

STATEMENT OF  
MARK REY  
UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT  
UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE  
UNITED STATES SENATE  
COMMITTEE ON ENERGY AND NATURAL RESOURCES  
CONCERNING  
S.2709, THE NATIONAL FOREST RESTORATION ACT OF 2004;  
AND S.2723, THE LEWIS AND CLARK MT.HOOD WILDERNESS ACT  
SEPTEMBER 14, 2004

Mr. Chairman:

Thank you for the opportunity to appear before you today in order to provide the Department's views on S. 2709, the "National Forest Restoration Act of 2004" and S. 2723, the "Lewis and Clark Mt. Hood Wilderness Act".

S.2709, the "National Reforestation Act of 2004"

S. 2709 authorizes an increase in the annual transfers to the Reforestation Trust Fund from \$30 million per year to \$90 million per year. The bill also authorizes these funds be used in areas in need of reforestation that have been moderately or highly affected by fire or severely affected by a non-fire natural disturbance event, and establishes timeframes for completing reforestation treatments following these events. Finally, S. 2709 authorizes the Secretary to obligate up to 10 percent of the annual expenditures from the Fund to enter into cooperative agreements with colleges and universities to conduct research to promote or enhance reforestation.

While USDA supports the objective of S.2709 to emphasize prompt reforestation in areas affected by fires and other disturbance events, we can not support the bill because we generally do not support expanded spending through a mandatory account within the Treasury. Rather, we believe that post-fire restoration efforts, similar to fire suppression and burned area emergency rehabilitation, are prudently budgeted for through discretionary funds subject to annual review by the Congress during the appropriations process. We are also concerned the bill would limit our flexibility to utilize the Reforestation Trust Fund for the same types of reforestation activities currently authorized.

USDA also does not support language in Section 5 which allows the Secretary to obligate up to 10 % of the sums expended from the Reforestation Trust Fund to enter into cooperative agreements with colleges and universities to conduct research to promote or enhance reforestation because it is overly restrictive. We believe that Federal and private research

organizations also have significant capacity to conduct this type of research. These organizations, when partnering with colleges and universities, can jointly contribute to increases in effectiveness and efficiency of reforestation efforts. The Forest Service Research and Development branch funded over \$31 million for cooperative research with colleges and universities in Fiscal Year 2003. We would like to work with the Committee to build and expand upon this base to include a variety of partners with research expertise. 0

S.2723, the "Lewis and Clark Mt. Hood Wilderness Act"

S. 2723 would direct numerous aspects of management of the Mt. Hood National Forest in northwest Oregon. The bill's provisions include designations of wilderness areas, wild and scenic rivers, and other special areas, and specific directions to carry out a thinning program to promote forest health. The bill also would establish a national commission and direct a land exchange involving the Bureau of Land Management.

While we agree with some of the concepts and provision embodied in S. 2723, we also have concerns with some aspects of the legislation. Because this bill covers a variety of topics, I will address my comments to each title individually.

Title I would designate additions to four existing wilderness areas, Mount Hood, Mark O. Hatfield, Badger Creek and Salmon-Huckleberry, as components of the National Wilderness Preservation System that would be known as the Lewis and Clark Mt. Hood Wilderness Areas. USDA can support some designation of additional Wilderness within the Mt. Hood National Forest. We are concerned, however, about the effects the proposed legislation described in Title I, as depicted in the July 2004 map, would have on the overall management of many of the programs on both the Mt. Hood NF and the CRGNSA.

We also would need to clarify whether the bill would require the CRGNSA Act to be amended. The CRGNSA is co-managed by the Forest Service and the Columbia River Gorge Commission. After a 3-year effort and over 60 public meetings, the CRGNSA Management Plan has been revised, and it appears to us that this legislation, without clarification, could cause us to reopen that plan for public review and comment.

Let me speak to some of our overall concerns with the proposed legislation, then point out some specifics about each proposed wilderness addition.

First, the areas proposed as wilderness would limit the existing array of developed and dispersed recreation activities as well as create difficulties in meeting total recreation demand by forcing displacement of non-wilderness users to fewer acres of non-wilderness land.

Second, we are concerned that the wilderness character of much of the proposed wilderness as depicted on the map would be significantly and negatively impacted by existing rights and structures. These areas are close to I-84 and Highways 35 and 26, which are heavily used for both developed and dispersed recreation activities, including campgrounds, ski areas, and snowmobile areas. Additionally, there are existing rights that must be protected in the proposed

wilderness, including access to private lands, water rights, power lines, an electronic site, tribal rights, and grazing allotments.

Third, the small size and shapes of some of the proposed wilderness additions would be impacted by adjacent activities which would limit the free play of natural processes expected to occur in wilderness. The opportunities for solitude or primitive and unconfined recreation, a hallmark of the wilderness experience, would be diminished. Unlike most existing wilderness, much of the wilderness proposed in this legislation would be entirely dominated by impacts from external, adjacent activities.

Now I will address briefly each of the proposed wilderness additions.

#### Mark O. Hatfield Wilderness Additions

The northern boundary of the proposed additions to the Mark O. Hatfield Wilderness is very close to the Historic Columbia River Highway and appears to barely skirt adjacent power lines and developments at Multnomah Falls, Wahkeena Falls, Oneonta Gorge, and Horsetail Falls. Nonconforming structures in the proposed addition include the Multnomah Falls observation platform and Sherrard View Point. Recreation and others uses would be affected: several miles of designated mountain bike trails would be closed; directional signs would be removed; existing paved and surfaced trails would have to be restored to native surfacing. The area would continue to be heavily used and allocation systems would be considered to meet wilderness standards. The proposed project to restore the unique pine-oak ecosystem and reduce hazardous fuels within the McCall Point addition and stream habitat enhancement projects in Herman Creek would be inconsistent with meeting wilderness purposes and would not occur if these lands were designated.

#### Mount Hood Wilderness Additions

There are a number of activities inconsistent with wilderness purposes that take place in the proposed Mt. Hood wilderness additions. The Tilly Jane addition would affect motorized winter access to the Cloud Cap Inn historic site and appears to include a number of nonconforming structures. Vegetative and other management needed to protect these historic structures would be discontinued, as well as, existing use by large organized groups. The addition would foreclose the opportunity to expand ski areas by including approximately 4,000 acres of land currently designated for winter recreation in the Mt. Hood Land Management Plan as new wilderness, including 1,200 acres in the Cooper Spur Ski area. Wilderness designation would conflict with motorized use which is needed to access the powerline that serves the Mt. Hood Meadows Ski area and to existing and proposed fish habitat restoration projects adjacent to the Zigzag River.

#### Salmon-Huckleberry Wilderness Additions

The proposed Mirror Lake addition contains nonconforming structures such as bridges and staircases, which provides for user safety on the most popular trail on the Mt. Hood National Forest. Other proposed additions to the Salmon-Huckleberry Wilderness include parking for recreation residences and a water tank supporting a community water system. The proposed Roaring River addition includes a power line for the Three Lynx hydroelectric project.

Existing recreation activities that would be precluded are mountain biking, snowmobiling, and four-wheel driving. An existing developed campground appears to be included in the proposal and would need to be removed. Fire lookouts would not be available for public rental. Existing recreation at areas such as Mirror Lake and Twin Lakes commonly includes groups larger than the 12 person group size limit in existing wilderness on the Mt.Hood National Forest. The existing high level of use may require a use allocation system to meet wilderness standards. The permitted commercial mountain bike operations would be terminated. Present vegetative management for huckleberry enhancement as per agreement with the Confederated Tribes of Warm Springs would be precluded in wilderness.

#### Badger Creek Wilderness Additions

The proposed Eightmile Meadow and Mill Creek additions are part of the City of Dalles municipal watershed. The proposed Lower White River Addition includes a grazing allotment, and the proposed Bonney Butte addition includes a permitted hawk banding station that attracts large groups to watch migrating hawks.

The Department believes these existing rights and uses are needed to support a wide array of resource protections as well as valued and important goods and services to the public. We do not support the changes that would be required if these areas were to be designated Wilderness. We have identified areas that USDA considers suitable for consideration as wilderness designation. We would like to work with the Committee, the delegation and the people who use these forests on amendments that reflect more appropriate boundaries for wilderness designations.

Title I also would require the Forest Service to construct defensible fuel safety zones between the wilderness boundary and two adjacent communities. Community Wildfire Protection Plans are underway for several communities adjacent to Mt. Hood and CRGNSA and we would like to work within the framework of these plans to incorporate the bills directions and communities to help implement these plan decisions.

Title II would amend the Wild and Scenic Rivers Act by adding portions of the Hood River, the Zig Zag River, Eagle Creek and Fifteenmile Creek. The Department is generally not opposed to most of these additions. We want to point out that the Middle Fork of the Hood River, the Zig Zag River and Eagle Creek were identified in the Forest plan as eligible for Wild and Scenic River designation, but suitability was never determined.

Fifteenmile Creek was not evaluated for Wild and Scenic River designation in the Forest Plan. Habitat restoration work conducted along about four miles of this stream is likely to effect a designation as a wild segment of a Wild and Scenic River, but the river could be eligible and suitable for designation as either a scenic or recreation river depending on the results of an evaluation.

Mr. Chairman, if the Committee desires we would offer to complete additional screening for these recommended stream sections and provide a final report of the results back to the Committee prior to enactment.

We do not support inclusion of the East Fork of the Hood River which was evaluated for Wild and Scenic River suitability in the Mt. Hood Land and Resource Management Plan, as amended by the Northwest Forest Plan. It was found not suitable due to issues related to Mt. Hood Meadows Ski Area, particularly regarding road maintenance (plowing, sanding, de-icing) and operation of the ski area's sewage treatment plant.

Title III would establish a National Commission on Urban Forests. In 1993, the Forest Service established the Urban National Forest Coalition (UNFC), a working group composed of Forest Supervisors of urban national forests, as well as Forest Service Research and Development, and State and Private Forestry. The coalition has the ability to outreach among universities and communities to identify and work to resolve common issues affecting the management of urban National Forests.

Furthermore, the National Urban and Community Forestry Advisory Council is composed of 15 members appointed by the Secretary of Agriculture. The primary function of the Council has been to make recommendations to the Secretary regarding cost-share grants for urban and community forestry projects. But, the Council is also charged under Section 9(g) of the Cooperative Forestry Assistance Act to make recommendations to the Secretary and to the Congress for improving the status of the Nation's urban and community forests. The Department believes that these two existing entities could effectively perform the responsibilities enumerated in this title and does not support the establishment a third national organization as called for in the bill.

Title IV would require the Secretary to identify a Mt. Hood National Forest Southside Winter Recreation Area. USDA is not opposed to specially designated recreation areas on the Mt. Hood NF. Management Area A11 of the Forest plan is already designated as Winter Recreation Area. We would like to work with the Committee on amendments to assure the area defined in Title IV is compatible with current and planned uses including mechanized and motorized access.

Title V would establish the Mt. Hood Pedaler's Demonstration Experiment Area that, while not designated as wilderness, would be managed in accordance with the Wilderness Act, with the exception that mountain bikes would be allowed to operate on designated trails within the area. The Department does not support of the establishment of the Mountain Biking Pilot Project. We believe there are other alternatives to better meet mountain biking needs for the forest and would like to work with the Committee on amendments that would address this issue. Moreover, we oppose the funding mechanism proposed for this area. For example, our experience with the Recreation Fee Demonstration program has shown that public support is directly associated with the reinvestment of fees where they are collected and not shifted to other areas.

Title VI would authorize the Secretary to provide funds to counties to bury power lines within or adjacent to wilderness areas on the Mt. Hood NF. It is unclear what power lines are intended here, but cost, technology and environmental impacts may prohibit this type of activity. Regardless, maintenance of both buried and overhead power lines requires vehicle access, occasionally access by heavy construction equipment. While we agree with the sponsor that power lines may be visually inconsistent with wilderness, preserving wilderness character and attributes would also be difficult with the access and motorized equipment use necessary for

maintenance of buried lines. We would like to work with the Committee on amendments to resolve this issue.

Title VI also would authorize funds for counties to replace 4 culverts on wild and scenic river segments. We are concerned by the apparent waiver of Section 7(a) of the Wild and Scenic Rivers Act for the replacement of culverts in Section 602 and 603 of this title as well as Section 902 in Title IX. Limiting the ability of the Forest Service to evaluate a culvert or bridge as a water resources project may limit the protection intended in the Wild and Scenic Rivers Act. We would like to clarify this with the Committee.

Title VII of S. 2723 proposes a land exchange between Clackamas County, Oregon and the Federal government. It is our understanding that the intent is to complete this exchange with the Bureau of Land Management (BLM). The BLM would like the opportunity to work with the sponsor and the Committee on amendments to clarify a number of issues related to this proposed exchange. First, the legislation needs to specify which acres of Federal land and Clackamas County lands are intended for the exchange. If the lands intended for this proposed exchange are BLM "O&C" lands, under the Oregon and California Revested Lands Sustained Yield Management Act (Public Law 75-405) this could complicate any proposed exchange and we urge the sponsors to consider these implications. Furthermore, it is important that the lands involved in any exchange be of equal value and be subject to the Uniform Appraisal Standards for Federal Land Acquisition. Finally, the BLM would like the opportunity to develop a map to accurately portray this proposed exchange.

Title VIII would require a highly prescriptive forest health thinning program for plantation second growth stands to produce timber for primary and secondary wood products, and restore biological diversity and structural complexity to young managed stands for a period of ten years. The bill would define "old growth" as groves and trees that are at least 120 years old or previously unmanaged. This bill would mandate targets for pre-commercial thinning and commercial Westside matrix thinning. Additionally, the bill would prescribe forest treatments for Eastside thinning.

USDA supports active forest management, where appropriate, under standards and guidelines established in the Mt. Hood Forest plan as amended by the Northwest Forest Plan, subject to available appropriations. Our existing statutes, including the Healthy Forest Restoration Act recently enacted with the leadership of this committee, provide us adequate authority to provide treatment where it is needed, and the Department is strongly opposed to the provisions contained in Title VIII.

Thinning treatments under section 801 could occur only in plantation second growth stands, as defined by the bill, where previous harvest removed more than 90 percent of the overstory of the original stand and that are more than 5 acres in size. The Mount Hood National Forest has young natural stands that have arisen following wildfire, where no harvesting occurred following the burn, but forested stands have since been established in these areas. Similarly, the Forest has areas where young stands in need of treatment have been established where less than 90 percent of the overstory was removed by the harvest operation, particularly where trees were left to meet wildlife objectives for snag retention, as well as small areas less than 5 acres in size that would

benefit from a thinning treatment. Each of these categories of young stands would be excluded from treatment under this section.

Section 801(b) of S. 2723 imposes a new definition of old growth that appears to be inconsistent with existing biological definitions for the late successional forests common to the Mt. Hood National Forest and elsewhere in the bioregion. The proposed definition focuses solely on age, ignoring other important ecological attributes of old-growth such as canopy layers, presence of snags, and presence of coarse woody debris.

The proposed legislation would classify any stand not previously managed as "old growth" regardless of age. The proposed legislation would prohibit treatment of these areas under the auspices of protecting 'old growth,' regardless of whether old-growth values were present. For example, on the Clackamas River District, 80-year old stands encompassing about 1,000 acres that resulted from a burn (not a timber sale) would be considered old-growth under the legislation because they have not been previously managed.

Section 801(c) would establish new criteria for selecting contractors, giving preference to local contractors. The Department supports job creation in the communities surrounding Mt. Hood. This language would appear to limit competition, and narrow opportunities, in the existing small business community, which includes minority and women-owned businesses, but which lies beyond the state. In the case of timber sale contracts, "local" sale purchasers are very limited due to the mill closures which occurred in the past decade. Bidders now come from all over Oregon and Washington and purchase logs that may go to 3 or 4 different mills for processing. The Department believes language submitted in Section 313 of the President's FY 2005 Budget provides a better approach, and ensures a suitable balance between local preference and appropriate open and fair competition.

Section 802 requires the Mount Hood National Forest to complete 5,000 acres of pre-commercial thinning annually for the next decade. Section 803 requires thinning 1,200 acres in lands defined as "matrix" under the Northwest Forest Plan. We believe forest managers should retain the flexibility to set priorities to accomplish Forest plan objectives in an annual program of work and, therefore, do not support the statutory establishment of these activities.

Section 804 provides for thinning areas on the Eastside of the Mt. Hood National Forest to move stands into 'the natural range of variability'. It prohibits the removal of all large and old trees, but does not specify the criteria for determining trees that would qualify as either 'large' or 'old'. Such restrictions may make it impossible, under this section, to remove larger or older trees that are infected with diseases, such as root rots or heavy mistletoe infestations, and thus preclude the overriding objective of improving forest health. Furthermore, requirements for the retention of all size classes would conflict with objectives of the Healthy Forest Restoration Act.

Title IX contains several miscellaneous sections, three of which (901,903,904) cover previous existing rights. We suggest again that compromised wilderness character could be avoided by changing the wilderness boundaries to exclude ongoing uses.

Section 905 would authorize the retention of certain fees collected on the Mt. Hood NF. USDA supports revenue retention for special use fees agency-wide, but not on a forest by forest basis.

Mr. Chairman, this concludes my testimony. I would be glad to answer any questions from you or the rest of the Committee members.