of all ski resorts for our nation, almost burned down. We burned a semi-circle around it on Federal Forest land. It's very important for me to say right up front, the U.S. Forest Service did a phenomenal job. You're to be congratulated, Joel.

You had an incident commander up there by the name of Jeanie. I believe she's from the Humboldt, who walks on water in Ketchum, Idaho today because she was a strong leader who made decisions when decisions had to be made, at a time when we could have lost 10 billion dollars worth of assets, private and public. I was telling Secretary Rey last night that you had one of the finest incident command centers in the nation, a 12 million dollar ski lodge that you fully occupied for the benefit of fighting the fires.

The community rolled out and fed the fire fighters and clothed them and gave them things. My wife and I were up there at an ice show at the lodge in the middle of the fires and here were fire fighters at the ice show at the courtesy of Sun Valley Corporation. I get back here thinking, gee, we're going to get this bill put together and we're going to facilitate all of this to find out that the Forest Service wasn't happy with the language, even though they didn't lose anything. They didn't gain anything. They thought they needed to gain something from it.

Bottom line is, Joel, we're going to move this legislation. We want to work with you to resolve the differences. Here is a community of people and a company that gave to the cause to save themselves and help you save Federal property and public resource in a way that I have never seen a community in my State give before.

We need to get this resolved. The time is short. We want to move this legislation. So in the next week let's find the language, get it resolved and move it forward.

I think it's going to be to the benefit of public land resource up there: a company, Sun Valley Corporation, yes, the community of Ketchum, yes, public access, yes, all of those kinds of things that'll be important. So, let's see if we can't get it solved.

Mr. HOLTROP. Senator Craig, I would just like to say a couple of things. First of all, thank you very much for the compliments to our incident commander, Jeannie Pincha-Tully who is one of our fine incident commanders. I certainly concur with all that you said about what the community of Ketchum has been through. What the resort has been through.

One of the many fire fighters on that fire was my daughter.

Senator CRAIG. Really?

Mr. HOLTROP. So I was also pleased to hear what you had to say from that perspective as well.

I'll say that the reason that the Forest Service had concerns with the piece of legislation was just lack of information about the parcels. We—I am absolutely convinced that we can work to reach a resolution that is responsive to the concerns that Sun Valley Resort has, that is equitable for the Forest Service and the resort. Maybe even legislation not being necessary if some of the parcels that are identified are National Forest land to private land so that a straight exchange.

The reason this was being legislated was because the BLM parcel was involved and that requires legislation because of that complication. I think there are multiple options for us to get this done. I look forward to working with you.

Senator CRAIG. Super. Thank you.

I'm glad to hear your daughter had a positive experience up there.

Mr. HOLTROP. Thank you.

Senator CRAIG. Mr. Chairman, I don't know what our total acreage is yet. I do know we, collectively, the taxpayers and the U.S. Forest Service have spent over 130 million dollars already in Idaho fighting fire this year. We've had phenomenal fires, nearly lost the great Sun Valley Resort and could have lost a new resort. The effort was ongoing, is ongoing, but the effort was outstanding. It is very easy to compliment a job well done. I thank you.

Thank you, Mr. Chairman.

Senator WYDEN. I thank my colleague. What we'll do is we'll have the majority and minority staff get with your folks and get to work on these issues involving Ketchum as we've done so often in the past.

Thank you both and look forward to working with you. Thank you both for your cooperation.

Let's bring forward Mayor Auburn and Jim Rogers.

Gentlemen, while you're sitting down, let me ask you to ponder. I think with 11 minutes we'd probably better go vote and come back. We were going to try to see if we can get it all in, but you all have made a long, long trek across the land. I think with a leave of Senator Smith and Senator Craig, we'll go over and vote real quickly and then we'll come back.

We stand in recess for 10 minutes let us say. Thanks.

[Recess]

Senator WYDEN. Let us have the subcommittee come to order. It's a great to have Oregonians back. I know Senator Smith wants to participate as well. So we'll something of movable feat this afternoon with the Congressional schedule and Mayor why don't you take a few minutes to make your comments and Mr. Rogers, you as well. It's a long journey and I'm sorry for the hectic nature of the afternoon.

Mayor, please begin.

#### **STATEMENT OF JIM AUBORN, MAYOR, PORT ORFORD, OR**

Mr. AUBORN. Chairman Wyden and members of the subcommittee, thank you for the opportunity to testify today. My name

is Jim Auburn. I am the Mayor of the city of Port Orford. I'm here today in strong support of S. 2034, the Copper Salmon Wilderness Act. I'm a native Oregonian and a long term Republican, born and raised in the Portland area, who retired to Port Orford after a career in the U.S. Navy, U.S. Navy Reserves and Bell Laboratories.

I served as an engineering officer on nuclear submarines while on active duty and managed research programs for the Office of Naval Research in the Reserves where I retired at the rank of Captain. I retired from Bell Laboratories as Director of the Government Communications Laboratory and served as Vice President in Research for Terrabeam Corporation for 2 years before moving to Port Orford in 1999 and becoming involved in local government.

Port Orford is a small community on the Southern Oregon coast situated in Northern Curry County along U.S. Highway 101, truly a blue highway in Oregon. The population of Curry County was estimated at 21,365 in 2006 with a majority of the population located in the southern portion of the county. The population of the city of Port Orford was estimated at 1,225 last year. The percentage living below the poverty level exceeds the national average.

The principle industry is commercial fishing which directly or indirectly employs 100 to 150 people. The other significant portion of our economy is based on tourism which is dependent to a large extent on recreational fishing. The social and economic analysis of fisheries resources for Port Orford was conducted in 2005. I've attached this analysis to my testimony. This document has also been made part of the comprehensive plan for the city of Port Orford.

The Copper Salmon Wilderness Act would protect the critical spawning habitat for Elk River salmon and steelhead. The ocean fishery at the mouth of the Elk River is important to Port Orford for both commercial and sports fishing. Recreational fishing in the Elk River itself is significant for tourism.

The proposed Copper Salmon Wilderness has a large amount of community support. The Board of Curry County Commissioners passed a resolution in support of wilderness designation for this area in 1999. This resolution remains in effect to this day as our Commissioners have expressed repeatedly.

Subsequent to submitting my written testimony and things, Curry County Commissioner, Lucy Lubonte, has written a letter to Senator Wyden thanking him for introducing this bill and in support of this specific legislation. As Mayor of the city of Port Orford, I personally visited the capital in April of last year to meet with our Oregon Congressional delegation in support of Copper Salmon wilderness. The delegation asked to get out the position of the local business community.

The Port Orford and North Curry Chamber of Commerce voted their support in 2003 with a vote of 23 to 3 in favor of Copper Salmon. The President of our Chamber of Commerce followed up on my visit to the capital later in the spring last year to express support of the business community for the Copper Salmon wilderness. The Chamber Board met again last week and reiterated their support by voting in favor of the proposed legislation by Senator Wyden and Representative DeFazio. I've attached a letter\* of support for the Chamber for this specific legislation to my testimony.

The Port Orford Ocean Resource Team, POORT, an organization of local fishers and community members concerned with insuring the long term sustainability of our fishing resources and the social system depended upon it has written in support of this specific legislation. I've also attached a copy of their letter\* to my testimony.

Additionally, the city of Port Orford has long supported the creation of the Copper Salmon Wilderness. Earlier this week, the Common Council of the city of Port Orford unanimously passed Resolution 2805 supporting the proposed Copper Salmon Wilderness bill. A copy of this resolution is also attached. In Port Orford we don't get unanimous support on very many things.

Senator WYDEN. It doesn't happen in the Senate too often either.

Mr. AUBORN. We thank Senator Wyden for introducing this important legislation and thank Senator Smith for his co-sponsorship and encourage the subcommittee and the entire U.S. Senate to enact it as soon as possible. Our community will benefit from this legislation for generations to come. Again thank you for the opportunity to testify. I welcome any questions that you may have.

Thank you.

[The prepared statement of Mr. Auburn follows:]

#### PREPARED STATEMENT OF JIM AUBORN, MAYOR, PORT ORFORD, OR

Chairman Wyden and Members of the Subcommittee, thank you for the opportunity to testify today. My name is Jim Auburn, and I am the mayor, City of Port Orford. I am here today in strong support of S.2034, the Copper Salmon Wilderness Act. I am a native Oregonian and a long term Republican, born and raised in the Portland area who retired to Port Orford after a career in the U.S. Navy/U.S. Navy Reserve and Bell Laboratories. I served as an engineering officer on nuclear submarines while on active duty and managed research programs for the Office of Naval Research in the reserves where I retired at the rank of Captain. I retired from Bell Laboratories as Director of the Government Communications Laboratory and served as Vice President of Research for Terrabeam Corporation for two years before moving to Port Orford in 1999 and becoming involved in local government.

Port Orford is a small community on the Southern Oregon Coast, situated in northern Curry County along U.S. Hwy. 101, truly a "blue highway" in Oregon. The population of Curry County was estimated at 21,365 in 2006 with the majority of the population located in the southern portion of the county. The population of the City of Port Orford was estimated at 1,225 last year. The percentage living below the poverty level exceeds the national average. The principal industry is commercial fishing which directly or indirectly employs 100-150 people. The other significant portion of our economy is based on tourism, which is dependent to a large extent on recreational fishing. A social and economic analysis of fisheries resources for Port Orford was conducted in 2005. I have attached this analysis to my testimony. . This document has also been made part of the Comprehensive Plan for the City of Port Orford.

The Copper Salmon Wilderness Act would protect the critical spawning habitat for Elk River salmon and steelhead. The ocean fishery at the mouth of the Elk River is important to Port Orford for both commercial and sports fishing. Recreational fishing in the Elk River itself is significant for tourism. The proposed Copper Salmon Wilderness has a large amount of community support. The Board of Curry County Commissioners passed a resolution in support of wilderness designation for this area in 1999. This resolution remains in effect to this day as our commissioners have expressed repeatedly.

As mayor of the City of Port Orford, I personally visited the Capitol in April 2006 to meet with our Oregon congressional delegation in support of Copper Salmon Wilderness. The delegation asked about the position of the local business community. The Port Orford and North Curry County Chamber of Commerce voted their support in 2003 with a vote of 23 to 3. The president of our Chamber of Commerce followed up on my visit to the Capitol later in the Spring last year to express the support

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\*See Appendix II.

of the business community for the Copper Salmon Wilderness. The Chamber board met last week and reiterated their support by voting in favor of the proposed legislation by Senator Wyden and Representative DeFazio. I have attached a letter of support from the chamber for this specific legislation to my testimony.

The Port Orford Ocean Resource Team (POORT), an organization of local fishers and community members concerned with ensuring the long term sustainability of our fishing resources and the social system dependent on it, has written in support of this specific legislation. I have attached a copy of their letter to my testimony.

Additionally, the City of Port Orford has long supported the creation of the Copper Salmon Wilderness. Earlier this week, the Common Council of the City of Port Orford passed Resolution 2008-05 supporting the proposed Copper Salmon Wilderness Bill. A copy of this resolution is also attached. We thank Senator Wyden for introducing this important legislation and encourage the Subcommittee and the entire U.S. Senate to enact it as soon as possible. Our community will benefit from this legislation for generations to come.

Again, thank you for the opportunity to testify, and I welcome any questions that you may have.

Senator WYDEN. Mayor, thank you for an excellent statement and all your leadership. It's always wonderful to have you at the Town Hall meetings that I hold in the community and just really appreciate the way you've gone about this to try and find common ground. This is not on the Oregon coast, been about Democrats and Republicans. This has been about putting Oregon first. You have clearly conveyed that message and we thank you for it.

Mr. AUBORN. We appreciate your coming out each year to Port Orford or Curry County and thanks for your Town Hall meetings.

Senator WYDEN. As long as I have the honor of representing Oregon in the U.S. Senate, that's the way it's going to be.

Mr. ROGERS, welcome. Big bouquets to you for all of the grassroots efforts you have sure toiled long and hard. I just was thinking about the Mayor's statement about how the County Commissioners passed the resolution back in 1999 and here we are in 2007. You've been prosecuting the case for protecting this wonderful gem on the coast for a long time. We thank you for all those efforts and please proceed.

**STATEMENT OF JIM ROGERS, CONSULTING FORESTER,  
FRIENDS OF ELK RIVER, PORT ORFORD, OR**

Mr. ROGERS. My name's Jim Rogers. I'm a consulting forester from Port Orford, Oregon. I'd like to thank Chairman Wyden for introducing the Copper Salmon Wilderness Act and the Senators on the subcommittee for the opportunity to testify today.

Port Orford is located along a remote stretch of Highway 101, known as America's wild rivers coast. Our weather is every bit as wild as our rivers. I'm here from Curry County on behalf of Friends of Elk River, Trout Unlimited, Campaign for America's Wilderness, Coalition of Sportsmen and the Who's Who of National, State and local public officials and environmental organizations who all ask you to protect Elk River by designating the 13,700 acres Copper Salmon Wilderness Area.

In our watershed ancient stands of Port Orford cedar, Douglas fir and Western Hemlock withstand hurricane force winds and more than 120 inches of annual rainfall. Several endangered species including marbled murrelets, spotted owls, bald eagles and Coho salmon find refuge here. Elk River provides spawning and rearing habitat for winter steelhead and big, 40 to 50 pound Chinook salmon. Black bear, mountain lions and elusive ring tailed cats still

wander the precipitous mountains lush with mountain rhododendrons and massive old growth trees, trees that sometimes grow 300 feet tall and ten feet in diameter.

Renowned for its remarkable water clarity the wild and scenic Elk River is perhaps the healthiest habitat in the lower 48 States for anadromous fish. This watershed is a place like no other. In my years as a forester I've seen a lot of places.

As timber manager for Western States Plywood Cooperative my responsibilities were bidding on Siskiyou National Forest timber sales and then supervising the road construction and logging activities that followed. One notorious sale was Copper Mountain in the upper Elk River watershed. Walking among huge Douglas fir and Port Orford cedar trees in the silence of the mossy forest along the North Fork of Elk River, I felt a quick pang of remorse. But my professional training quickly suppressed it and I began counting how many No. 2 peelers were there.

Picturing the grins on the faces of the mill workers when they saw these huge Doug fir logs going through the lathe and the smiles on the faces of the Japanese log buyers when the priceless Port Orford cedar was safely in the holds of their ships, right off things went array. Even before the logging took place there were landslides. Then a large culvert washed out sending thousands of cubic yards of mud and debris directly into the North Fork.

One afternoon when the logging crew was yarding logs in unit six, a windstorm came in and blew down the entire buffer we had left along the river. I stood in awe as 18 acres of enormous old growth trees crashed to the ground like so many pick up sticks. The following year several more acres of unit six slid straight down into the North Fork of Elk River.

The reason that Elk River was the last south coast watershed to be logged became obvious. Not only was it the most dangerous and the most expensive watershed to work in, more often than not serious ecological damage resulted from building roads and logging in this extremely steep, rugged, unstable country. Indiscriminate incursions notwithstanding, Elk River remains one of the most intact, low elevation, temperate rain forests in the world.

Although the entire area has been off limits to logging for the past 13 years there will inevitably be continued attempts to go back after the North Fork's timber. Each furtive attempt further damaging and eventually irreparably destroying her world class salmon fishery. The only way to really protect this unique, extremely important area for perpetuity is by awarding it Congressional protection as wilderness.

The Copper Salmon Wilderness Proposal started locally from the ground up. Our rural community is united in support of wilderness designation for the Copper Salmon area. This is why Mayor Auburn and I traveled across the country from shore to shore to explain to you in plain words that the ecology and the economy of our remote fishing community are deeply interconnected. Our community depends on the health of Elk River watershed and the world class fishery provided by the North Fork of Elk River.

From retirees to schoolchildren, all facets of our coastal community support wilderness designation for the Copper Salmon area. Church groups, business leaders, fisherman, artists and thousands

of visitors who travel great distances to smell the sea air and glimpse the areas non-paralleled beauty join me in directing and urging you to release us from the old boom and bust cycle of resource extraction and to make our vision of economic stability a reality by establishing the Copper Salmon Wilderness Area.

Thank you.

[The prepared statement of Mr. Rogers follows:]

PREPARED STATEMENT OF JIM ROGERS, CONSULTING FORESTER, FRIENDS OF ELK RIVER, PORT ORFORD, OR

My name is Jim Rogers. I'm a Consulting Forester from Port Orford, Oregon. I would like to thank Chairman Wyden for introducing the Copper Salmon Wilderness Act and the Senators on this Subcommittee for the opportunity to testify today.

Port Orford is located along a remote stretch of Highway 101 known as America's Wild Rivers Coast—and our weather is every bit as wild as our rivers.

I'm here from Curry County on behalf of Friends of Elk River, Trout Unlimited, Campaign for America's Wilderness, a coalition of sportsmen, and a Who's Who list of national, State, and local public officials and environmental organizations, who all ask you to protect Elk River—and 44 miles of crystalline headwater streams—by designating the 13,700 acre Copper Salmon Wilderness Area.

In our watershed, ancient stands of Port-Orford-cedar, Douglas-fir and Western hemlock withstand hurricane-force winds and more than 120 inches of annual rainfall. Several endangered species including marbled murrelets, spotted owls, bald eagles and coho salmon find refuge here. Elk River provides spawning and rearing grounds for winter steelhead and big 40 to 50 pound Chinook salmon. Black bear, mountain lions, and elusive ringtail cats still wander the precipitous mountains lush with wild rhododendrons and massive old-growth trees—trees that sometimes grow 300 feet tall and 10 feet in diameter.

Renowned for its remarkable water clarity, the Wild & Scenic Elk River is perhaps the healthiest habitat in the lower 48 states for anadromous fish. This watershed is a place like no other, and in my years as a forester I've seen a lot of places.

Graduating from the SUNY College of Forestry at Syracuse, New York, in 1964, I began my professional forestry career working for Weyerhaeuser in Aberdeen, Washington. Next I joined the U.S. Forest Service where my job was to lay out and appraise timber sales. Four years later I became the Timber Manager for Western States Plywood Cooperative and moved my family to Port Orford. It's here that my life started taking unexpected twists and turns.

As timber manager for Western States Plywood Cooperative, my responsibilities were bidding on Siskiyou National Forest timber sales and then supervising the road construction and logging activities that followed. One notorious sale was the Copper Mountain Timber Sale in the upper Elk River watershed. Walking among huge Douglas-fir and Port-Orford-cedar trees in the silence of the mossy forest along the North Fork of Elk River, I felt a quick pang of remorse; but my professional training quickly suppressed it and I began counting how many #2 Peelers there were, picturing the grins on the faces of the mill workers when they saw these huge Doug-fir logs going through the lathe, and the smiles on the faces of the Japanese log buyers when the priceless Port-Orford-cedar was safely in the holds of their ships.

Right off, things went awry. Even before the logging took place there were landslides, and then a large culvert washed out sending thousands of cubic yards of mud and debris directly into the North Fork. One afternoon when the logging crew was yarding the logs in Unit 6, a windstorm came in and blew down the entire buffer we'd left along the river. I stood in awe as 18 acres of enormous old-growth trees crashed to the ground like so many pick-up sticks. The following year several more acres of Unit 6 slid straight down into the North Fork of Elk River.

Today the abandoned spur roads that led to these harvest units and to other similar clearcuts, haven't been passable in decades, and the fully re-grown plantations are too steep to walk on, not to mention manage using conventional methods.

However, as a result of road construction done 40 years ago, deep holes in the lower reaches of Elk River are still filling in with every winter storm. Road failures dump literally tons of rocks into the river; this coarse sediment fills the deep holes where the trophy-size salmon hide from view in the cold mountain water. Washouts also dump fine sediment into the streams, smothering salmon eggs and destroying the low-gradient productive flats that scientists consider barometers of watershed health.



The reason that Elk River was the last south coast watershed to be logged became obvious. Not only was it the most dangerous and the most expensive watershed to work in—more often than not—serious ecological damage resulted from building roads and logging in this extremely steep, rough, unstable country.

Finally, after seven years with Western Sates Plywood, I felt I had no choice but to disagree with my timber industry colleagues. I began using my on-the-ground experience and professional knowledge to save the most valuable fishery streams in the Elk River watershed. My new colleagues turned out to be fish biologists and fishermen. Working from my cabin in a voluntary capacity, I shaped a broad coalition of diverse groups including the League of Women Voters, the Longshoremen's Union, the Independent Troll Fishermen of Oregon, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, and others. This group—the first of its kind—successfully lobbied for permanent protection of the fisheries of the middle stretches of the Elk and Sixes Rivers. In 1984, after 10 years of effort, we saw the 17,000 acre Grassy Knob Wilderness Area established. Grassy Knob Wilderness was the first Wilderness Area in our Nation created expressly to protect fish.

The following year, the Forest Service undertook an extensive study of the entire watershed. Among many things, they discovered that the most productive fish spawning tributary was the North Fork of Elk River, an area that was not included in the Grassy Knob Wilderness. Astonishingly, despite this knowledge, the Siskiyou Forest Plan called for logging and roading two-thirds of the North Fork drainage.

Friends of Elk River monitored those USFS timber sales and we challenged in court any sales that were unlawful; but our hands were tied when the Section 318 Rider and the Salvage Rider exempted all sales from environmental appeals. There was nothing we could do as loggers and road builders went back into the North Fork and clearcut healthy old-growth trees that were holding together the extremely steep mountainsides in the Elk River watershed. When it came time to cut those units, even one of the timber buyers tried to find a way out of logging the resurrected sale.

Indiscriminate incursions notwithstanding, Elk River watershed remains one of the most intact low-elevation temperate rain forests in the world. Although the entire area has been off-limits to logging for the past 13 years, there will inevitably be continued attempts to go back after the North Fork's timber, each furtive attempt further damaging and eventually irreparably destroying our world-class salmon fishery. The only way to really protect this unique, extremely important area for perpetuity is by awarding it Congressional protection as Wilderness.

There is no matrix in Copper Salmon. However, as was the case with the Grassy Knob Wilderness Area, a few old timber plantations—the legacy of imprudent management that took place several decades ago—remain inside the Copper Salmon Wilderness. Including these re-grown plantations and using main roads as the Copper Salmon Wilderness Area boundary, circumvents high-priced land surveying and mapping expenses. It's the no-cost, sensible way to go that best safeguards the North Fork's ecosystem and watershed values. All of the areas within the proposed Copper-Salmon Wilderness area meet the criteria of the Wilderness Act.

According to ecologist Dr. Christopher Frissell, "The Copper Salmon area is now of high value for regional biodiversity protection and scientific research due to its recent history of relatively limited human alteration." Dr. Frissell conducted a detailed analysis of the ecological values of the Copper Salmon area. His report is attached to this testimony.\*

The Copper Salmon Wilderness proposal started locally, from the ground up. Our rural community is united in support of wilderness designation for the Copper Salmon area. This is why Mayor Auburn and I traveled across the country—from shore to shore—to explain to you in plain words, that the ecology and the economy of our remote fishing community are deeply interconnected. Our community depends on the health of Elk River watershed and the world-class fishery provided by the North Fork of Elk River. We also know that just as our economic wellbeing is bound to our wild rivers and to our forested watersheds, our wellbeing is also dependant on the clean air and clear water that these forests provide.

From retirees to schoolchildren, all facets of our coastal community support wilderness designation for the Copper Salmon area. Church groups, business leaders, fishermen, artists, and thousands of visitors who travel great distances to smell the sea air and glimpse the area's unparalleled beauty, join me in urging you to release us from the old boom and bust cycle of resource extraction, and to make our vision of economic stability a reality by establishing the Copper Salmon Wilderness Area.

Please protect this gem.

Thank you. I appreciate the opportunity to speak before your committee.

\* Report has been retained in subcommittee files.

Senator WYDEN. The firm of Auburn and Rogers has represented the Oregon coast very well today. We thank you both, excellent presentations and just have a couple of questions.

Mayor, this is a unique coalition. You just don't see this kind of breadth of support very often. Tell me, if you would, why you think that such a remarkable group that certainly doesn't agree on everything has come together, has coalesced this way?

Mr. AUBORN. I think it really started with the environmental groups and things. But it's very unusual and things for them to get the fishing community to support it and things. But the fishing community is really the only industry that we have left. They realize how important the Elk River run of salmon is to their economy and things and once that happened and things.

We also see support from the business community because our business community is becoming more and more dependent upon tourism. Tourism, hunting and fishing in areas like on the Elk River and things are again, very attractive and things for our area. So people have seen the light.

Senator WYDEN. I think your comments about the fishing industry really put your finger on it because I was struck on my last couple of trips. You know people hear Copper Salmon, you know, wilderness. So all automatically are weeping hitting wilderness against people who are concerned about economics and the well being of a community, as you point out, that has been hard hit economically. The involvement of the fishing industry I think has been a big factor in pulling together that coalition.

That's my sense in effect of what's to come because I think more and more we're going to see, you know, fishing interest, Chamber of Commerces, environmentalists and others come together and I think you've laid it out very well. Just thank you for your support.

Let me ask you a couple of questions, Mr. Rogers, about what we've heard earlier in terms of the Forest Service. Now the Forest Service folks have been a little concerned about some of the old plantations that are included in the proposal. My sense is you may be one of the people who really knows what these, you know, plantations look like and if you could give us a sense of what condition they're in and then as a forester, your thoughts about what kind of management would be appropriate for those plantations.

Mr. ROGERS. Essentially the Elk River is extremely steep and as I mentioned before that was really the last place we went into. I've got a few pictures here to show you what some of these old plantations look like. This is on Butler Mountain, large, clear cut. This is a stump. I don't know if you can see it, the roots of the stump. The soil was here, now it's down here. About three feet below the stump that whole hillside has all eroded away.

Here's another picture that shows you how steep this country is. We used to—us loggers always referred to it as steeper than the back of God's head. Those who are a little more reverent called it steeper than a cow's face. But this is a slope in excess of 100 percent.

I met with the Forest Service about a week ago to look at some of these plantations to see if we could find some common ground. So we just parked along the roads about. Let's just walk down here and see what it looks like. We walked down about 300 feet, came

to a landslide that had been there for a number of years. I said, you know, if you go in here and you start logging, you're yarding logs through these places again, you're going to tear the soil loose again and it's going to continue to erode. The ranger said, oh, well, we would never go back into a place like this. We would just leave it alone. I said well, about 80 to 90 percent of what we're talking about is land like this.

This is land in excess of 80 percent slope. That's pretty much the line that if you cross it you get significant erosion. I usually figure you shouldn't log anything steeper than 70 percent and most of this is 80 to 110 percent.

Senator WYDEN. Now the Forest Service also noted, Mr. Rogers that there were some old roads included in the proposal. What's your sense about how drivable these roads are and how much decommissioning work do you think would be necessary up there?

Mr. ROGERS. Most of the roads are not drivable any more. This is one of the roads. I don't know if you can see. This is a landslide that came off the hill and covered this road about ten feet deep or so.

Most of the roads, this is pretty typical of what they look like. They're mostly overgrown with trees and brush. There's one road that—I've checked them all out in the past year. One road I was able to drive down a year ago, but I was probably the last one who drove down it. I only drove it until I came to trees across the road. But it was totally overgrown with tree branches from the sides of the road and it just kind of pushed through them.

So, essentially these roads are closed and there's no interest in driving out them. What I'm concerned about if they were to decommission these roads is that they'd have to open them back up again and go in there and do a lot more soil disturbance. If you put a barricade of some sort at the beginning of the road, that makes it a challenge for the ATV people to try to get around that barricade. Now they don't have any interest in it because there's no way they can drive down it and it would take a lot of work to be able to open a road enough for any kind of vehicle.

Senator WYDEN. We will work closely with you and the Forest Service folks and get this addressed to everybody's satisfaction.

Now they also cite fire fighter safety the issue of adjusting boundaries. Give us a sense of what you think is the fire danger in the coastal rain forest.

Mr. ROGERS. This area gets between 120 inches at the low end to 160 inches of rain at the upper end a year. It's very wet. It would be hard to a fire to start anywhere inside it, like a lightning caused fire. The most likely place where fires would start is right along the edge of the road where somebody might throw out burning material.

When we talked to the Forest Service last week we discussed that. We felt that 100 foot strip from the edge of the road should be left out of the wilderness so that that could be managed to reduce fire hazard by thinning trees, cutting the limbs off. So you don't have the ladders and maybe removing dead material along the edge of the road. As far as hazard to fire fighters it wouldn't really be different whether it was wilderness or LSR.

Senator WYDEN. Well, gentlemen I don't have any further, further questions. My sense is you've got a long flight ahead of you. I know what that trek is like. I just want to leave you with one thought.

I think what you all have done on the Oregon coast in this debate about Copper Salmon which certainly has gone on for a long time, is a textbook case for how a community can come together on a major natural resources issue. I think we all know what happens so often on these kinds of issues is people start often in adversarial way and the decibel level goes up from there. In other words, having started pretty polarized, then it gets increasingly worse. Very often ends up in some sort of Federal courthouse, particularly as it relates to these issues when you're talking about Federal policy.

What you all said from the very beginning as it related to this debate is you wanted to do something that made sense for the whole community. You wanted to do something that made sense for the environment, something that made sense for fishing. That the Chamber of Commerce could rally behind. That environmentalists could rally behind. In the process you've done an awful lot of good for our State and given us, at least on this subcommittee, a real model.

So, I want to congratulate you. I know it has been a long, long journey. We are not done yet, but to have our delegation united with the involvement of Senator Smith and your Congressman, Congressman DeFazio and the cooperative attitude of the Forest Service that we heard demonstrated again this afternoon. I think we can get this job done.

So, Godspeed. It's a long trip home, but your hard work is really paying off. It's paying off for the people of the Oregon coast. I think it's paying off for our country because you're giving us a good model of how we ought to come together in terms of natural resources.

So, I always like to let our witnesses have the last word. If you'd like to add anything further we'll hear that and then we'll send you on your way.

Mayor, Mr. Rogers, anything you want to add?

Mr. AUBORN. I think we really want to thank you for doing this. It really shows that our political process works and things. You've visited Port Orford and Curry County on several times. You've heard the message. It really pleases us to see some action on it. So thank you again.

Senator WYDEN. Thank you, Mayor.

Mr. Rogers.

Mr. ROGERS. I'd like to thank you very much for your kind words. I'm not sure we're totally deserving of them but I very much appreciate it. Port Orford is probably the most cantankerous town in all of Oregon and to find anything that everyone agrees on is—

Senator WYDEN. Your point about verbal inflation tends to be generally true in the U.S. Senate but not in your case. You all really do deserve it for all this cooperation. So we thank you. With that the subcommittee is adjourned.

[Whereupon, at 3:30 p.m. the hearing was adjourned.]

## APPENDIXES

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### APPENDIX I

#### Responses to Additional Questions

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U.S. DEPARTMENT OF AGRICULTURE,  
FOREST SERVICE,  
*Washington, DC, October 9, 2007.*

Hon. RON WYDEN,  
*Chairman, Subcommittee on Public Lands and Forests, Washington, DC.*

DEAR SENATOR WYDEN. Enclosed please find the responses to the questions for the record submitted by the Subcommittee on Public Lands and Forests of the Senate Committee on Energy and Natural Resources from the September 20, 2007, hearing.

If you have any additional questions, please contact Forest Service Legislative Affairs specialist Teri Cleeland at 202-205-1036.

Sincerely,

JOEL HOLTROP,  
*Deputy Chief.*

#### RESPONSES TO QUESTIONS FROM SENATOR DOMENICI, ON S. 1025

*Question 1.* I've been told that Senator Craig's staff utilized the Forest Service for an informal drafting service on this legislation. Thus, I find it odd that you are now expressing concerns about the mechanics of the correction to the Wilderness Boundary. Can you help us understand how or why the Forest Service changed its mind after providing the drafting service?

Answer. The Small Tracts Act (STA) has a size limitation of 10 acres. The legislation would provide an exception to the STA for approximately 10.2 acres. However, the current acreage being considered for direct exchange or sale is approximately 30 acres. The agency cannot support this large of a variance from the STA size limitation.

*Question 2.* Mr. Holtrop, in your testimony on S. 1802 you said: "the Department would prefer to use a different land adjustment authority than the Small Tracts Act, which is not appropriate to this situation." Can you tell me exactly what the alternative land adjustment authority it is that you would like to have included in the legislation and how that authority works?

Answer. The Forest Service has only one suitable administrative option in this case for resolving the Ranch's unauthorized improvements, i.e., our general exchange authority, pursuant to the General Exchange Act of 1922. We would like to work with the committee and sponsor to discuss what is the best solution under the current circumstances; e.g., the legislation could provide for a special one-time sale authority of the encumbered lands.

*Question 3.* Could you also provide me an estimate of the time it would take the Forest Service to complete the work under this alternative process once this bill is signed into law?

Answer. If this bill becomes law, the wilderness boundary adjustment could proceed immediately. The time necessary to execute an administrative land exchange would be approximately 1.5 to 3 years, if no significant issues or obstacles arose. Exchanges are more complex than sales for a number of reasons, including the requirement for an exchange that the values of the federal and non-federal lands be equalized.

## RESPONSES TO QUESTIONS FROM SENATOR DOMENICI, ON S. 2034

*Question 4.* In your testimony on S. 2034, you said: "The Department would like to work with the bill's sponsor and the committee to offset the wilderness boundary inward along perimeter roads to implement planned treatments within a reasonable distance of the road, provide for routine road maintenance, and to decrease the likelihood of incompatible motorized use in wilderness." Many wilderness bills passed by Congress include automatic setbacks of 50, 100 or 200 feet along roads that abut the proposed wilderness boundary. Are you suggesting a greater set-back in this instance? If so, how large of set back are you recommending?

Answer. No. We believe we could accomplish our road maintenance objectives and protect the public from Danger Trees within a 300 foot setback from the perimeter roads.

*Question 5.* I also note your concern about old harvest units that have been proposed for wilderness that the Agency would like to continue to manage to improve habitat conditions for fish and wildlife, reduce effects from insects and disease, and provide defensible space for firefighters in the event of a wildfire. Given the steep nature of the area and the sensitive soils, I assume that you will need to utilize a full-suspension logging system to manage these areas. How much of an additional buffer beyond the current boundaries of these old harvest areas will you need to provide adequate tail-holds to accomplish the management you're talking about?

Answer. Any setback from the roads would have to contain all forest restoration activities, including any logging system. We are not contemplating that entire plantations along roadways would be managed, because we would ask for a uniform setback.

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[Responses to the following questions were not received at the time the hearing went to press:]

## QUESTION FOR MICHAEL NEDD FROM SENATOR DOMENICI, ON S. 1143

*Question 1.* Director Nedd, in your testimony on S. 1143 you said: "The Department would like the opportunity to work with Senator Nelson and the committee on some technical amendments including a correct map reference and other minor issues." Could you take several minutes to tell us exactly what your concerns are and how the Department would propose the legislation be modified to address your areas of concern?

## QUESTION FOR MICHAEL NEDD FROM SENATOR MURKOWSKI, ON S. 1143

*Question 2.* Mr. Nedd, you indicated in your testimony that the Department of the Interior would submit a proposed amendment to S.1433. If the Department has not already done so, kindly submit the proposed amendment at this time.

## APPENDIX II

### Additional Material Submitted for the Record

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STATEMENT OF GARY D. PRESZLER, COMMISSIONER AND SECRETARY, NORTH DAKOTA  
BOARD OF UNIVERSITY AND SCHOOL LANDS, ON S. 1740

Mr. Chairman, on behalf of the North Dakota Board of University and School Lands (Board), I appreciate the opportunity to submit written testimony in support of S. 1740, and I ask that this written testimony be included in the hearing record.

S. 1740 was introduced by Senators Conrad and Dorgan on behalf of the Board, the North Dakota State Legislature, and the people of North Dakota.

As provided by the North Dakota Constitution, the Board is made up of the Governor, Secretary of State, Attorney General, Superintendent of Public instruction, and the State Treasurer. The Board is responsible for managing the lands and financial assets (permanent trusts) that were granted to the State of North Dakota by the Federal Government at statehood through the Act of February 22, 1889 (commonly known as the Enabling Act) and the Act of July 2, 1862 (commonly known as the "First Morrill Act"). The primary beneficiary of the permanent trusts under the Board's control is the common schools (K-12 education); however, these trusts also benefit various institutions of higher education, the state veteran's home, state hospital and a number of other governmental entities.

The purpose of S. 1740 is to:

- Update the Enabling Act and First Morrill Act for North Dakota;
- Update those Acts to reflect the wishes of the people of North Dakota; and,
- Give the Land Board the ability to better invest the trust funds by using recognized modern investment principles.

The Enabling Act and the First Morrill Act currently restrict the way these trust funds can be managed by limiting distributions to the "interest and income" generated by the trusts each year. S. 1740 will change the way trust distributions are determined. Current methodology is based on the interest and income earned by the trust funds (terms which today are sometimes difficult to define due to the types of investment structures and accounting practices). The new method is based on the value of the financial assets in the trust funds, and the growth of those assets over time.

When trust assets were made up of primarily land, bonds, and loans, it made sense to distribute only the interest and income generated by these assets. This is the way most trusts and endowments were managed 100 years ago. North Dakota's permanent trusts financial assets are now approaching \$1 billion, with the trust funds consisting of a diverse portfolio of stocks, bonds, minerals interests, surface lands, and other assets. Investment practices have changed substantially over the past 50 years, as have financial markets. S. 1740 recognizes these changes and provides the Board with the means to manage the trust funds in a way that meets the best practices for endowments and permanent funds for the 21st century.

The Board first sought approval for the changes from the North Dakota Legislature. House Concurrent Resolution (HCR) No. 3037 was passed by the North Dakota House by a vote of 84-1 and passed by the North Dakota Senate by a vote of 41-4. On November 7, 2006, the people of North Dakota approved the constitutional changes (Constitutional Measure No. 1) by a vote of 67% to 33%. The vote indicates strong support for this measure from both the government and people of North Dakota.

It is important to note that S. 1740 only changes the Enabling Act and First Morrill Act for North Dakota. It does not have any impact on South Dakota, Montana or Washington, the other three states that achieved statehood through the Act of February 22, 1889. However, it is important to also note that at least two other states received Congressional approval to change similar Acts; New Mexico in 1997, and Idaho earlier in 2007.

In summary, by bringing the management of the permanent trusts in line with universally-adopted investment principles and practices of the largest endowments and trusts in the nation, passage of S. 1740 should help ensure higher and more reliable distributions. It would allow the Board to manage the trusts more efficiently and effectively, better serving the people of North Dakota for generations to come.

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STATEMENT OF AMERICAN FOREST RESOURCE COUNCIL, ON S. 2034

Thank you for the opportunity to submit the American Forest Resource Council's (AFRC) views on S. 2034, the Copper Salmon Wilderness Act.

AFRC represents nearly 90 forest product manufacturers and forest land owners in the west and the majority of the mill capacity in the Pacific Northwest. These companies generate thousands of quality jobs across the region and are often among the largest private employers in rural communities. AFRC members are almost entirely private companies—many of them family owned—that range from small to very large operations.

AFRC believes in the multiple use mandate and sustainable management of our national forests. This includes supporting wilderness designations where areas meet the original intent of the 1964 Wilderness Act. It also means supporting active management where appropriate. We are committed to being part of the solution to restore our public forests while supplying Americans with quality wood products and renewable biomass energy.

During the week of September 24, AFRC staff had the opportunity to visit the proposed area on the ground, review Forest Service maps and aerial photos. This testimony and the attached document are based on what we know about the area, observed on the ground and uncovered by reviewing information provided by the Forest Service.

The Copper Salmon area is known as a world class fishery, which is why some support its designation as wilderness to “preserve” and “protect” the area. Many times forest management—whether it be thinning, road restoration, soil stabilization, in-stream habitat improvements, etc.—is needed to ensure high-quality fish and wildlife habitat.

Wilderness designation, however, would prohibit this type of restoration and severely limits land managers. This seems contrary to the idea of “protecting” the Copper Salmon. Instead of wilderness, the more appropriate approach would allow for responsible management now and in the future to ensure the area remains a world-class fishery. While AFRC is not advocating for traditional timber management in this area, the fact of the matter is timber harvests have been conducted on about one-fifth of the entire proposed wilderness and it remains an excellent fishery. Furthermore, with roughly 1,000 acres of overstocked Douglas fir plantations, some active management is needed to address forest health while maintaining or improving fish and wildlife habitat.

We found that the Copper Salmon wilderness proposal contains 11.8 miles of system roads, 92 culverts, an unknown amount of roads no longer identified as system roads, old mining claims, approximately 2,600 acres of previously harvested stands (19% of the total acreage) and about 1,000 acres of overstocked Douglas fir plantations. This certainly does not conform to the Wilderness Act principles of “untrammeled by man” or “primeval.” To the contrary, these areas have been substantially influenced by humans. Proponents of this and similar legislation generally oppose active management in unroaded areas while only supporting limited management in already-roaded areas. Yet with this proposal they are arguing that roaded areas can be designated as “wilderness.” This is an inconsistent position and this policy should not be accepted by Congress. Roads, like other significant human structures, should be excluded from wilderness designations.

The Forest Service has indicated that if this bill became law, the Agency would likely “restore” roads and remove culverts to protect water quality. Due to numerous culverts and the permanent nature of the roads, this would cost the Agency an estimated \$300,000 to complete using heavy equipment, such as an excavator. Realistically, the Forest Service would likely lack the money and resources to completely decommission roads and return the area to that resembling “wilderness,” especially if it has to be accomplished by non-motorized means. At a time when the Forest Service budget is static or declining and fire suppression consumes nearly half of the budget, it is unrealistic to place this financial burden on the already cash-strapped agency. It is also irresponsible to designate this area as wilderness—precluding much-needed road or forest restoration in the future—with the knowledge that this could harm the fishery.



With all of that said, AFRC does recognize certain areas within the wilderness proposal contain old stands of Port Orford cedar that should remain intact and that the area as a whole is an excellent fishery that should be conserved. At the very least, however, we recommend removing areas containing roads, previously harvested stands and plantations from the wilderness proposal. This would ensure land managers the ability to appropriately manage the area today and in the future to enhance and protect the fishery.

Thank you again for the opportunity to submit testimony on this legislation.

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PORT ORFORD OCEAN RESOURCE TEAM,  
*Port Orford, OR, September 12, 2007.*

Mayor JAMES AUBORN,  
*City of Port Orford, OR.*

DEAR MAYOR AUBORN: We are pleased to write this letter in support of the Copper-Salmon Wilderness legislation recently introduced by Senator Ron Wyden and Representative Peter DeFazio.

Establishing 13,700 acres in the southern Oregon Rogue River-Siskiyou National Forest as wilderness is an important step to protect the upper-watershed of the Elk River. This legislation will help protect critical spawning and rearing habitat for Elk River salmon and steelhead.

Our organization works closely with the commercial fishermen who harvest fish each year near the mouth of the Elk River. The fishery generates dollars that support fishing families and our community. Keeping the river healthy and productive is important to the people who live at Port Orford.

Our great appreciation goes out to Senator Wyden and Representative DeFazio for supporting our community by introducing this important legislation.

Sincerely,

AARON LONGTON,  
*President.*

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CHAMBER OF COMMERCE,  
PORT ORFORD & NORTH CURRY COUNTY,  
*Port Orford, OR, September 17, 2007.*

Hon. RON WYDEN,  
*Chairman, Public Lands & Forests Subcommittee.*

The Port Orford & North Curry County Chamber (P.O.N.C.C.C.C.) would like to thank you and Representative Defazio for your actions and support leading to the introduction of the Copper Salmon Wilderness Bill. The P.O.N.C.C.C.C. business community has been in support of this legislation since 2003 when a vote from the membership was taken with 26 in favor and 3 against. On September 10th, 2007 the P.O.N.C.C.C.C. Board of Directors met for our regular scheduled meeting and voted in support of the Copper Salmon Wilderness Bill.

As you know, the Elk River is the only intact watershed on the Southern Oregon Coast. The Elk River is also one of the most productive salmon habitats in the lower 48 States according to a 1985 U.S. Forest Service Biologist and Geologist study. Fishermen from all over the country come here to fish for salmon in the waters of the Elk River. This brings a vital economic boost during the lull in our tourism driven economy. Restaurants, Motels, R.V. Parks, Grocery Stores, Hardware Stores, Art Galleries, Advertisers and Fishing Guides benefit from this eco-based winter tourist industry. There is not a business in the community that does not receive a beneficial dollar during the hardest months of their economic year.

The Port Orford & North Curry County Chamber of Commerce understands the economic and eco-tourism aspects that are vital to our community now and for years to come. The Port Orford & North Curry County Chamber of Commerce would like to thank you again for your support of the Copper Salmon Wilderness Bill and hope that you continue your efforts towards the passing of this legislation that is so important to our community.

Very Respectfully,

DAVID B. SMITH,  
*President.*

CURRY COUNTY,  
Gold Beach, OR, September 18, 2007.

Hon. RON WYDEN,  
*Chair, U.S. Senate Subcommittee, Public Lands and Forests, Senate Committee on  
Energy and Natural Resources.*

DEAR SENATOR WYDEN: Thank you for introducing S. 2034 The Copper Salmon Wilderness Act. As you know this forest is the headwaters to the Elk River which is a major fish bearing stream in northern Curry County, Oregon. Fishing is a very important to the Curry County economy. This area deserves wilderness consideration to preserve its beauty and the fish runs for generations to come. I fully support this designation and S. 2034.

Sincerely,

LUCIE LA BONTÉ,  
*Commissioner.*

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STATEMENT OF ERIK FERNANDEZ, WILDERNESS COORDINATOR, OREGON WILD,  
ON S. 2034

Oregon Wild, formerly Oregon Natural Resources Council, strongly supports the Copper Salmon Wilderness Act, S 2034. The Wilderness and Wild and Scenic Rivers protections contained within this legislation are long overdue for this unique and spectacular area.

Located in Southwest Oregon, the Elk River watershed that is the focus of the Copper Salmon legislation is home to the healthiest run of wild salmon for a river of its size in the lower 48 states. With wild salmon stocks in decline throughout Oregon and the Northwest, it is critical that we protect those that are still thriving. The proposed legislation would do just that by designating 13,700 acres of Wilderness and 9.3 miles of the North and South Fork of the Elk River as Wild and Scenic Rivers.

Oregon Wild commends Senators Ron Wyden and Senator Smith for their hard work in developing legislation to protect this critically important area. The local economy, anglers, recreational users of the river and wildlife will all benefit from this important legislation.

Copper Salmon is also home to some of the last stands of healthy Port Orford cedar, Oregon's most endangered tree. Maintaining areas in their primitive state without vehicular access is the best preventative medicine to keep these stands of Port Orford cedar intact and healthy. The disease that infects the trees is a spore that travels on the wheels of vehicles, and logging roads and other development have hastened its spread.

Copper Salmon Wilderness legislation also helps address a major imbalance in protection of pristine lands in the Pacific Northwest. Currently only 3.7% of Oregon is permanently protected as Wilderness, an absurdly low number, especially when compared to neighboring states (WA: 10%, CA: 14%).

#### CULVERTS

There are culverts on old roads in the area proposed for Wilderness. The primary concern with culverts is minimizing any disturbance to water quality. The roads with the culverts in question are often over-grown with trees growing in the road. Even at the time of construction these were low-grade logging roads. Based on our experience with forests of this type, more damage would be done by going into the area and removing the culverts than by allowing for natural recovery of the landscape. Due to the climate of this area, the forest is already reclaiming these roads. Decommissioning the culverts would actually require more time and money to be spent re-building the roads in order to reach them. The soil and watershed disturbance that would result from such development would likely outweigh the potential benefit of removing the culverts.

If at some point in the future the USFS determines there are culverts where a more active approach is needed, the minimum tools analysis under the Wilderness Act allows them a simple and efficient way to gain authority to use mechanized equipment if necessary and remove them. We would support report language that clarified the intent of the Wilderness Act to allow for mechanized machinery if "necessary to meet minimum requirements for the Administration of the area" (as stated in the Wilderness Act) in accordance with the existing minimum tools policy. It is our understanding that this is no more than a clarification of the Wilderness Act, not new policy.

## ROADS

Currently there are 11 miles of classified roads in the Copper Salmon Wilderness proposal. Of those roads, 9 miles are already closed, and the remaining 2 miles are only accessible by high clearance vehicle. While Wilderness designation is intended to protect areas primarily influenced by nature, in some instances it makes sense to include roads for management or watershed purposes. Congress has included roads in countless Wilderness areas where it was deemed appropriate, and we believe it is appropriate in this case.

## PLANTATIONS

The plantations within the proposed Wilderness are on extremely steep slopes, in some cases 100% slope (45 degrees). Oregon Wild is generally supportive of plantation thinning where it can be done in an ecologically beneficial manner. In the Copper Salmon area the slopes are steep enough that any thinning operation would cause more harm than good. Disturbing the soils on the steep slopes would undoubtedly lead to erosion and siltation of spawning gravel in the area's salmon bearing streams. As with roads, over time nature will reclaim these areas, and we therefore support their inclusion in the proposed Wilderness. Color aerial photos taken in the year 2005 show that this process is already well under way and the plantations are growing back on their own now. Including these plantations allows for a more manageable boundary for the Wilderness area which will in turn make it easier for the public to know where the boundary is and easier for the US Forest Service to police illegal activities (such as off road vehicle use.) There is significant existing precedent for including plantations in Wilderness areas where appropriate. In fact, the Grassy Knob Wilderness, just west of Copper Salmon, encompasses a large plantation for many of the same reasons.

In closing, we fully support the designation of the Copper Salmon Wilderness and the Wild and Scenic River designation for the North and South Fork of the Elk River.

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