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BEND PINE NURSERY LAND CONVEYANCE ACT

APRIL 6, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 1936]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1936) to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other National Forest System land in the State of Oregon and use the proceeds derived from the sale or exchange for National Forest System purposes, having considered the same, reports, favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bend Pine Nursery Land Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(2) STATE.—The term "State" means the State of Oregon.

SEC. 3. SALE OR EXCHANGE OF ADMINISTRATIVE SITES.

(a) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary may prescribe, sell or exchange any or all right, title, and interest of the United States in and to the following National Forest System land and improvements:

(1) Tract A, Bend Pine Nursey, comprising approximately 210 acres, as depicted on site plan map entitled "Bend Pine Nursery Administrative Site, May 13, 1999".

(2) Tract B, the Federal Government owned structures located at Shelter Cove Resort, Deschutes National Forest, buildings only, as depicted on site plan map entitled "Shelter Cove Resort, November 3, 1997".

(3) Tract C, portions of isolated parcels of national Forest land located in township 20 south, Range 10 East section 25 and township 20 South, Range 11

East sections 8, 9, 16, 20 and 21 consisting of approximately 1,260 acres, as depicted on map entitled "Deschutes National Forest Isolated Parcels, January 1, 2000".

(4) Tract D, Alsea Administrative Site, consisting of approximately 24 acres, as depicted on site plan map entitled "Alsea Administrative Site, May 14, 1999".

(5) Tract E, Mapleton Administrative Site, consisting of approximately 8 acres, as depicted on site plan map entitled "Mapleton Administrative site, May 14, 1999".

(6) Tract F, Springdale Administrative Site, consisting of approximately 3.6 acres, as depicted on site plan map entitled "Site Development Plan, Columbia Gorge Ranger Station, April 22, 1964".

(7) Tract G, Dale Administrative Site, consisting of approximately 37 acres, as depicted on site plan map entitled "Dale Compound, February 1999".

(8) Tract H, Crescent Butte Site, consisting of approximately .8 acres, as depicted on site plan map entitled "Crescent Butte Communication Site, January 1, 2000".

(b) CONSIDERATION.—Consideration for a sale or exchange of land under subsection (a) may include the acquisition of land, existing improvements, or improvements constructed to the specifications of the Secretary.

(c) APPLICABLE LAW.—Except as otherwise provided in this Act, any sale or exchange of National Forest System land under subsection (a) shall be subject to the laws (including regulations) applicable to the conveyance and acquisition of land for the National Forest System.

(d) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of land exchanged under subsection (a).

(e) SOLICITATIONS OF OFFERS.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary may solicit offers for sale or exchange of land under this section on such terms and conditions as the Secretary may prescribe.

(2) REJECTION OF OFFERS.—The Secretary may reject any offer made under this section if the Secretary determines that the offer is not adequate or not in the public interest.

(3) RIGHT OF FIRST REFUSAL.—The Bend Metro Park and Recreation District in Deschutes County, Oregon, shall be given the right of first refusal to purchase the Bend Pine Nursery described in subsection (a)(1).

(f) REVOCATIONS.—

(1) IN GENERAL.—Any public land order withdrawing land described in subsection (a) from all forms of appropriation under the public land laws is revoked with respect to any portion of the land conveyed by the Secretary under this section.

(2) EFFECTIVE DATE.—The effective date of any revocation under paragraph (1) shall be the date of the patent or deed conveying the land.

SEC. 4. DISPOSITION OF FUNDS.

(a) DEPOSIT OF PROCEEDS.—The Secretary shall deposit the proceeds of a sale or exchange under section 3(a) in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the "Sisk Act").

(b) USE OF PROCEEDS.—Funds deposited under subsection (a) shall be available to the Secretary, without further Act of appropriation, for—

(1) the acquisition, construction, or improvement of administrative and visitor facilities and associated land in connection with the Deschutes National Forest;

(2) the construction of a bunkhouse facility in the Umatilla National Forest; and

(3) to the extent the funds are not necessary to carry out paragraphs (1) and (2), the acquisition of land and interests in land in the State.

(c) ADMINISTRATION.—Subject to valid existing rights, the Secretary shall manage any land acquired by purchase or exchange under this Act in accordance with the Act of March 1, 1911 (16 U.S.C. 480 et seq.) (commonly known as the "Weeks Act") and other laws (including regulations) pertaining to the National Forest System.

SEC. 5. CONSTRUCTION OF NEW ADMINISTRATIVE FACILITIES.

The Secretary may acquire, construct, or improve administrative facilities and associated land in connection with the Deschutes National Forest System by using—

(1) funds made available under section 4(b); and

(2) to the extent the funds are insufficient to carry out the acquisition, construction, or improvement, funds subsequently made available for the acquisition, construction, or improvement.

SEC. 6. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

PURPOSE OF THE MEASURE

The purpose of S. 1936 is to sell or exchange all or part of certain administrative sites in Oregon and use the proceeds from the sale for National Forest purposes.

BACKGROUND AND NEED

The Forest Service's Bend Pine Nursery in Bend, Oregon is no longer operating and only a small portion of the site is in use. S. 1936 requires that, if the Forest Service is going to sell, exchange, or otherwise develop the former Bend Pine Nursery, the community will have the right of first refusal to acquire the property for the development of a sports complex, playing fields, or other facilities or public purposes.

Additionally, this legislation allows the Forest Service to use the money from the sale of the Bend Pine nursery property, and other surplus properties in Oregon, or their value in exchange, for the acquisition of new administrative and recreation facilities on the Deschutes National Forest, a bunkhouse facility on the Umatilla National Forest, and to the extent funds are available, other parcels in the state of Oregon.

LEGISLATIVE HISTORY

S. 1936 was introduced on November 16, 1999 by Senators Wyden and Smith of Oregon. The Subcommittee on Forests and Public Land Management held a hearing on S. 1936 on February 10, 2000. At the business meeting on February 23, 2000, the Committee on Energy and Natural Resources ordered S. 1936 reported favorably with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on February 23, 2000, by a voice vote of a quorum present recommends that the Senate pass S. 1936 if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1936, the Committee adopted an amendment in the nature of a substitute. The amendment addresses concerns raised by the administration to clarify that the right of first refusal is to be offered to only the Bend Metro Park and Recreation District. In addition, the amendment clarifies which tracts are authorized for disposal by the Forest Service and provides for additional purposes for use of the land sales proceeds.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 defines terms used in the Act.

Section 3(a) authorizes the Secretary of Agriculture to sell or exchange National Forest System lands in Oregon, including the Bend Pine Nursery and other described parcels.

Subsections (b), (c) and (d) allows the consideration of the sale or exchange to include land or improvements subject to applicable laws and regulations, except that a cash equalization payment in excess of 25 percent of the value of land exchanged will be allowed.

Subsection (e) allows the Secretary to solicit offers for sale or exchange and reject any inadequate offers. The Secretary is required to give the right of first refusal to purchase the Bend Pine Nursery to the Bend Metro Parks and Recreation District of Deschutes County, Oregon.

Subsection (f) revokes any land conveyed, effective on the date of the deed or patent, from any land order withdrawing land from all forms of appropriation under the public land laws.

Section 4 requires the Secretary to deposit the proceeds of a sale or exchange in the Sisk Act fund. The section requires that those funds be available for acquiring administrative and visitor facilities and associated land for the Deschutes National Forest, and for a bunkhouse on the Umatilla National Forest. Funds not needed for those purposes can be used to acquire land and interests in land in the State. The section also requires the Secretary to administer lands acquired in accordance with the Weeks Act, and other laws pertaining to the National Forest System.

Section 5 allows the Secretary to acquire or construct administrative facilities using funds made available under S. 1936, or other funds available for acquisition, construction or improvement of facilities. The Committee expects that the Forest Service will limit construction costs for the new administrative and visitor facilities authorized in section 5 to an amount approximating the total amount of revenue generated through the sale of the parcels noted in section 3.

Section 6 authorizes appropriations necessary to carry out the Act.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office (CBO) estimate of the costs of this measure follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 30, 2000.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1936, the Bend Pine Nursery Land Conveyance Act.

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.

S. 1936—Bend Pine Nursery Land Conveyance Act

S. 1936 would authorize the Secretary of Agriculture to sell or exchange certain lands and facilities located on several National Forests in Oregon. According to the Forest Service, those properties currently generate no significant receipts, and the agency does not expect them to generate any significant receipts over the next 10 years. The bill would authorize the Secretary to spend, without further appropriation, proceeds from the sale of these properties to construct a new administrative facility and a new bunkhouse. If receipts are insufficient to cover the costs of constructing the new facilities, S. 1936 would authorize the appropriation of sums necessary to complete the projects.

Allowing the Forest Service to collect and spend receipts from the sale of property would affect spending; thus, pay-as-you-go procedures would apply. Based on information from the agency, CBO estimates that enacting this legislation would increase both offsetting receipts (a credit against direct spending) and the spending of such collections by as much as $6 million over the 2002–2003 period as shown in the following table. We estimate that the sales would occur during fiscal years 2002 and 2003, and that receipts would be offset by a corresponding increase in direct spending for construction during that period.

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
CHANGES IN DIRECT SPENDING						
Receipts from Property Sales	0	0	−4	−2	0	0
Spending of Receipts	0	0	1	5	0	0
Net Changes	0	0	−3	3	0	0

Implementing S. 1936 also could affect discretionary spending. Under current law, the Forest Service spends about $1 million each year to rent the administrative site currently used for the Deschutes National Forest. Assuming that increased receipts are sufficient to cover the costs of constructing the new administrative facility authorized under S. 1936 and that the facility is completed by the end of fiscal year 2003, implementing this bill could reduce the need for future appropriations and reduce discretionary spending by $1 million annually starting in 2004.

S. 1936 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Any expenditures by state or local governments to purchase forest system land, as authorized by this bill, would be voluntary.

The CBO staff contacts are Megan Carroll (for federal costs), and Marjorie Miller (for the impact on state, local, and tribal governments). This estimate was approved by Peter H. Fontaine, 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. 1936.

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. 1936, as ordered reported.

EXECUTIVE COMMUNICATIONS

On February 23, 2000 the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth Executive agency recommendations on S. 1936. These reports had not been received at the time the report on S. 1936 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Forest Service at the Subcommittee hearing follows:

STATEMENT OF JACK CRAVEN, DIRECTOR OF LANDS, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the Committee, thank you for the opportunity to be here today to present the Administration's views on S. 1936, the Bend Pine Nursery Land Conveyance Act, which would allow the Forest Service to convey the 210 acre Bend Pine Nursery site to the Bend Metro Parks and Recreation District and convey certain other parcels, with the proceeds used for acquisition, construction, or improvement of administrative facilities on the Deschutes National Forest.

The Administration supports S. 1936, the Bend Pine Nursery Land Conveyance Act, if amended to address our concerns and incorporate suggested changes.

The Administration supports S. 1936, the Bend Pine Nursery Land Conveyance Act, if amended to address our concerns and incorporate suggested changes as described below.

The Act would allow the Forest Service to convey the 210 acre Bend Pine Nursery site, as well as 4 other administrative sites, government-owned facilities at Shelter Cove Resort, and isolated parcels on the Deschutes National Forest. Any proceeds from the sales or exchanges authorized in the Act would be deposited in the fund established under Public Law 90–171 (16 U.S.C. 484a), commonly known as the Sisk Act. The funds would then be available to the Forest Service for the acquisition, construction, or improvement of administrative facilities and associated land in connection with the Deschutes National Forest. To the extent that funds are not necessary for these purposes, the proceeds would be available for the acquisition of other lands in Oregon.

Our primary concern is with Section 4, Disposition of Funds. Under Section 4(b)(1), we would recommend that

the language be modified so that the funds may be used on the Deschutes National Forest and other National Forests in Oregon. While the Deschutes National Forest has important facility needs that can be addressed through this Act, there are other critical facility needs in the region that should also be met through the authorization this Act provides. Additionally, some of the lands listed for disposal are from other National Forests in Oregon, and those forests are only willing to contribute their assets to this project contingent upon their ability to acquire, construct, or improve administrative facilities on their forests under the authorities provided by this legislation. The wording change allows the Forest Service the flexibility to address these concerns, while still honoring a commitment to deal with facility needs on the Deschutes National Forest.

We are also concerned with the wording in Section 3(e)(3), Right of First Refusal. The language, as currently written, appears to give multiple parties the right of first refusal. We do not agree that there should be multiple parties with right of first refusal, and recommend that this language be changed to reflect only that the Bend Metro Parks and Recreation District have this option. Additionally, we feel there should be a reasonable timeframe attached to this provision. We recommend that this section be amended whereby the Bend Metro Parks and Recreation District would sign a letter of intent to purchase the Bend Pine Nursery site within 6 months of the date of enactment of this act. We believe that this timeframe should be reflected in this section of the legislation.

Our final concern is Section 5, Construction of New Administrative Facilities. Section 5(2) is ambiguous. Our concern is that if this section is construed to mean that any shortfall in funding for the Deschutes should come out of the Forest Service facilities budget, at the expense of other needs, then this diversion of funds would jeopardize the continued Forest Service presence in a number of rural communities, as monies needed for legally required repairs and facilities rehabilitation would be diverted to the Deschutes.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 1936, as ordered reported.

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