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OREGON CAVES REVITALIZATION ACT

APRIL 22, 2013.—Ordered to be printed

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

R E P O R T

[To accompany S. 354]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 354) to modify the boundary of the Oregon Caves National Monument, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 354 is to modify the boundary of Oregon Caves National Monument to include approximately 4,070 acres of lands currently administered by the Forest Service, and to designate several river segments within the monument as additions to the National Wild and Scenic Rivers System to enhance the protection of the natural resources associated with the Monument.

BACKGROUND AND NEED

Located in southwestern Oregon, Oregon Caves National Monument was established by Presidential Proclamation (36 Stat. 2497) in 1909 to protect and interpret a unique marble cave formation. Oregon Caves is one of the few marble caves in the country that is accessible to the public. Cave Creek flows from the cave entrance and is a tributary to a watershed that empties into the Pacific Ocean making Oregon Caves the only cave in the national park system with an unobstructed link to an ocean. The national monument also preserves a remnant of old-growth Douglas fir forest and Northwestern rustic architecture within a National Historic District.

29–010

The 488 acres that make up the Oregon Caves National Monument were included in a 1907 withdrawal of approximately 2,560 acres for the purposes of establishing a national monument. The land included in the 1907 withdrawal that lies outside of the Oregon Caves National Monument is administered by the Forest Service as part of the Rogue River-Siskiyou National Forest.

A 1998 general management plan prepared by the National Park Service recommended a boundary expansion to protect a watershed above the Oregon Caves and adjacent lands which would, in turn, better protect the cave, the surface and subsurface hydrology and the public water supply. Legislation is needed to add the land under the original withdrawal and also add some additional lands from the Rogue River-Siskiyou National Forest to the Oregon Caves National Monument.

S. 354 would adjust the boundary of Oregon Caves National Monument to include the addition of approximately 4,070 acres of Forest Service lands which would be managed as a national preserve. The designation would authorize continued permitting of hunting and fishing in the preserve, in addition to grazing in the preserve for existing permits and leases at the time of enactment. The bill designates the subterranean portion of Cave Creek, known as the River Styx, as a scenic river under the Wild and Scenic Rivers Act and provides for potential designation of five other river segments for inclusion to the national wild and scenic rivers system. S. 354 will provide better protection for the cave ecology, establish a logical topographical boundary, protect the water resources, and enhance public outdoor recreation opportunities.

LEGISLATIVE HISTORY

S. 354 was introduced by Senators Wyden and Merkley on February 14, 2013. At its business meeting on March 14, 2013, the Committee ordered S. 23 favorably reported.

Similar legislation, S. 765, was also introduced by Senators Wyden and Merkley in the 112th Congress on February 17, 2011. The Subcommittee on National Parks held a hearing on May 11, 2011 (S. Hrg. 112–124). At its business meeting on November 10, 2011, the Committee on Energy and Natural Resources ordered S. 765 favorably reported (S. Rpt. 112–114).

During the 111th Congress, the Committee considered similar legislation sponsored by Senators Wyden and Merkley, S. 1270. The Subcommittee on National Parks held a hearing on S. 1270 on July 22, 2009 (S. Hrg. 111–129), and the Committee ordered the bill favorably reported with amendments at its business meeting on June 21, 2010 (S. Rpt. 111–256).

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on March 14, 2013, by majority voice vote of a quorum present recommends that the Senate pass S. 354.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the "Oregon Caves National Monument Boundary Adjustment Act of 2013."

Section 2 defines key terms used in the bill.

Section 3(a) designates the 4,070 acres of land currently administered by the Rogue River-Siskiyou National Forest as a national preserve. The national preserve and the existing Oregon Caves National Monument are to be collectively known as the Oregon Caves National Monument and Preserve to be administered as a single unit by the National Park Service.

Subsection (b) transfers administrative jurisdiction over the land designated as a national preserve from the Secretary of Agriculture to the Secretary of the Interior (Secretary), and adjusts the boundaries of the Rogue-River-Siskiyou National Forest to exclude the transferred land.

Subsection (c) adjusts the boundary of the Oregon Caves National Monument and Preserve to exclude approximately four acres of land located in the City of Cave Junction.

Subsection (d) requires that the National Park Service make the map of the Oregon Caves National Monument and Preserve available to the public.

Subsection (e) clarifies that any reference made in Federal records to the Oregon Caves National Monument shall be considered a reference to the Oregon Caves National Monument and Preserve.

Section 4(a) directs the Secretary to administer the Oregon Caves National Monument and Preserve in accordance with the Act, the presidential proclamation made in 1909, and any law generally applicable to units of the National Park System, including the National Park Service Organic Act (16 U.S.C. 1 et seq.).

Subsection (b) directs the Secretary to revise the fire management plan for the Oregon Cave National Monument to include the transferred land, and carry out hazardous fuel management activities on the transferred land in accordance with the fire management plan.

Subsection (c) directs the Secretary to allow Forest Service stewardship or service contracts related to the transferred land that are executed on or before the date of enactment of the bill to be completed, and to recognize the authority of the Secretary of Agriculture and the liability of the Forest Service in such contracts.

Subsection (d) requires the Secretary to allow livestock grazing within the National Preserve to continue under permits or leases in existence at the date of enactment of the bill at a level no higher than the level at the date of enactment of the bill.

Subsection (e) directs the Secretary to permit hunting and fishing within the National Preserve in accordance with Federal and State laws, but allows the Secretary, in consultation with the Oregon Department of Fish and Wildlife, to designate zones and periods in which hunting and fishing is not allowed due to public safety, administration, or laws applicable to the Secretary.

Section 5(a) directs the Secretary or the Secretary of Agriculture to accept the donation of grazing leases or permits for the Big Grayback Grazing Allotment and the Billy Mountain Grazing Allotment. Upon donation of a lease or permit, the Secretary is required to terminate the lease or permit to ensure a permanent end to grazing on the donated land.

Subsection (b) clarifies that those who donate grazing leases or permits waive any claims to range improvements on the associated grazing allotments.

Section 6(a) amends section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) to designate the subterranean segment of Cave Creek, known as the River Styx, as a scenic river.

Subsection (b)(1) amends section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) to designate several segments of waterways within the Oregon Caves National Monument and Preserve, including a 2.6-mile segment of Cave Creek, a 3.6-mile segment of Lake Creek, a 0.6-mile segment of No Name Creek, a 0.8-mile segment of Panther Creek, and a segment of Upper Cave Creek, as potential additions to the National Wild and Scenic Rivers System.

Subsection (b)(2) amends the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) to direct the Secretary to complete a study of the potential additions and submit a report to Congress with the results no later than three years after the date on which necessary funds are made available.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 354—Oregon Caves Revitalization Act of 2013

Summary: S. 354 would authorize the transfer of 4,070 acres of land from the Forest Service to the National Park Service (NPS) to expand the boundaries of the Oregon Caves National Monument. The bill also would require the Secretary of the Interior to accept the donation of certain grazing permits and to prohibit future grazing on land covered by those permits. Finally, the bill would designate the River Styx as a scenic river and require the Secretary to conduct additional studies regarding the designation of other waterways in Oregon as scenic rivers.

Based on information from the affected agencies and assuming the availability of appropriated funds, CBO estimates that implementing the legislation would cost about $1 million. Enacting S. 354 would increase direct spending by reducing offsetting receipts (a credit against direct spending) from grazing fees; therefore, pay-as-you-go procedures apply. However, CBO estimates that any reduction in receipts would be negligible for each year. Enacting the legislation would not affect revenues.

S. 354 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: CBO estimates that implementing S. 354 would cost $1 million over the 2014–2018 period, subject to the availability of appropriated funds. In addition, enacting the legislation would probably result in a small loss of offsetting receipts from grazing fees.

Basis of estimate: S. 354 would authorize the Forest Service to transfer 4,070 acres of land to the NPS to expand the boundaries of the Oregon Caves National Monument. Because lands that would be exchanged under the bill are already administered by a federal agency, CBO expects that federal costs to manage the affected lands would not change significantly. The bill also would require the Secretary of the Interior to designate the River Styx as a scenic river and to study the impact of designating certain other waterways in Oregon as scenic rivers. Based on information from

the NPS, CBO estimates that carrying out those activities would cost about $1 million over the 2014–2018 period. CBO estimates that NPS would spend about $350,000 to develop a management plan for the River Styx and about $350,000 to study the designation of additional rivers in the state as scenic rivers.

The legislation also would require the Secretary of the Interior to accept donations of certain grazing permits from current permit holders. Under the bill, donated permits would be terminated and future grazing on land covered by those permits would be prohibited. Based on information from the affected agencies, CBO expects that those permits would be donated if the bill is enacted. CBO estimates that enacting the bill would have a minimal impact on offsetting receipts from grazing fees over the 2014–2023 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. S. 354 would reduce offsetting receipts (from grazing fees), thus increasing direct spending. However, CBO estimates that any impacts would be negligible.

Intergovernmental and private-sector impact: S. 354 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Martin von Gnechten; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy 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. 354.

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. 354, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 354, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

Executive Communications were not requested by the Senate Committee on Energy and Natural Resources in the 113th Congress. The following Administration testimony references identical legislation introduced in the 112th Congress.

The testimony provided by the National Park Service and the Forest Service at the May 11, 2011, Subcommittee on National Parks hearing on S. 765 follows.

STATEMENT OF STEPHEN E. WHITESELL, ASSOCIATE DIRECTOR, PARK PLANNING, FACILITIES, AND LANDS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the committee, thank you for the opportunity to present the views of the Department of the Interior on S. 765, a bill to modify the boundary of the Oregon Caves National Monument, and for other purposes.

The Department supports the intent of S. 765 as consistent with the General Management Plan (GMP) for the park, but recommends deferring action on the bill as we continue exploring ways to maintain interagency coordination.

S. 765 would adjust the boundary of Oregon Caves National Monument to include the addition of approximately 4,070 acres to enhance the protection of resources associated with the monument and to increase quality recreation opportunities. The lands that would be added are currently managed by the U.S. Forest Service as part of the Rogue River-Siskiyou National Forest.

S. 765 directs the Secretary to revise the fire management plan for the Monument to include transferred lands and carry out hazardous fuel management activities under that plan. Existing Forest Service stewardship or service contracts would continue to completion under the authority of the Secretary of Agriculture.

The bill would authorize the Secretary to permit hunting and fishing within the Preserve. It also 'provides flexibility in managing the resources within the preserve by allowing the Secretary, in consultation with the Oregon Department of Fish and Wildlife, to limit hunting and fishing in designated zones and over certain time periods. Based on information collected during the public participation process for the GMP, we would prefer to terminate hunting within the preserve after five years with the acreage being converted to national monument status. Of the 892 comments received on the plan, only 8, less than one percent, expressed concern about the loss of hunting should the added acres be designated as part of the national monument.

S. 765 would authorize the Secretary to allow grazing to continue within the Preserve at a level not greater than authorized under existing permits or leases at enactment. It would also require the Secretary to accept voluntary donation of a grazing lease or permit for the Big Grayback Grazing Allotment (managed by the U.S. Forest Service) and the Billy Mountain Grazing Allotment (managed by the Bureau of Land Management) and terminate the donated lease or permit and ensure a permanent end to grazing on the land covered by the permit or lease. Claim to any range improvements on those lands would be waived. It is our understanding that the same individual runs livestock on both the Big Grayback and Billy Mountain Allotments. We note that the Billy Mountain Grazing Allotment is approximately 15 miles from the boundary of the pro-

posed monument expansion. We would like the opportunity to work with the Committee and sponsor to further explore these grazing provisions.

This bill would also designate the subterranean segment of Cave Creek, known as the River Styx, as a scenic river under the Wild and Scenic Rivers Act. Additionally, the bill would authorize a study of segments of Cave Creek, Lake Creek, No Name Creek, Panther Creek and Upper Cave Creek—all within the Monument and Preserve—under the Wild and Scenic Rivers Act.

In 1907, the Secretary of the Interior withdrew approximately 2,560 acres for the purposes of establishing a national monument. The 1909 presidential proclamation establishing Oregon Caves National Monument included only 480 acres. The monument was managed by the U.S. Forest Service until its administration was transferred to the National Park Service in 1933. The remaining withdrawal outside of the monument is administered by the USFS as part of the Rogue River-Siskiyou National Forest. S. 765 would mirror the 1907 withdrawal and adds some additional lands to conform the monument boundary to the watershed.

The explorer Joaquin Miller extolled "The Wondrous marble halls of Oregon!" when speaking about the newly proclaimed Oregon Caves National Monument in 1909. Oregon Caves is one of the few marble caves in the country that is accessible to the public. This park, tucked up in the winding roads of southern Oregon, is known for its remoteness, the cave majesty and unusual biota. The stream flowing from the cave entrance is a tributary to a watershed that empties into the Pacific Ocean. This is the only cave in the national park system with an unobstructed link to the ocean.

The caves are nationally significant and a favorite visit for school kids and travelers alike. They remain alive and healthy because of the watershed above them. The park recognized this when developing the 1998 GMP and accompanying Environmental Impact Statement. The plan recommended the inclusion of the watershed into the park to provide for better cave protection and to protect the surface and subsurface hydrology and the public water supply.

If S. 765 were enacted, there would be no acquisition costs associated with the boundary expansion and we estimate National Park Service's management, administrative, interpretive, resource protection, and maintenance costs to be approximately $300,000 to $750,000 annually. The National Park Service is committed to coordinating with the U.S. Forest Service on topics such as recreation management, management of cave resources, public signing, livestock grazing, trail maintenance and construction, fire protection, and fuels reduction among others.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 354 as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

WILD AND SCENIC RIVERS ACT

(Public Law 90–542; Approved October 2, 1968)

[16 U.S.C. 1271 Et Seq.]

AN ACT To provide a National Wild and Scenic Rivers System, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Wild and Scenic Rivers Act".

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SEC. 3. (a)

The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

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(208) RIVER STYX, OREGON.—The subterranean segment of Cave Creek, known as the River Styx, to be administered by the Secretary of the Interior as a scenic river.

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SEC. 5. (a)

The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

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(141) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—

(A) CAVE CREEK, OREGON.—The 2.6-mile segment of Cave Creek from the headwaters at the River Styx to the boundary of the Rogue River Siskiyou National Forest.

(B) LAKE CREEK, OREGON.—The 3.6-mile segment of Lake Creek from the headwaters at Bigelow Lakes to the confluence with Cave Creek.

(C) NO NAME CREEK, OREGON.—The 0.6-mile segment of No Name Creek from the headwaters to the confluence with Cave Creek.

(D) PANTHER CREEK.—The 0.8-mile segment of Panther Creek from the headwaters to the confluence with Lake Creek.

(E) UPPER CAVE CREEK.—The segment of Upper Cave Creek from the headwaters to the confluence with River Styx.

* * * * * * *

(b)(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports

thereon submitted by not later than October 2, 1979: *Provided,* That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until—

(i) the State legislature has acted with respect to such river or

(ii) one year from the date of enactment of this Act, whichever is earlier.

Studies of the river named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.

* * * * * * *

(20) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary shall—

(A) complete the study of the Oregon Caves National Monument and Preserve segments described in subsection (a)(141); and

(B) submit to Congress a report containing the results of the study.

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