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SENATE

{ REPORT
105-391

OREGON PUBLIC LAND TRANSFER AND PROTECTION ACT OF 1998

OCTOBER 9 (legislative day, OCTOBER 2), 1998.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany S. 2513]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2513) to transfer administrative jurisdiction over certain Federal land located within or adjacent to Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal land in Oregon, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

S. 2513, as ordered reported, transfers administrative jurisdiction over certain Federal lands located within or adjacent to the Rogue River National Forest and limits the authority of the Bureau of Land Management to sell and exchange other Federal lands in Oregon.

BACKGROUND AND NEED

S. 2513 consolidates the management over certain parcels of Federal land by transferring jurisdiction of these parcels between the Forest Service and the Bureau of Management. Transferring jurisdiction over these parcels of land will substantially reduce management costs for the two agencies. The status of any Oregon and California Railroad grant (O and C) lands transferred will not change, regardless of which agency has jurisdiction over the lands following the transfer.

The bill also provides that, over successive ten-year periods, there will be no net loss of acres designated as O and C land and

Coos Bay Wagon Road (CBWR) grant land in an identified area in Oregon. In addition, the bill requires that there be no net loss over successive ten-year periods of O and C land, CBWR land, and public domain land available for timber harvesting in the identified area in Oregon.

LEGISLATIVE HISTORY

S. 2513 was introduced on September 23, 1998, by Senator Smith (R-OR) and referred to the Committee on Energy and Natural Resources. The Subcommittee on Forests and Public Land Management held a hearing on S. 2513 on October 1, 1998. At the business meeting on October 6, 1998, the Committee on Energy and Natural Resources ordered S. 2513 favorably reported without amendment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on October 6, 1998, by unanimous vote of a quorum present, recommends that the Senate pass S. 2513, without amendment.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title.

Section 101(a) identifies the public domain land to be transferred to the Rogue River National Forest. It directs transfer of administrative jurisdiction of the identified land from the Secretary of the Interior to the Secretary of Agriculture. It also states that, subject to valid existing rights, the Secretary of Agriculture shall manage the land described in accordance with the Weeks Act (36 Stat. 961, chapter 186) and other laws applicable to the National Forest System.

Subsection (b) identifies the Rogue River National Forest lands to be transferred to unreserved public domain status. This subsection also directs transfers of administrative jurisdiction of the land described from the Secretary of Agriculture to the Secretary of the Interior. This subsection also states that, subject to valid existing rights, the Secretary of the Interior shall administer the land described under the laws applicable to unreserved public domain land.

Subsection (c) describes the lands restored to the status of re-vested Oregon and California Railroad grant lands and revokes the national forest status. It directs transfer of administrative jurisdiction of the land described from the Secretary of Agriculture to the Secretary of the Interior. It states that, subject to valid existing rights, the Secretary of the Interior shall administer the land described in accordance with laws applicable to re-vested Oregon and California Railroad grant land.

Subsection (d) describes the re-vested Oregon and California Railroad grant land made a part of Rogue River National Forest. It directs transfers of administrative jurisdiction of the land described from the Secretary of the Interior to the Secretary of Agriculture. It states that, subject to valid existing rights, the Secretary of Agriculture shall manage the land described as part of Rogue River National Forest in accordance with laws applicable to the National

Forest System. This subsection further states that, notwithstanding the provisions of certain laws, revenue from the land shall be distributed in accordance with the O and C Lands Act.

Subsection (e) adjusts the boundaries of Rogue River National Forest and excludes adjacent private property interests.

Subsection (f) states the date and location where maps will be available for public inspection.

Subsection (g) requires that, as soon as practicable, public land records be revised and appropriate notice be published in the Federal Register.

Section 201 contains definitions.

Section 202 states that, in carrying out sales, purchases, and exchanges of the described land, the Secretary shall ensure that the number of acres of Oregon and California Railroad grant lands and Coos Bay Wagon Road lands in the identified area, as well as the number of acres of public domain land, O and C land, and CBWR land available for timber harvesting, over successive 10-year periods, is not less than the number of acres of such land on the date of enactment.

Section 203 stipulates that this title shall not apply to an exchange of land authorized under section 1028 of the Omnibus Parks and Public Lands Management Act of 1996, or any implementing legislation or administrative rule, if the land exchange is consistent with the memorandum of understanding between the Umpqua Land Exchange Project and the Association of Oregon and California Land Grant Counties dated February 19, 1998.

COST AND BUDGETARY CONSIDERATIONS

The cost and budgetary considerations prepared by the Congressional Budget Office are as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 8, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2513, the Oregon Public Land Transfer and Protection Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria V. Heid.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 2513—Oregon Public Land Transfer and Protection Act of 1998

Summary: S. 2513 would transfer administrative jurisdiction over certain federal lands in the state of Oregon between the Bureau of Land Management (BLM) and the U.S. Forest Service. The bill also would modify the Secretary of the Interior's authority to

sell, purchase, or exchange certain federal land managed by BLM in Oregon.

CBO estimates that enacting S. 2513 would not have a significant impact on the federal budget over the 1999–2008 period. Because the bill would affect direct spending, pay-as-you-go procedures would apply; however, CBO estimates that such effects would total less than \$500,000 each year.

S. 2513 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of state, local, or tribal governments.

Background: Under current law, offsetting receipts generated from federal land result in payments to states and counties based on formulas specific to the federal land category. S. 2513 would affect three categories of federal land in Oregon: National Forest System (NFS) lands, which are managed by the U.S. Forest Service (within the Department of Agriculture); public domain (PD) lands, which are managed by BLM (within the Department of the Interior); and revested Oregon and California (O&C) Railroad grant lands, which are managed by BLM or the Forest Service.

Under current law, amounts equivalent to 25 percent of offsetting receipts from NFS land are distributed to states for the benefit of counties; amounts equivalent to 5 percent of net receipts generated on PD land are distributed to the states; and amounts equivalent to 50 percent of receipts from Oregon and California grant lands are distributed to counties. However, a different payment process is temporarily in effect for counties in which federal land is affected by decisions related to the northern spotted owl. Under the Omnibus Budget Reconciliation Act of 1993 (OBRA–93), those counties receive a special guaranteed payment through fiscal year 2003 based on the historic levels of receipt-sharing payments. Beginning in fiscal year 2004, those guaranteed special payments will end and the underlying receipt-sharing formulas will take effect again.

Estimated cost to the Federal Government: CBO estimates that enacting S. 2513 would not have a significant impact on the federal budget over the 1999–2008 period.

Title I would change the administration of about 8,950 acres of federal lands within the Rogue River National Forest in Oregon by transferring jurisdiction between BLM and the Forest Service. Title I also specifies the legal category of the transferred lands, each of which has an associated receipt-sharing formula. Implementing these changes in land status would alter the receipt-sharing formula for 3,690 acres: 2,058 acres currently categorized as PD land would be redesignated as NFS land, and 1,632 acres currently categorized as NFS land would be redesignated as PD land. Of the 3,690 acres affected by these changes, 235 acres are temporarily subject to the OBRA–93 special payments for land affected by federal decisions regarding the northern spotted owl. After 2003, the bill would result in a net increase of 426 acres subject to the more generous NFS formula instead of the PD formula.

CBO estimates that title I would increase payments to Oregon and counties within the state, but that the increase would be less than \$500,000 a year. Once the special guaranteed payments to

counties affected by northern spotted owl decisions expire at the end of 2003, title I would make more federal acreage subject to the 25-percent receipt-sharing formula. For purposes of this estimate, CBO assumes there will be no significant change in the current restrictions on timber harvests affected by the northern spotted owl decisions. Because little timber is being harvested on those lands now, we estimate that a more generous receipt-sharing formula on those acres would not result in a significant increase in payments to Oregon in any year over the 1999–2008 period.

Title II would require the Secretary to ensure no net loss of certain types of acres when federal land is sold, purchased, and exchanged within six BLM districts; Medford, Roseburg, Eugene, Salem Coos Bay, and the Klamath Resource Area within the Lakeview district. The provisions in title II could affect direct spending (including offsetting receipts) if they resulted in changes to timber harvests on federal land and the associated payments to states and counties. However, CBO estimates that any such effects would likely be insignificant over the next ten years.

Pay-as-you-go-considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that S. 2513 would affect direct spending, but that such changes would be less than \$500,000 a year over the 1999–2008 period.

Intergovernmental and private-sector impact: S. 2513 contains no intergovernmental or private-sector mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

Previous CBO estimates: On September 22, 1998, CBO prepared a cost estimate for H.R. 4326, the Oregon Public Lands Transfer and Protection Act of 1998, as ordered reported by the House Committee on Resources on July 29, 1998. Title I of S. 2513 is similar to title I of H.R. 4326, and the estimated costs are the same. Title II of S. 2513 differs from title II in H.R. 4326.

Estimate prepared by: Victoria V. Heid.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2513.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2513.

EXECUTIVE COMMUNICATIONS

The Committee on Energy and Natural Resources has requested executive comment from the Department of Agriculture and the Office of Management and Budget. These legislative reports were not

available at the time this report was filed. When the requested reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by Forest Service at the October 1, 1998, Subcommittee hearing follows:

STATEMENT OF SANDRA H. KEY, ASSOCIATE DEPUTY CHIEF,
PROGRAMS AND LEGISLATION, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

S. 2513—Rogue River National Forest and O&C Lands in Oregon

The administration supports Title I of S. 2513 and strongly opposes Title II of this bill. Title I of S. 2513 would transfer jurisdiction over approximately 2,058 acres of land from the Department of the Interior's Bureau of Land Management (BLM) to the USDA Forest Service in southern Oregon. The lands conveyed to the Forest Service would be managed under the authority of the Weeks Act and other laws applicable to the National Forest System. The bill would also transfer 1,632 acres from the Forest Service to the BLM as unreserved public domain lands. In addition, the bill would restore 960 acres of Oregon and California (O&C) lands to the Rogue River National Forest. The boundaries of the Rogue River National Forest would be adjusted to reflect the interchange.

This interchange between the two agencies would convey isolated BLM parcels that are scattered within the National Forest around Applegate Lake, southwest of Ashland, and north of the Prospect Ranger District office in exchange for isolated Forest Service parcels near Sugarloaf Mountain, Summit Prairie, and along the Applegate River north of the general forest boundary. The bill is written in a manner that assures the continued commitment to O&C land grant counties, regardless of management responsibility.

The interchange will result in the transfer of all BLM lands within the general forest boundary to the Forest Service, allowing for single agency management. It will also transfer to the BLM the majority of the isolated national forest lands that are located up to 10 miles from the general forest boundary and are adjacent to current BLM managed lands. The resultant consolidated land bases will provide for more efficient management by both agencies, as well as improved service to the public.

The Forest Service testified in support of the House bill, H.R. 3186, if amended, before the House Resources Subcommittee on Forests and Forest Health in April. The bill language in S. 2513 has been modified to address the Administration's concerns with Title I by clarifying that the lands to be conveyed to the Forest Service are to be managed under the authority of the Weeks Act and other laws related to the National Forest System lands; to adjust the boundaries of the Rogue River National Forest; to reflect

the interchange and other minor changes; to exclude private property along the external boundaries, and to provide for public availability of the maps related to this bill.

Enactment of Title I, as amended, would result in improved management of, and public service on, the currently intermingled lands.

On behalf of the BLM, the Administration strongly opposes Title II. While some of the objectionable provisions of the related measure (H.R. 4326) have been removed, the provision requiring no net loss of lands available for timber harvest is unacceptable and could hamper the Administration's ability to meet its goals under the Northwest Forest Plan.

Section 202 would segregate the public lands in western Oregon by placing restrictions on the authority of the Secretary of the Interior to sell, exchange and manage them. The bill would statutorily fix the total acreage of affected Oregon and California (O&C), Coos Bay Wagon Road (CBWR), and public domain lands available for timber harvest at not less than the number of acres on the date of enactment. It would make it more difficult and perhaps impossible for the BLM to accomplish its Northwest Forest Plan goals of providing for timber production as well as protection of forest habitat. This restriction would be radically different from the way in which the BLM administers the rest of its 264 million acres of public lands under FLPMA and we see no compelling reason that these lands in western Oregon should be treated differently.

By fixing in statute the number of acres available for timber harvest, this bill could restrict activities such as land exchanges that result in win-win situations for all parties. Let me give you an example of the types of exchanges BLM does in this area and how they can be beneficial to commercial interests, wildlife protection, private landowners, and county governments. In 1994 the BLM completed the Dunning Ranch exchange. The BLM acquired 6,581 acres of Columbia white tail deer (an endangered species) habitat in exchange for 360 acres of commercial timber land. Of the acquired lands, 400 acres of Areas of Critical Environmental Concern were secure habitat for the Columbia white-tail deer. As a result of this exchange and an acquisition by the local county, the Fish and Wildlife Service is in the process of de-listing the deer. Thus, in this exchange the BLM was able to both protect the timber base (actually, increasing it by 40 acres) and provide secure habitat for an endangered species. The de-listing will result in the lifting of restriction on other lands in the area, including private lands. Similar exchanges might involve the loss of some timber harvest acres, yet still result in win-win situations for all parties.

Enactment of Title II of S. 2513 would seriously burden the Administration's ability to do these activities.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2513 as ordered reported.

