

Union Calendar No. 375

103^D CONGRESS
2^D SESSION

H. R. 3905

[Report No. 103-683, Parts I and II]

A BILL

To provide for the establishment and management
of the Opal Creek Forest Preserve in the State
of Oregon.

AUGUST 8, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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To provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1994

Mr. KOPETSKI introduced the following bill; which was referred jointly to the Committees on Natural Resources and Agriculture

AUGUST 8, 1994

Additional sponsors: Mr. WYDEN, Ms. FURSE, Mr. WALSH, Mr. FARR of California, Mr. BARRETT of Wisconsin, Mr. COPPERSMITH, Mr. KANJORSKI, Mr. BRYANT, Mr. STARK, Mr. BACCHUS of Florida, Mr. BOUCHER, Mr. WAXMAN, Mr. GIBBONS, Mr. RICHARDSON, Mr. ORTIZ, Mr. McDERMOTT, Mr. SERRANO, Mr. ABERCROMBIE, Mr. STRICKLAND, Mr. SPRATT, Mr. MENENDEZ, Ms. VELÁZQUEZ, Mr. GORDON, Mr. HEFNER, Mr. DERRICK, Mr. KREIDLER, Mr. LAROCO, Ms. MCKINNEY, Ms. PELOSI, Ms. ROYBAL-ALLARD, Mr. WATT, Mr. HAMBURG, Mrs. MEYERS of Kansas, Mr. EVANS, Mr. DELLUMS, Mr. BROWN of California, Mr. MINGE, Mr. CLAY, and Ms. SHEPHERD

AUGUST 8, 1994

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AUGUST 8, 1994

Reported from the Committee on Agriculture with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on February 24, 1994]

A BILL

To provide for the establishment and management of the
Opal Creek Forest Preserve in the State of Oregon.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 *(a) SHORT TITLE.—This Act may be cited as the*
5 *“Opal Creek Forest Preserve Act of 1994”.*

6 *(b) TABLE OF CONTENTS.—The table of contents for*
7 *this Act is as follows:*

Sec. 1. Short title and table of contents.

Sec. 2. Findings and purpose.

Sec. 3. Definitions.

Sec. 4. Opal Creek Forest Preserve.

Sec. 5. Administration of the Preserve.

Sec. 6. Prohibitions regarding the management of the Preserve.

Sec. 7. Access to and acquisition of non-Federal land.

Sec. 8. Authority of the Secretary and responsible parties to conduct environ-
mental response actions or pursue liability.

Sec. 9. Grandfather clause.

8 **SEC. 2. FINDINGS AND PURPOSE.**

9 *(a) FINDINGS.—The Congress finds the following:*

10 *(1) Old-growth forests are unique ecosystems that*
11 *serve as critical habitat for hundreds of vertebrate*
12 *and invertebrate animals, plants, and fungi.*

13 *(2) Old-growth forests provide clean and plenti-*
14 *ful water and support streams and rivers containing*
15 *runs of anadromous and resident cold water fish,*
16 *which are wholly dependent on high quantity and*

1 *quality water for migration, spawning, rearing, and*
2 *cover.*

3 *(3) The high quantity and quality of water in*
4 *streams and rivers in old-growth forests can only be*
5 *maintained by protecting the watersheds of these*
6 *streams and rivers.*

7 *(4) Old-growth forests provide unique and out-*
8 *standing opportunities for educational study, sci-*
9 *entific research, and recreation.*

10 *(5) The establishment of a watershed and forest*
11 *preserve to protect areas of old-growth forests and sur-*
12 *face waters can contribute significantly to the quality*
13 *of life for the residents of the State of Oregon through*
14 *education, recreation, and a protected water supply.*

15 *(6) The area known as the Opal Creek Forest, lo-*
16 *cated on the upper Little North Fork of the Santiam*
17 *River in the State of Oregon, contains one of the larg-*
18 *est remaining intact old-growth forest ecosystems in*
19 *the Western Oregon Cascades. Although the landscape*
20 *mosaic in the Opal Creek Forest may reflect some*
21 *past logging, young stands of trees in the area mainly*
22 *owe their existence to natural disturbances, chiefly*
23 *wildfire.*

1 (7) *The Opal Creek Forest contains outstanding*
2 *geological and botanical features and contains at-*
3 *tributes of historic and prehistoric importance.*

4 (8) *The recreational use of the Opal Creek For-*
5 *est, typically in the form of hiking, sightseeing, and*
6 *the general enjoyment of the outdoor environment, is*
7 *significant and likely to increase.*

8 (9) *It is desirable to limit the human-related dis-*
9 *turbances and development of the Opal Creek Forest*
10 *in order to protect fully the special features of the for-*
11 *est and maintain the full potential of its watershed*
12 *for scientific, educational, and research purposes.*

13 (10) *Preservation of the Opal Creek Forest pro-*
14 *vides outstanding opportunities for scientists to con-*
15 *duct research regarding old-growth forests and for*
16 *educators to provide scientifically credible informa-*
17 *tion to the public.*

18 (b) *PURPOSES.—The purposes of this Act are—*

19 (1) *to protect and preserve the forests and water-*
20 *sheds contained in the Opal Creek Forest Preserve;*

21 (2) *consistent with paragraph (1), to promote*
22 *and conduct—*

23 (A) *research in the Preserve regarding old-*
24 *growth forests in a manner that does not include*

1 the harvesting of timber or otherwise damage the
2 ecosystem; and

3 (B) educational programs in the Preserve
4 on old-growth forests and cultural and historic
5 resources in the Preserve; and

6 (3) consistent with paragraphs (1) and (2), to
7 permit and regulate recreation in the Preserve.

8 **SEC. 3. DEFINITIONS.**

9 For purposes of this Act:

10 (1) *PRESERVE*.—The term “Preserve” means the
11 Opal Creek Forest Preserve established in section 4(a).

12 (2) *MANAGEMENT PLAN*.—The term “manage-
13 ment plan” means the management plan for the Pre-
14 serve developed pursuant to section 5(b).

15 (3) *SECRETARY*.—The term “Secretary” means
16 the Secretary of Agriculture.

17 **SEC. 4. OPAL CREEK FOREST PRESERVE.**

18 (a) *ESTABLISHMENT OF PRESERVE*.—There is hereby
19 established the Opal Creek Forest Preserve in order to pro-
20 tect and preserve the forests and watersheds in the Preserve
21 and to promote the research, educational, and recreational
22 purposes of this Act.

23 (b) *DESCRIPTION OF PRESERVE*.—The Preserve shall
24 consist of those Federal lands located in the Willamette and
25 Mt. Hood National Forests in the State of Oregon that are

1 *generally depicted on the map dated August 1994, and enti-*
2 *tled the “Opal Creek Preserve Area”. The Preserve shall also*
3 *include such lands as may be added under section 7 of this*
4 *Act. The map referred to in this subsection shall be kept*
5 *on file and made available for public inspection in the Of-*
6 *fice of the Chief of the Forest Service, United States Depart-*
7 *ment of Agriculture.*

8 **SEC. 5. ADMINISTRATION OF THE PRESERVE.**

9 (a) *IN GENERAL.*—The Secretary shall administer the
10 *Preserve in accordance with this Act and with the laws,*
11 *rules, and regulations applicable to National Forest System*
12 *lands in a manner that will further the purposes of this*
13 *Act.*

14 (b) *MANAGEMENT PLAN.*—The Secretary shall prepare
15 *a comprehensive management plan for the Preserve to*
16 *achieve the purposes of this Act. The management plan shall*
17 *be considered to be a nonsignificant amendment to the Wil-*
18 *lamette and Mt. Hood Forest Land and Resource Manage-*
19 *ment Plans. The management plan shall be prepared with*
20 *public involvement which shall include consultation with*
21 *interested individuals and organizations. The Secretary*
22 *may enter into memoranda of understanding with inter-*
23 *ested parties to accomplish the purposes of this Act. The*
24 *management plan shall include analysis and direction on*
25 *the use of campfires within the Preserve.*

1 (c) *PROTECTION OF CULTURAL AND HISTORIC RE-*
2 *SOURCES.*—Not later than one year after the date of the
3 enactment of this Act, the Secretary shall review and revise
4 the inventory of the cultural and historic resources in the
5 area covered by the Preserve, which was originally devel-
6 oped pursuant to the Oregon Wilderness Act of 1984 (Public
7 Law 98–328; 16 U.S.C. 1131 note). The Secretary shall sub-
8 mit a report to Congress describing the results of the review
9 of such inventory.

10 (d) *APPLICABILITY OF MINING, MINERAL LEASING,*
11 *AND DISPOSAL LAWS.*—

12 (1) *RESTRICTION.*—After the date of the enact-
13 ment of this Act—

14 (A) lands within the Preserve shall not be
15 open to the location of mining claims and mill
16 and tunnel sites under the general mining laws
17 of the United States;

18 (B) the Secretary shall not issue any lease
19 under the Mineral Leasing Act (30 U.S.C. 181
20 and following) or the Geothermal Steam Act of
21 1970 (30 U.S.C. 100 and following) for lands
22 within the Preserve; and

23 (C) lands within the Preserve shall not be
24 available for disposal of mineral materials under
25 the Act of July 31, 1947, commonly known as

1 the Materials Act of 1947 (30 U.S.C. 601 and
2 following).

3 (2) *ACQUIRED LANDS.*—The restriction provided
4 by paragraph (1) shall also apply to any Federal
5 lands added to the Preserve after the date of the enact-
6 ment of this Act, except that the restriction shall
7 apply to such lands only upon addition to the Pre-
8 serve.

9 (e) *PRIVATE INHOLDINGS.*—The Secretary may co-
10 operate with, and provide technical assistance to, private
11 landowners, organizations, and other entities holding pri-
12 vate lands within the boundaries of the Preserve to promote
13 the use and management of such lands in a manner consist-
14 ent with the purposes of this Act.

15 **SEC. 6. PROHIBITIONS REGARDING THE MANAGEMENT OF**
16 **THE PRESERVE.**

17 (a) *PROHIBITION ON LOGGING OR OTHER TIMBER*
18 *HARVESTING.*—

19 (1) *PROHIBITION.*—Except as provided in para-
20 graph (2), the cutting of trees in the Preserve is pro-
21 hibited.

22 (2) *EXCEPTIONS.*—The prohibition contained in
23 paragraph (1) shall not apply to the extent that the
24 Secretary determines that the cutting of specific trees
25 in the Preserve is necessary—

1 (A) for public safety, such as to control the
2 spread of a forest fire in the Preserve or on lands
3 adjacent to the Preserve; or

4 (B) for administrative use related to activi-
5 ties permitted in the Preserve.

6 (3) *LIMITATION ON EXCEPTION.*—The cutting of
7 trees authorized under paragraph (2) may not in-
8 clude salvage sales or harvests of commercial quan-
9 tities of timber in the Preserve.

10 (4) *COLLECTION OF DOWNED WOOD.*—The collec-
11 tion of downed wood for firewood by permit may be
12 allowed in a manner consistent with the purposes of
13 this Act.

14 (b) *PROHIBITION ON OFF ROAD MOTORIZED TRAV-*
15 *EL.*—

16 (1) *PROHIBITION.*—Except as provided in para-
17 graph (2) and subject to valid existing rights, the use
18 of motor vehicles off or outside of the established road-
19 bed of roads in the Preserve is prohibited.

20 (2) *EXCEPTION.*—The prohibition contained in
21 paragraph (1) shall not apply to the extent that the
22 Secretary determines that the use of a motor vehicle
23 off or outside of the established roadbed of a road in
24 the Preserve is necessary for administrative purposes
25 or to respond to an emergency.

1 (c) *PROHIBITION ON USE OF CERTAIN ROADS.*—

2 (1) *PROHIBITION.*—*Except as provided in para-*
3 *graph (2) and subject to valid existing rights, the use*
4 *of motor vehicles is prohibited on the following roads*
5 *located in the Preserve:*

6 (A) *Forest road 2209 from the gate in exist-*
7 *ence on the date of the enactment of this Act*
8 *eastward to the intersection of the road with the*
9 *wilderness boundary.*

10 (B) *Forest roads 290 and 330, which are*
11 *spur roads to the road described in subpara-*
12 *graph (A).*

13 (2) *EXCEPTIONS.*—*The prohibition contained in*
14 *paragraph (1) shall not apply to the extent that the*
15 *Secretary determines that the use of the roads de-*
16 *scribed in such paragraph is necessary for adminis-*
17 *trative purposes or to respond to an emergency.*

18 (3) *RULE OF CONSTRUCTION.*—*Nothing in this*
19 *subsection shall be construed to prohibit inholders and*
20 *claim holders of valid mining claims from using the*
21 *roads described in paragraph (1) for ingress and*
22 *egress to their inholdings or valid mining claims, sub-*
23 *ject to such reasonable terms and conditions, consist-*
24 *ent with the purposes of this Act, as the Secretary*
25 *may prescribe. Nothing in this subsection shall be*

1 *construed to prohibit motor vehicle traffic on other*
2 *roads established in the Preserve, in particular those*
3 *forest roads providing access for claim holders of*
4 *valid mining claims for the use of lands in the Pre-*
5 *serve or within the Cedar Creek watershed within two*
6 *miles outside of the boundaries of the Preserve.*

7 *(d) PROHIBITION ON ROAD CONSTRUCTION.—*

8 *(1) PROHIBITION.—Except as provided in para-*
9 *graph (2) and subsection (e), and subject to valid ex-*
10 *isting rights, the construction of new roads is prohib-*
11 *ited in the Preserve.*

12 *(2) EXCEPTIONS.—The prohibition contained in*
13 *paragraph (1) shall not apply to the extent that the*
14 *Secretary determines that the construction of new*
15 *roads, or the improvement of existing roads, in the*
16 *Preserve is necessary to accomplish the purposes of*
17 *this Act or to provide access to inholdings or for*
18 *claim holders of valid mining claims for the use of*
19 *lands in the Preserve or within the Cedar Creek wa-*
20 *tershed within two miles outside of the boundaries of*
21 *the Preserve. The Secretary may maintain or improve*
22 *roads in the Preserve to the extent the Secretary deter-*
23 *mines that such maintenance or improvements are*
24 *necessary to accomplish the purposes of this Act, to*
25 *provide for the protection of the natural resources of*

1 *the Preserve, to provide for public safety, or to ensure*
2 *access for inholders and claims holders of valid min-*
3 *ing claims for the use of lands in the Preserve or*
4 *within the Cedar Creek watershed within two miles*
5 *outside of the boundaries of the Preserve.*

6 (3) *LIMITATION ON EXCEPTION.—The construc-*
7 *tion or improvement of roads in the Preserve pursu-*
8 *ant to paragraph (2) or subsection (e) may not in-*
9 *clude paving or any work beyond 50 feet on either*
10 *side of the centerline of the road bed.*

11 (e) *UTILITIES AND ACCOMPANYING ROAD.—In compli-*
12 *ance with applicable laws and the Willamette National For-*
13 *est Land and Resource Management Plan, the Secretary*
14 *may allow the installation and maintenance of power lines*
15 *and water lines (and an accompanying service road)*
16 *through the Preserve to serve authorized activities conducted*
17 *on land within the Cedar Creek watershed within two miles*
18 *outside of the boundaries of the Preserve.*

19 **SEC. 7. ACCESS TO AND ACQUISITION OF NON-FEDERAL**
20 **LAND.**

21 (a) *INVENTORY AND ACQUISITION OF NON-FEDERAL*
22 *LANDS.—The Secretary shall conduct an inventory of all*
23 *non-Federal lands and interests in lands within the bound-*
24 *aries of the Preserve. The Secretary may acquire such*
25 *inventoried lands (or interests in such lands) for inclusion*

1 in the Preserve. The Secretary may not acquire, for inclu-
 2 sion in the Preserve, any lands or interests in lands within
 3 the boundaries of the Preserve without the consent of the
 4 owner, unless the Secretary determines that the land is
 5 being developed or managed (or is proposed to be developed
 6 or managed) in a manner inconsistent with the purposes
 7 of this Act. Nothing in this Act may be construed to prevent
 8 the Secretary from increasing the size of the Preserve.

9 (b) *SPECIAL RULE FOR SANTIAM NO. 1 LODGE MINING*
 10 *CLAIM.*—Notwithstanding subsection (a), the parcel of real
 11 property located within the boundaries of the Preserve that
 12 is known as the Santiam No. 1 lode mining claim and iden-
 13 tified in section 8140 of the Department of Defense Appro-
 14 priations Act, 1992 (Public Law 102–172; 105 Stat. 1213),
 15 may be acquired by the Secretary only—

16 (1) by purchase for an amount equal to not more
 17 than the sum of—

18 (A) the amount that the original patentee of
 19 the parcel paid for the parcel; and

20 (B) the cost of any improvements made to
 21 the parcel by the patentee; or

22 (2) by donation.

23 (c) *RIGHTS-OF-WAY.*—Nothing in this section shall be
 24 construed to affect the authority of the Secretary to acquire

1 road and trail rights-of-way on lands in the Preserve under
2 existing authorities.

3 (d) ACCESS AND UTILITIES TO INHOLDINGS.—

4 (1) IN GENERAL.—In the case of private
5 inholdings located within the boundaries of the Pre-
6 serve, the Secretary shall authorize the use of Federal
7 land in the Preserve by the holder of the inholding to
8 assure adequate access to the inholding under appli-
9 cable law.

10 (2) JAWBONE FLATS.—With respect to the
11 inholding known as the Jawbone Flats area, the Sec-
12 retary shall authorize the use of Federal land in the
13 Preserve by the owners of the inholding to provide for
14 access and utilities for a facility in the inholding if
15 the Secretary determines that the facility (and use of
16 the facility) is consistent with the purposes of this
17 Act.

18 (3) TERMS AND CONDITIONS.—The use of Fed-
19 eral land in the Preserve under this subsection shall
20 be subject to such reasonable terms and conditions,
21 consistent with the purposes of this Act, as the Sec-
22 retary may prescribe.

1 **SEC. 8. AUTHORITY OF THE SECRETARY AND RESPONSIBLE**
2 **PARTIES TO CONDUCT ENVIRONMENTAL RE-**
3 **SPONSE ACTIONS OR PURSUE LIABILITY.**

4 (a) *REMEDIATION ACTIVITIES.*—Nothing in this Act
5 shall be construed to limit the authority of the Secretary
6 or a responsible party to conduct environmental remedi-
7 ation activities in the Preserve in connection with the re-
8 lease, threatened release, or clean up of any hazardous sub-
9 stance or pollutant or contaminant, including response ac-
10 tions conducted pursuant to the Comprehensive Environ-
11 mental Response, Compensation, and Liability Act of 1980
12 (42 U.S.C. 9601 et seq.).

13 (b) *LIABILITY.*—Nothing in this Act shall be construed
14 to limit the authority of the Secretary or a responsible
15 party to address questions of liability related to the release,
16 threatened release, or clean up of any hazardous substance
17 or pollutant or contaminant in the Preserve.

18 **SEC. 9. GRANDFATHER CLAUSE.**

19 Nothing in this Act shall be construed to affect the op-
20 eration of any timber sale contract entered into, or interfere
21 with any activity for which a special use permit has been
22 issued (and not revoked), before the date of the enactment
23 of this Act, subject to the terms of the contract or permit.

24 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

25 (a) **SHORT TITLE.**—**This Act may be cited as**
26 **the “Opal Creek Forest Preserve Act of 1994”.**

1 **(b) TABLE OF CONTENTS.—The table of con-**
2 **tents for this Act is as follows:**

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purpose.
- Sec. 3. Definitions.
- Sec. 4. Opal Creek Forest Preserve.
- Sec. 5. Administration of the Preserve.
- Sec. 6. Prohibitions regarding the management of the Preserve.
- Sec. 7. Access to and acquisition of non-Federal land.
- Sec. 8. Authority of the Secretary and responsible parties to conduct environmental response actions or pursue liability.
- Sec. 9. Grandfather clause.

3 **SEC. 2. FINDINGS AND PURPOSE.**

4 **(a) FINDINGS.—Congress finds the follow-**
5 **ing:**

6 **(1) Old-growth forests are unique**
7 **ecosystems that serve as critical habitat**
8 **for hundreds of vertebrate and inverte-**
9 **brate animals, plants, and fungi.**

10 **(2) Old-growth forests provide clean**
11 **and plentiful water and support streams**
12 **and rivers containing runs of anad-**
13 **romous and resident cold water fish,**
14 **which are wholly dependent on high**
15 **quantity and quality water for migration,**
16 **spawning, rearing, and cover.**

17 **(3) The high quantity and quality of**
18 **water in streams and rivers in old-growth**
19 **forests can only be maintained by pro-**

1 **tecting the watersheds of these streams**
2 **and rivers.**

3 **(4) Old-growth forests provide unique**
4 **and outstanding opportunities for edu-**
5 **cational study, scientific research, and**
6 **recreation.**

7 **(5) The establishment of a watershed**
8 **and forest preserve to protect areas of**
9 **old-growth forests and surface waters**
10 **can contribute significantly to the quality**
11 **of life for the residents of the State of Or-**
12 **egon through education, recreation, and**
13 **a protected water supply.**

14 **(6) The area known as the Opal Creek**
15 **Forest, located on the upper Little North**
16 **Fork of the Santiam River in the State of**
17 **Oregon, contains one of the largest re-**
18 **maining intact old-growth forest**
19 **ecosystems in the Western Oregon Cas-**
20 **cades. Although the landscape mosaic in**
21 **the Opal Creek Forest may reflect some**
22 **past logging, young stands of trees in the**
23 **area mainly owe their existence to natu-**
24 **ral disturbances, chiefly wildfire.**

1 **(7) The Opal Creek Forest contains**
2 **outstanding geological and botanical fea-**
3 **tures and contains attributes of historic**
4 **and prehistoric importance.**

5 **(8) The recreational use of the Opal**
6 **Creek Forest, typically in the form of hik-**
7 **ing, sightseeing, and the general enjoy-**
8 **ment of the outdoor environment, is sig-**
9 **nificant and likely to increase.**

10 **(9) It is desirable to limit the human-**
11 **related disturbances and development of**
12 **the Opal Creek Forest to protect fully the**
13 **special features of the forest and main-**
14 **tain the full potential of its watershed for**
15 **scientific, educational, and non-**
16 **destructive research purposes.**

17 **(10) The preservation of the Opal**
18 **Creek Forest provides outstanding oppor-**
19 **tunities for scientists to conduct non-**
20 **destructive research regarding old-**
21 **growth forests and for educators to pro-**
22 **vide scientifically credible information to**
23 **the public.**

24 **(b) PURPOSES.—The purposes of this Act**
25 **are—**

1 **(1) to protect and preserve the forests**
2 **and watersheds contained in the Opal**
3 **Creek Forest Preserve; and**

4 **(2) consistent with paragraph (1), to**
5 **promote and conduct—**

6 **(A) nondestructive research in**
7 **the Preserve regarding old-growth**
8 **forests; and**

9 **(B) educational programs in the**
10 **Preserve regarding old-growth for-**
11 **ests and cultural and historic re-**
12 **sources in the Preserve; and**

13 **(3) consistent with paragraphs (1)**
14 **and (2), to permit and regulate recreation**
15 **in the Preserve.**

16 **SEC. 3. DEFINITIONS.**

17 **For purposes of this Act:**

18 **(1) PRESERVE.—The term “Preserve”**
19 **means the Opal Creek Forest Preserve es-**
20 **tablished under section 4(a).**

21 **(2) NONDESTRUCTIVE RESEARCH.—The**
22 **term “nondestructive research” means re-**
23 **search conducted in the Preserve that**
24 **does not involve the harvesting of timber**
25 **or otherwise damage the ecosystem.**

1 **(3) COOPERATIVE MANAGEMENT PLAN.—**

2 **The term “cooperative management plan”**
3 **means the management plan for the Pre-**
4 **serve developed under section 5(b).**

5 **(4) SECRETARY.—The term “Secretary”**
6 **means the Secretary of Agriculture.**

7 **SEC. 4. OPAL CREEK FOREST PRESERVE.**

8 **(a) ESTABLISHMENT OF PRESERVE.—There is**
9 **hereby established the Opal Creek Forest Pre-**
10 **serve to protect and preserve the forests and**
11 **watersheds in the Preserve and to promote**
12 **the research, educational, and recreational**
13 **purposes of this Act.**

14 **(b) DESCRIPTION OF PRESERVE.—The Pre-**
15 **serve shall consist of those Federal lands lo-**
16 **cated in the Willamette and Mt. Hood Na-**
17 **tional Forests in the State of Oregon that are**
18 **generally depicted on the map dated August**
19 **1994, and entitled the “Opal Creek Preserve**
20 **Area”. The Preserve shall also include such**
21 **lands as may be added under section 7. The**
22 **map referred to in this subsection shall be**
23 **kept on file and made available for public in-**
24 **spection in the Office of the Chief of the For-**
25 **est Service, Department of Agriculture.**

1 SEC. 5. ADMINISTRATION OF THE PRESERVE.

2 **(a) IN GENERAL.**—The Secretary shall ad-
3 minister the Preserve in accordance with this
4 Act and the laws, rules, and regulations appli-
5 cable to National Forest System lands in a
6 manner that will further the purposes of this
7 Act.

8 **(b) DEVELOPMENT OF COOPERATIVE MAN-**
9 **AGEMENT PLAN.**—The Secretary, acting
10 through the Forest Service, shall develop a co-
11 operative management plan for the Preserve
12 that is consistent with the requirements spec-
13 ified in this Act and other laws applicable to
14 the Preserve. The cooperative management
15 plan shall be prepared in consultation with,
16 and with significant contributions from, in-
17 terested individuals and organizations. The
18 Secretary may enter into memoranda of un-
19 derstanding with interested parties to accom-
20 plish the purposes of this Act. If the Secretary
21 decides to establish a committee to advise on
22 the development of the cooperative manage-
23 ment plan, such committee shall not be sub-
24 ject to the requirements of the Federal Advi-
25 sory Committee Act (5 U.S.C. App.).

1 **(c) PROTECTION OF CULTURAL AND HISTORIC**
2 **RESOURCES.**—Not later than one year after the
3 **date of the enactment of this Act, the Sec-**
4 **retary shall review and revise the inventory**
5 **of the cultural and historic resources in the**
6 **area covered by the Preserve, which was**
7 **originally developed under the Oregon Wil-**
8 **derness Act of 1984 (Public Law 98–328; 16**
9 **U.S.C. 1131 note). The Secretary shall submit**
10 **a report to Congress describing the results of**
11 **the review of such inventory.**

12 **(d) WITHDRAWAL.**—Subject to valid exist-
13 **ing rights, Federal lands in the Preserve are**
14 **hereby withdrawn from disposition under the**
15 **public land laws, from location, entry, and**
16 **patent under the mining laws of the United**
17 **States, from the operation of the mineral leas-**
18 **ing laws of the United States, and from oper-**
19 **ation of the Geothermal Steam Act of 1970 (30**
20 **U.S.C. 1001 et seq.). The withdrawal provided**
21 **by this subsection shall also apply to any Fed-**
22 **eral lands added to the Preserve after the**
23 **date of the enactment of this Act, except that**
24 **the withdrawal shall apply to such lands only**
25 **upon addition to the Preserve.**

1 **(e) PRIVATE INHOLDINGS.—**The Secretary
2 **may cooperate with, and provide technical as-**
3 **sistance to, private landowners, organiza-**
4 **tions, and other entities holding private lands**
5 **within the boundaries of the Preserve to pro-**
6 **mote the use and management of such lands**
7 **in a manner consistent with the purposes of**
8 **this Act.**

9 **SEC. 6. PROHIBITIONS REGARDING THE MANAGEMENT OF**
10 **THE PRESERVE.**

11 **(a) PROHIBITION ON LOGGING OR OTHER**
12 **TIMBER HARVESTING.—**

13 **(1) PROHIBITION.—**Except as provided
14 **in paragraph (2), the cutting of trees in**
15 **the Preserve is prohibited.**

16 **(2) EXCEPTIONS.—**The prohibition con-
17 **tained in paragraph (1) shall not apply to**
18 **the extent that the Secretary determines**
19 **that the cutting of specific trees in the**
20 **Preserve is necessary—**

21 **(A) for public safety, such as to**
22 **control the spread of a forest fire in**
23 **actual existence in the Preserve or on**
24 **lands adjacent to the Preserve;**

1 **(B) for administrative use related**
2 **to activities permitted in the Pre-**
3 **serve; or**

4 **(C) for collection of dead and**
5 **downed wood to be used for firewood**
6 **within the boundaries of the Pre-**
7 **serve.**

8 **(3) LIMITATION ON EXCEPTION.—The**
9 **cutting of trees authorized under para-**
10 **graph (2) may not include salvage sales**
11 **or harvests of commercial quantities of**
12 **timber in the Preserve.**

13 **(b) PROHIBITION ON OPEN FIRES.—The Sec-**
14 **retary shall prohibit open fires in the Pre-**
15 **serve except in designated fire rings.**

16 **(c) PROHIBITION ON OFF-ROAD MOTORIZED**
17 **TRAVEL.—**

18 **(1) PROHIBITION.—Except as provided**
19 **in paragraph (2) and subject to valid ex-**
20 **isting rights, the use of motor vehicles off**
21 **or outside of the established roadbed of**
22 **roads in the Preserve is prohibited.**

23 **(2) EXCEPTION.—The prohibition con-**
24 **tained in paragraph (1) shall not apply to**
25 **the extent that the Secretary determines**

1 that the use of a motor vehicle off or out-
2 side of the established roadbed of a road
3 in the Preserve is necessary for adminis-
4 trative purposes or to respond to an
5 emergency.

6 **(d) PROHIBITION ON USE OF CERTAIN**
7 **ROADS.—**

8 **(1) PROHIBITION.—**Except as provided
9 in paragraph (2) and subject to valid ex-
10 isting rights, the use of motor vehicles is
11 prohibited on the following roads located
12 in the Preserve:

13 **(A)** Forest road 2209 from the gate
14 in existence on the date of the enact-
15 ment of this Act eastward to the
16 intersection of the road with the wil-
17 derness boundary.

18 **(B)** Forest roads 290 and 330,
19 which are spur roads to the road de-
20 scribed in subparagraph (A).

21 **(2) EXCEPTIONS.—**The prohibition con-
22 tained in paragraph (1) shall not apply to
23 the extent that the Secretary determines
24 that the use of the roads described in
25 such paragraph is necessary for adminis-

1 trative purposes or to respond to an
2 emergency.

3 **(3) RULE OF CONSTRUCTION.—Nothing**
4 **in this subsection may be construed to**
5 **prohibit inholders and the possessors of**
6 **valid mining claims from using the roads**
7 **described in paragraph (1) for ingress**
8 **and egress to their inholdings or in con-**
9 **nection with the exercise of their valid**
10 **mining claims, subject to such reasonable**
11 **terms and conditions, consistent with the**
12 **purposes of this Act, as the Secretary**
13 **may prescribe. Nothing in this subsection**
14 **may be construed to prohibit motor vehi-**
15 **cle traffic on other roads established in**
16 **the Preserve, in particular those forest**
17 **roads providing access for persons pos-**
18 **sessing valid mining claims for the use of**
19 **lands in the Preserve or within the Cedar**
20 **Creek watershed within two miles out-**
21 **side of the boundaries of the Preserve.**

22 **(e) PROHIBITION ON ROAD CONSTRUCTION.—**

23 **(1) PROHIBITION.—Except as provided**
24 **in paragraph (2) and subsection (f), and**
25 **subject to valid existing rights, the con-**

1 **struction of new roads is prohibited in**
2 **the Preserve.**

3 **(2) EXCEPTIONS.—The prohibition con-**
4 **tained in paragraph (1) shall not apply to**
5 **the extent that the Secretary determines**
6 **that the construction of new roads, or the**
7 **improvement of existing roads, in the**
8 **Preserve is necessary to accomplish the**
9 **purposes of this Act or to provide access**
10 **to inholdings or for persons possessing**
11 **valid mining claims for the use of lands**
12 **in the Preserve or within the Cedar**
13 **Creek watershed within two miles out-**
14 **side of the boundaries of the Preserve.**
15 **The Secretary may maintain or improve**
16 **roads in the Preserve to the extent the**
17 **Secretary determines that such mainte-**
18 **nance or improvements are necessary to**
19 **accomplish the purposes of this Act, to**
20 **provide for the protection of the natural**
21 **resources of the Preserve, to provide for**
22 **public safety, or to ensure access for**
23 **inholders and persons possessing valid**
24 **mining claims for the use of lands in the**
25 **Preserve or within the Cedar Creek wa-**

1 **tershed within two miles outside of the**
2 **boundaries of the Preserve.**

3 **(3) LIMITATION ON EXCEPTION.—The**
4 **construction or improvement of roads in**
5 **the Preserve under paragraph (2) or sub-**
6 **section (f) may not include paving or any**
7 **work beyond 50 feet on either side of the**
8 **centerline of the road bed.**

9 **(f) UTILITIES AND ACCOMPANYING ROAD.—In**
10 **compliance with applicable laws and the Wil-**
11 **lamette National Forest Land and Resource**
12 **Management Plan, the Secretary may allow**
13 **the installation and maintenance of power**
14 **lines and water lines (and an accompanying**
15 **service road) through the Preserve to serve**
16 **authorized activities conducted on land with-**
17 **in the Cedar Creek watershed within two**
18 **miles outside of the boundaries of the Pre-**
19 **serve.**

20 **SEC. 7. ACCESS TO AND ACQUISITION OF NON-FEDERAL**
21 **LAND.**

22 **(a) INVENTORY AND ACQUISITION OF NON-**
23 **FEDERAL LANDS.—The Secretary shall conduct**
24 **an inventory of all non-Federal lands and in-**
25 **terests in lands within the boundaries of the**

1 **Preserve. The Secretary may acquire such**
2 **inventoried lands (or interests in such lands)**
3 **for inclusion in the Preserve by purchase at**
4 **not more than fair market value, by donation,**
5 **or by exchange. The Secretary may not ac-**
6 **quire, for inclusion in the Preserve, any lands**
7 **or interests in lands within the boundaries of**
8 **the Preserve without the consent of the**
9 **owner, unless the Secretary determines that**
10 **the land is being developed or managed (or is**
11 **proposed to be developed or managed) in a**
12 **manner inconsistent with the purposes of this**
13 **Act. Nothing in this Act may be construed to**
14 **prevent the Secretary from increasing the**
15 **size of the Preserve.**

16 **(b) SPECIAL RULE FOR SANTIAM NO. 1 LODGE**
17 **MINING CLAIM.—Notwithstanding subsection**
18 **(a), the parcel of real property located within**
19 **the boundaries of the Preserve that is known**
20 **as the Santiam No. 1 lode mining claim and**
21 **identified in section 8140 of the Department**
22 **of Defense Appropriations Act, 1992 (Public**
23 **Law 102–172; 105 Stat. 1213), may be acquired**
24 **by the Secretary only—**

1 **(1) by purchase for an amount equal**
2 **to not more than the sum of—**

3 **(A) the amount that the original**
4 **patentee of the parcel paid for the**
5 **parcel; and**

6 **(B) the cost of any improvements**
7 **made to the parcel by the patentee;**
8 **or**

9 **(2) by donation.**

10 **(c) RIGHTS-OF-WAY.—Nothing in this sec-**
11 **tion may be construed to affect the authority**
12 **of the Secretary to acquire road and trail**
13 **rights-of-way on lands in the Preserve under**
14 **existing authorities.**

15 **(d) ACCESS AND UTILITIES TO INHOLDINGS.—**

16 **(1) IN GENERAL.—In the case of private**
17 **inholdings located within the boundaries**
18 **of the Preserve, the Secretary shall au-**
19 **thorize the use of Federal land in the**
20 **Preserve by the holder of the inholding**
21 **to assure adequate access to the**
22 **inholding under applicable law.**

23 **(2) JAWBONE FLATS.—With respect to**
24 **the inholding known as the Jawbone**
25 **Flats area, the Secretary shall authorize**

1 the use of Federal land in the Preserve
2 by the organization known as the Friends
3 of Opal Creek to provide for access and
4 utilities for a facility in the inholding if
5 the Secretary determines that the facility
6 and use of the facility are consistent with
7 the purposes of this Act.

8 (3) TERMS AND CONDITIONS.—The use
9 of Federal land in the Preserve under
10 this subsection shall be subject to such
11 reasonable terms and conditions, consist-
12 ent with the purposes of this Act, as the
13 Secretary may prescribe.

14 SEC. 8. AUTHORITY OF THE SECRETARY AND RESPONSIBLE
15 PARTIES TO CONDUCT ENVIRONMENTAL RE-
16 SPONSE ACTIONS OR PURSUE LIABILITY.

17 (a) REMEDIAL ACTIVITIES.—Nothing in this
18 Act may be construed to limit the authority of
19 the Secretary or a responsible party to con-
20 duct environmental remedial activities in the
21 Preserve in connection with the release,
22 threatened release, or removal of any hazard-
23 ous substance or pollutant or contaminant, in-
24 cluding response actions conducted under the
25 Comprehensive Environmental Response,

1 **Compensation, and Liability Act of 1980 (42**
2 **U.S.C. 9601 et seq.).**

3 **(b) LIABILITY.—Nothing in this Act may be**
4 **construed to limit the authority of the Sec-**
5 **retary or a responsible party to address ques-**
6 **tions of liability related to the release, threat-**
7 **ened release, or removal of any hazardous**
8 **substance or pollutant or contaminant in the**
9 **Preserve.**

10 **SEC. 9. GRANDFATHER CLAUSE.**

11 **Nothing in this Act may be construed to**
12 **affect the operation of any timber sale con-**
13 **tract entered into, or interfere with any activ-**
14 **ity for which a special use permit has been is-**
15 **sued (and not revoked), before the date of the**
16 **enactment of this Act, subject to the terms of**
17 **the contract or permit.**

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