

BULL RUN WATERSHED MANAGEMENT

JULY 23, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 427]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 427) to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 427 is to provide protections for the watershed of the Little Sandy River as a part of the Bull Run Watershed unit, Oregon, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

In 1895, the Bull Run Reserve was established over certain U.S. Forest Service lands in Oregon partly to protect an important watershed for the citizens of Portland. In 1895, the first municipal uses of water obtained from Bull Run commenced and amounted to approximately 4 billion gallons annually. Today, population growth and demand has increased water consumption from this watershed to approximately 45 billion gallons annually.

In 1904, with passage of the Trespass Act, the forest lands contained within the Bull Run Reserve were managed so as to only allow uses which affirmatively protected the forest lands and the water quality of streams contained therein. In 1977, Public Law 95-200 was passed which allowed commercial logging within an area known as the Little Sandy; a watershed within Bull Run that has been identified as a potential future water source. In 1996,

Congress established permanent protections for the Bull Run Management Unit through the Oregon Resources Conservation Act, placing a temporary moratorium on logging in the Little Sandy.

This legislation would require the U.S. Forest Service to manage the Little Sandy area of the Bull Run Reserve so as to prohibit the cutting of trees under most circumstances.

COMMITTEE ACTION

H.R. 427 was introduced on February 6, 2001, by Representative Earl Blumenauer (D-OR). The bill was referred to the Committee on Resources, and additionally to the Committee on Agriculture. Within the Committee on Resources, the bill was referred to the Subcommittee on Forests and Forest Health and the Subcommittee on National Parks, Recreation, and Public Lands. On April 25, 2001, the Forest Subcommittee held a hearing on the bill. On June 21, 2001, the Forest Subcommittee met to mark up the bill. No amendments were offered and the bill was forwarded to the Full Committee by voice vote. On June 27, 2001, the Full Resources Committee met to consider the bill. The Subcommittee on National Parks, Recreation, and Public Lands was discharged from further consideration of the bill by unanimous consent. The bill was then ordered favorably reported, without amendment, to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.* Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.* As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, the bill could affect direct spending (including offsetting receipts), but any such impact would be negligible.

3. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to provide further protections for the watershed of the

Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon.

4. *Congressional Budget Office Cost Estimate.* Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 2, 2001.

Hon. JAMES V. HANSEN,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 427, a bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes.

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

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

H.R. 427—A bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon, and for other purposes

CBO estimates that implementing H.R. 427 would cost \$10 million in 2002, assuming appropriation of the authorized amounts. The bill could affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply, but we estimate that any such impact would be negligible. H.R. 427 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 427 would add about 2,890 acres of federal lands to the Bull Run Watershed Management Unit in Oregon and amend current law to prohibit timber harvesting within that unit. The bill also would require the reclassification of other public lands, but we estimate that those provisions would have no significant budgetary impact. Finally, H.R. 427 would authorize the appropriation of \$10 million for a grant to Clackamas County, Oregon, to support watershed restoration activities near the management unit. We expect that the grant would be made in 2002, assuming appropriation of the authorized amount.

Based on information from the Forest Service and the Bureau of Land Management, we estimate that prohibiting timber harvesting within the management unit would not significantly affect federal receipts and subsequent payments to states over the next 10 years. Under the bill, that prohibition would apply to roughly 7,000 acres of land where timber harvesting is currently allowed. According to the agencies, those lands currently generate no significant receipts,

and the agencies do not expect them to generate significant receipts from timber harvests in the future.

On May 18, 2001, CBO transmitted a cost estimate for S. 254, similar legislation as ordered reported by the Senate Committee on Energy and Natural Resources on May 16, 2001. The two bills are identical, as are our cost estimates.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as 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):

ACT OF NOVEMBER 23, 1977

(Public Law 95-200)

AN ACT To provide improved authority for the administration of certain National Forest System lands in Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PREAMBLE

The Congress finds that an area of land in the State of Oregon known variously as the Bull Run National Forest and the Bull Run Forest Reserve is presently the source of the sole domestic water supply for the city of Portland, Oregon (hereinafter called the "city") and other local governmental units and persons in the Portland metropolitan area, reserved for the city by a Presidential proclamation issued in 1892 and furnishing an extremely valuable resource of pure clear raw potable water, the continued production of which should be the principal management objective in the area hereinafter referred to as "the unit"; that the said area is now managed under terms of a Federal court decree issued pursuant to turn of the century law which does not appropriately address present and future needs and opportunities for the protection, management, and utilization of the resources contained therein.

DESIGNATION OF UNIT

SECTION 1. There is hereby established, subject to valid existing rights, a special resources management unit within the Mount Hood National Forest, State of Oregon, comprising approximately 95,382 acres as depicted on a map dated April 1977, and entitled "Bull Run Watershed Management Unit, Mount Hood National

Forest”, which is on file and available for public inspection in the offices of the Chief, and the Regional Forester—Pacific Northwest Region, Forest Service, Department of Agriculture, minor adjustments in the boundaries of which may be made from time to time by the Secretary of Agriculture (hereinafter the “Secretary”) after consultation with the city and appropriate public notice and hearings.】

SECTION 1. ESTABLISHMENT OF SPECIAL RESOURCES MANAGEMENT UNIT; DEFINITION OF SECRETARY.

(a) *DEFINITION OF SECRETARY.*—*In this Act, the term “Secretary” means—*

(1) *with respect to land administered by the Secretary of Agriculture, the Secretary of Agriculture; and*

(2) *with respect to land administered by the Secretary of the Interior, the Secretary of the Interior.*

(b) *ESTABLISHMENT.*—

(1) *IN GENERAL.*—*There is established, subject to valid existing rights, a special resources management unit in the State of Oregon, comprising approximately 98,272 acres, as depicted on a map dated May 2000 and entitled “Bull Run Watershed Management Unit”.*

(2) *MAP.*—*The map described in paragraph (1) shall be on file and available for public inspection in the offices of—*

(A) *the Regional Forester-Pacific Northwest Region of the Forest Service; and*

(B) *the Oregon State Director of the Bureau of Land Management.*

(3) *BOUNDARY ADJUSTMENTS.*—*The Secretary may periodically make such minor adjustments in the boundaries of the unit as are necessary, after consulting with the city and providing for appropriate public notice and hearings.*

MANAGEMENT

SEC. 2. (a) The unit and the renewable resources therein, shall be administered as a watershed by the Secretary [of Agriculture] in accordance with the laws, rules, and regulations [applicable to National Forest System lands] *applicable to land under the administrative jurisdiction of the Forest Service (in the case of land administered by the Secretary of Agriculture) or applicable to land under the administrative jurisdiction of the Bureau of Land Management (in the case of land administered by the Secretary of the Interior)* except to the extent that any management plan or practice is found by the Secretary to have a significant adverse effect on compliance with the water quality standards referred to in section 2(c) hereof or on the quantity of the water produced thereon for the use of the city, and other local government units and persons using such water under agreements with the city (and the Secretary shall take into consideration the cumulative effect of individually insignificant degradations), in which case, and notwithstanding any other provision of law, the management plan and all relevant leases, permits, contracts, rights-of-way, or other rights or authorizations issued pursuant thereto shall forthwith be altered by the Secretary to eliminate such adverse effect by application of different techniques or prohibitions of one or more such practices or uses: *Provided, however,* That use of such water for the production

of energy and the transmission of such energy through and over the unit are deemed consistent with the purposes of this Act and the rights-of-way heretofore granted to Bonneville Power Administration by the Forest Service through and over the unit are validated and confirmed and deemed consistent with the purposes of this Act.

(b) **TIMBER CUTTING.**—

[(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage, including certain lands within the unit and located below the headworks of the city of Portland, Oregon’s water storage and delivery project, and as depicted in a map dated July 22, 1996, and entitled “Bull Run River Drainage”.**]**

(1) IN GENERAL.—*Subject to paragraph (2), the Secretary shall prohibit the cutting of trees on Federal land in the unit, as designated in section 1 and depicted on the map referred to in that section.*

(2) **PERMITTED CUTTING.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary **[of Agriculture]** shall prohibit the cutting of trees in the area described in subparagraph (1).

(B) **PERMITTED CUTTING.**—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in subparagraph (1)—

(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

(C) **SALVAGE SALES.**—The Secretary **[of Agriculture]** may not

(c) The policy set forth in **[subsections (a) and (b)] subsections (a) and (b)** shall be attained through the development, maintenance, and periodic revision of land management plans in accordance with procedures set forth in section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477, as amended; 16 U.S.C. 1604)**[, through the maintenance]** *(in the case of land administered by the Secretary of Agriculture) or section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) (in the case of land administered by the Secretary of the Interior), through the maintenance* of systems for monitoring and evaluating water quality, and through supporting scientific research as the Secretary may deem necessary after consultation and in coordination with the city. In the development and revision of land management plans for the unit, the Secretary, except as otherwise provided in section 2(a) hereof, shall provide for public participation

and shall consult and coordinate with appropriate officials and advisors of the city, and shall consider such data and research as the city may collect through its own monitoring systems and scientific efforts, if any. Such plans shall be prepared by an interdisciplinary team; be embodied in appropriate written material, including maps and other descriptive documents; shall contain water quality standards developed by the Secretary after consultation and in cooperation with the city, which standards shall be substantially based on and shall reflect a quality of water not significantly less than the quality reflected by percentile curves developed from data collected from 1967 through 1975 and, if none, from data collected in the first three years of record thereafter; and be available to the public at convenient locations. The initial plan or plans shall be completed as soon as practicable after the enactment of this Act, but not later than September 30, 1979. Current data shall be compared to historical data at least annually for the purpose of determining compliance with the standards and the significance of any deviation therefrom. Deviations occurring from operation, maintenance, alteration, or construction of water storage, or electrical generation and transmission facilities, seasonal fluctuations, variations in climate, and other natural phenomena, fire, or acts of God, shall not be considered in determining the historical or current percentile curves.

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SECTION 606 OF THE OREGON RESOURCE CONSERVATION ACT OF 1996

【SEC. 606. Lands within the Bull Run Management Unit, as defined in Public Law 95-200, but not contained within the Bull Run River Drainage, as defined by this title and as depicted on the map dated July 1996 described in Section 604 of this title, shall continue to be managed in accordance with Public Law 95-200.】

SECTION 1026 OF THE OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996

【SEC. 1026. BULL RUN PROTECTION.—

【(a) AMENDMENTS TO PUBLIC LAW 95-200.—

【(1) The first sentence of section 2(a) of the Public Law 95-200 is amended by striking “2(b)” and inserting in lieu thereof “2(c)”.

【(2) The first sentence of section 2(b) of Public Law 95-200 is amended after “the policy set forth in subsection (a)” by inserting “and (b)”.

【(3) Subsections (b), (c), (d), and (e) of section 2 of Public Law 95-200 are redesignated as subsections (c), (d), (e), and (f), respectively.

【(4) Section 2 of Public Law 95-200 is amended by inserting after subsection (a) the following new subsection:

【“(b) TIMBER CUTTING.—

【“(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull

Run River Drainage, including certain lands within the unit and located below the headworks of the city of Portland, Oregon's water storage and delivery project, and as depicted in a map dated July 22, 1996, and entitled 'Bull Run River Drainage'.

【“(2) PERMITTED CUTTING.—

【“(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in subparagraph (1).

【“(B) PERMITTED CUTTING.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in subparagraph (1)—

【“(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

【“(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

【“(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

【“(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

【“(C) SALVAGE SALES.—The Secretary of Agriculture may not authorize a salvage sale in the area described in subparagraph (1).”.

【(b) REPORT TO CONGRESS.—The Secretary of Agriculture shall, in consultation with the city of Portland and other affected parties undertake a study of that part of the Little Sandy Watershed that is within the unit (hereinafter referred to as the “study area”). The study shall determine—

【(1) the impact of management activities within the study area on the quality of drinking water provided to the Portland Metropolitan area;

【(2) the identity and location of certain ecological features within the study area, including late successional forest characteristics, aquatic and terrestrial wildlife habitat, significant hydrological values, or other outstanding natural features; and

【(3) the location and extent of any significant cultural or other values within the study area.

【(c) RECOMMENDATIONS.—The study referred to in subsection (b) shall include both legislative and regulatory recommendations to Congress on the future management of the study area. In formulating such recommendations, the Secretary shall consult with the City of Portland and other affected parties.

【(d) EXISTING DATA AND PROCESSES.—To the greatest extent possible, the Secretary shall use existing data and processes to carry out the study and report.

【(e) SUBMISSION TO CONGRESS.—The study referred to in subsection (b) shall be submitted to the Senate Committees on Energy and Natural Resources and Agriculture and the House Committees on Resources and Agriculture not later than one year from the date of enactment of this section.

【(f) MORATORIUM.—The Secretary is prohibited from advertising, offering or awarding any timber sale within the study area for a period of two years after the date of enactment of this section.

【(g) WATER RIGHTS.—Nothing in this section shall in any way affect any State or Federal law governing appropriation, use of or Federal right to water on or flowing through National Forest System lands. Nothing in this section is intended to influence the relative strength of competing claims to the waters of the Little Sandy River. Nothing in this section shall be construed to expand or diminish Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control, including rights in and current uses of water resources in the unit.

【(h) OTHER LANDS IN UNIT.—Lands within the Bull Run Management Unit, as defined in Public Law 95–200, but not contained within the Bull Run River Drainage, as described in the amendment made by subsection (a)(4) of this section and as depicted on the map dated July 22, 1996, and entitled “Bull Run River Drainage”, shall continue to be managed in accordance with Public Law 95–200.】

A P P E N D I X

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, July 18, 2001.

Hon. LARRY COMBEST,
*Chairman, Committee on Agriculture,
Longworth House Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: On June 27, 2001, the Committee on Resources ordered favorably reported H.R. 427, a bill to provide further protections for the watershed of the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon. This bill was referred primarily to the Committee on Resources and additionally to the Committee on Agriculture. Because of the short time remaining before the August district work period, I would like to schedule this bill for consideration as soon as possible. Therefore, I ask you to not insist on exercising your referral of the bill and allow the Committee on Agriculture to be discharged from further consideration of H.R. 427.

I agree that your decision to forego further action on the bill will not prejudice the Committee on Agriculture with respect to its jurisdictional prerogatives on this or similar legislation, and will support your request for conferees on those provisions within the Committee on Agriculture's jurisdiction should they be the subject of a House-Senate conference. Copies of our correspondence will be made part of the committee bill report to memorialize our understanding.

Thank you very much for your cooperation and that of Subcommittee on Department Operations, Oversight, Nutrition and Forestry Chairman Goodlatte. I look forward to working with you both.

Sincerely,

JAMES V. HANSEN,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, July 18, 2001.

Hon. JAMES V. HANSEN,
*Chairman, Committee on Resources,
Longworth HOB, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for notifying the Committee on Agriculture regarding your intention to file a report to accompany H.R. 427, a bill to provide further protections for the watershed of

the Little Sandy River as part of the Bull Run Watershed Management Unit, Oregon.

As you are aware, the Committee on Agriculture received an additional referral of this legislation on those provisions of H.R. 427 that fall within this Committee's jurisdiction. However, after conferring with Chairman Goodlatte of the Subcommittee on Department Operations, Oversight, Nutrition, and Forestry, I will be glad to waive further consideration of this measure in order to allow its timely consideration by the entire House of Representatives.

This action is not intended to waive this Committee's jurisdiction over this matter for all purposes, and in the event a conference with the Senate is requested in this matter, I would ask you to support the Committee on Agriculture's request to be represented.

Thank you very much for your courtesy in this matter and I look forward to continued cooperation between our Committees as we deal with these issues in the future.

Sincerely,

LARRY COMBEST,
Chairman.

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