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TO ESTABLISH THE CASCADE HEAD
SCENIC-RESEARCH AREA, OREGON

GOVERNMENT

DOCUMENTS

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HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 8352

TO ESTABLISH THE CASCADE HEAD SCENIC-RESEARCH
AREA, IN THE STATE OF OREGON, AND FOR OTHER
PURPOSES

HEARING HELD IN
WASHINGTON, D.C., MAY 3, 1974

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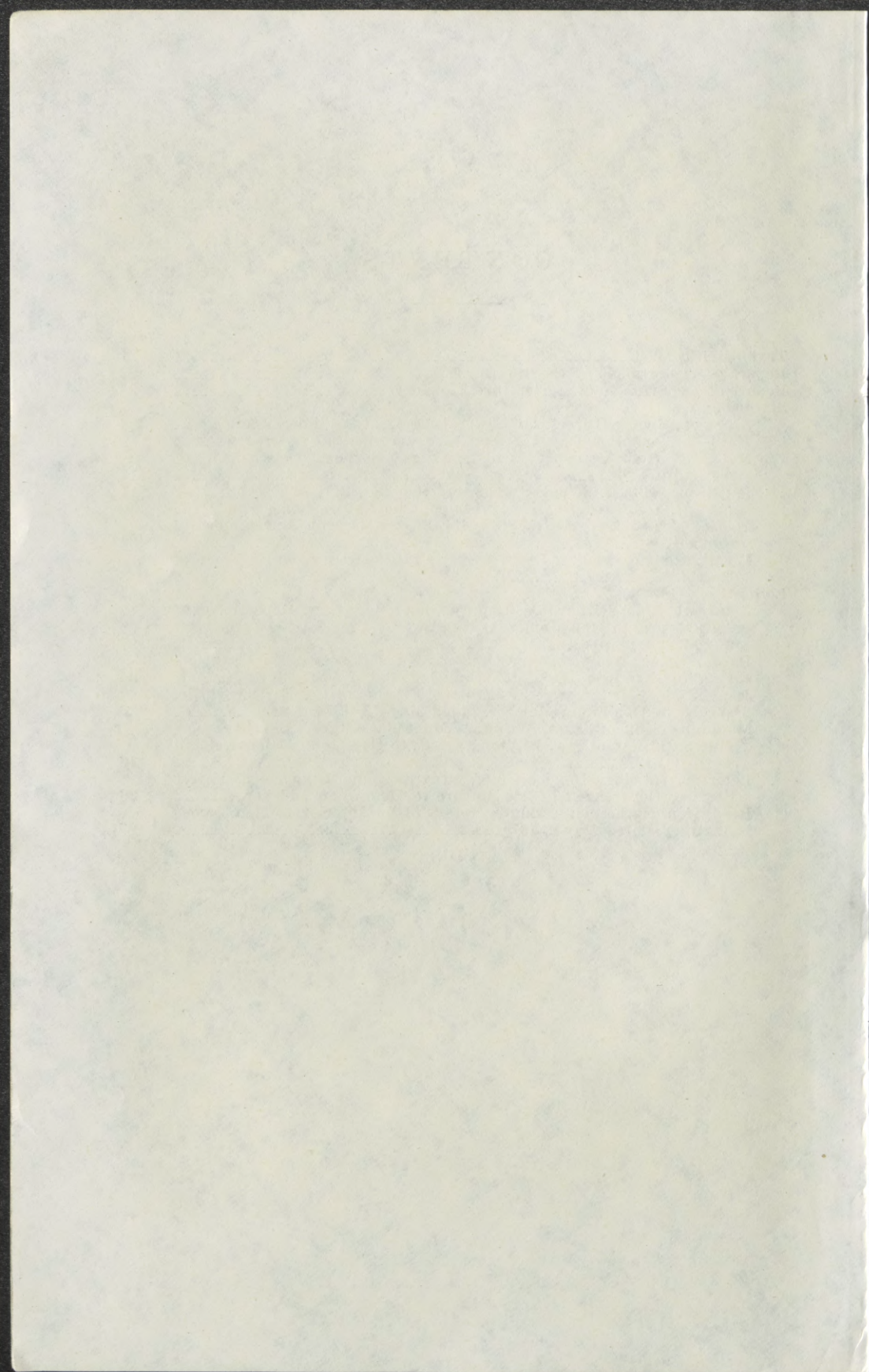
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NOTE.—The chairman of the full committee is an ex officio voting member of this subcommittee. The first listed minority member is counterpart to the subcommittee chairman.

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TO ESTABLISH THE CASCADE HEAD SCENIC-RESEARCH AREA, OREGON

FRIDAY, MAY 3, 1974

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON PUBLIC LANDS,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 1324, Longworth Office Building, the Honorable John Melcher (chairman) presiding.

Mr. MELCHER. The Subcommittee on Public Lands will come to order.

This morning we are considering H.R. 8352, by our colleague Wendell Wyatt from Oregon, to establish the Cascade Head Scenic-Research Area in the State of Oregon, and for other purposes.

A copy of the bill will be printed in the record at this point.

Without objection, so ordered.

[The bill, H.R. 8352, follows:]

[H.R. 8352, 93d Cong., first sess.]

A BILL To establish the Cascade Head Scenic-Research Area in the State of Oregon, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for the public outdoor recreation use and enjoyment of certain ocean headlands, rivers, streams, estuaries, forested areas, recreational and research-scientific facilities, and areas in the State of Oregon by present and future generations and the conservation and study of scenic, scientific, historic, and other values contributing to public awareness and appreciation of such areas, and to promote a more sensitive relationship between man and his adjacent environment, there is hereby established, subject to valid existing rights, the Cascade Head Scenic-Research Area (hereinafter referred to as "the area").

SEC. 2. The administration, protection, development, and regulation of use of the area shall be by the Secretary of Agriculture (hereinafter called the "Secretary") in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute to attainment of the purposes set forth in this Act.

SEC. 3. (a) The boundaries of the area, and the boundaries of the subareas included therein, shall be those shown on the map entitled "Proposed Cascade Head Scenic-Research Area" dated June 1973, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture: *Provided*, That from time to time, the Secretary may, after public hearing or other appropriate means for public participation, make adjustments in the boundaries of subareas to reflect changing natural conditions or to provide for more effective management for the purposes of this Act.

(b) As soon as practicable after the enactment of this Act, the Secretary shall, with provisions for appropriate public participation in the planning process, develop a comprehensive management plan for the area. Said plan shall pre-

scribe specific management objectives and management controls necessary for the protection, management, and development of the area and each of the subareas: *Provided*, That within the area, the following subareas shall be established and shall be managed in accord with the following primary management objectives which shall be supplemental to the general management objectives applicable to the entire area:

(1) Estuary and Associated Wetlands Subarea: An area managed to protect and perpetuate the fish and wildlife, scenic, and research-education values, while allowing dispersed recreation use, such as sport fishing, nonmotorized pleasure boating, waterfowl hunting, and other uses which the Secretary determines are compatible with the protection and perpetuation of the unique natural values of the subarea. After appropriate study, breaching of existing dikes may be permitted within the area.

(2) Lower Slope-Dispersed Residential Subarea: An area managed to maintain the scenic, soil and watershed, and fish and wildlife values, while allowing dispersed residential occupancy, intensive recreation use, and agricultural use.

(3) and (4) Upper Timbered Slope, and Headlands Subareas: Areas managed to protect the scenic, soil and watershed, and fish and wildlife values while allowing extensive recreation and research-educational activities and timber harvesting activity and associated road development which does not significantly interfere with the purposes of the area.

(5) and (6) Coastline, and Sand Dune-Spit Subareas: Areas managed to protect and maintain the scenic and wildlife values while allowing extensive recreation and research-educational activities.

Sec. 4. The boundaries of the Siuslaw National Forest are hereby extended to include all of the land not presently within the national forest boundaries lying within the area as described in accordance with section 3 of this Act.

Notwithstanding any other provision of law, any Federal property located within the area added to the Siuslaw National Forest by this Act may, with the concurrence of the agency having custody thereof, be transferred without consideration of the administrative jurisdiction of the Secretary of Agriculture. Any lands so transferred shall become part of the Siuslaw National Forest.

Sec. 5. (a) Subject to the provisions of subsection (b) of this section, the Secretary is authorized to acquire lands, waters, or interests therein within the area by donation, purchase, exchange, or otherwise.

(b) Within all subareas of the area except the estuary and associated wetlands subarea, the Secretary may acquire lands and interests only with the consent of the owner so long as the owner uses the land for substantially the same purposes and in the same manner as the lands were used and maintained on June 1, 1973. The Secretary shall publish, within ninety days of the enactment of this Act, guidelines which shall be used by him to determine what constitutes a substantial change in land use or maintenance for the non-federally-owned lands within the area. Within the estuary and associated wetlands subarea the Secretary may acquire lands and interests without the consent of the owner at any time, after public hearings.

Sec. 6. Notwithstanding the provisions of subsection 6(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, 16 U.S.C. 4601-9(a)(1)) moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of any lands, waters, or interests therein within the area added to the Siuslaw National Forest by this Act.

Sec. 7. The lands within the area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Sec. 8. (a) The Secretary shall establish an advisory council for the area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management of the area. The members of the advisory council, who shall not exceed eleven in number, shall serve for the individual staggered terms of three years each and shall be appointed by the Secretary as follows—

(i) a member to represent each county in which a portion of the area is located, each such appointee to be designated by the respective governing body of the county involved;

(ii) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon;

(iii) not to exceed eight members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the area; and

(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(b) The members shall not receive any compensation for their services as members of the council, but they shall be reimbursed for travel expenses and shall be allowed, as appropriate, per diem or actual subsistence expenses.

(c) The Secretary shall, in addition to his consultation with the advisory council, seek the views of other private groups, individuals, and the public, and shall seek the views and assistance of, and cooperate with all other Federal, State, and local agencies with responsibilities for zoning, planning, migratory fish, waterfowl, and marine animals, water and natural resources, and all non-profit agencies and organizations which may contribute information or expertise about the resources or management of the area or its resources, in order that the knowledge, expertise and views of all agencies and groups may contribute affirmatively to the most sensitive utilization of the area and its various subareas, for the benefit of the public, now and in the future.

SEC. 9. The Secretary shall cooperate with the State of Oregon and political subdivisions thereof in the administration of the area and in the administration and protection of lands within or adjacent to the recreation area owned or controlled by the State or political subdivisions thereof. Nothing in this Act shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the area consistent with the provisions of this Act, or of its right to tax persons, corporations, franchises or other non-Federal property, in or on lands or waters within the area.

Mr. MELCHER. Wendell, we are delighted to have you with us this morning. We are anxious to hear about your bill.

Please inform us.

STATEMENT OF HON. WENDELL WYATT, A REPRESENTATIVE IN CONGRESS FROM THE FIRST CONGRESSIONAL DISTRICT OF THE STATE OF OREGON

Mr. WYATT. Thank you, Mr. Chairman.

I would first like to express my deep appreciation to the committee and to the chairman for scheduling the hearings today and making it possible for the committee to take some action on this bill. I understand the pressures that are on the chairman and upon other members of the committee for time, and we are getting well along into the year. If this bill is going to move, the hearing is being held in a very timely fashion.

I appreciate the opportunity to submit testimony in support of the bill to preserve the Cascade Head-Salmon River Estuary Area for the enjoyment and scientific benefit of future generations.

The bill would place approximately 8,500 acres of this unique area within the boundaries of the Siuslaw National Forest.

The area is located on the boundary between Lincoln and Tillamook Counties in Oregon, about 10 miles from Lincoln City, and it is distinctive Mr. Chairman, in a variety of ways.

Of particular scenic value is Cascade Head itself, a sweeping mountainous ridge covered by rain forest that ends abruptly in a series of waterfalls, dropping hundreds of feet off a sheer precipice to the ocean's floor. These cliffs, in turn, form an impressive backdrop for the entry of the Salmon River into the Pacific.

The river, aside from its natural beauty, is a rare microcosm of what the Oregon coast was like prior to the settlement of man. It is

virtually the last estuary on the west coast which has remained unchanged by industrial or commercial use, and because of this it is of really immense scientific value. The overriding purpose of the Cascade Head bill, which I have introduced, is to insure that the area around the Salmon River remains sparsely populated and unspoiled, thus guaranteeing and preserving its biological uniqueness.

This legislation would further designate the lands added to the national forest as a "scenic-research" area. The "scenic-research" designation is the first such denotation in the area of land conservation. It was specifically included in order to halt future development, thus maintaining the delicate biological balance of the area. This particular designation is important because it will enable management to be specifically tailored to the various biological units or natural subareas within the Cascade Head-Salmon River Estuary region. Moreover, it will set up legislative guidelines which will help insure that the natural balance, scenic beauty, and scientific value of this magnificent portion of the Oregon coast will never be threatened.

The Cascade Head bill can be a beginning. Through this bill we hope to preserve the unique qualities of the area without the wholesale condemnation of land, but rather through government cooperation with private landowners.

If passed, it will guarantee that the land will be left as it is now, thereby allowing man and nature a valid chance to coexist in harmony. I hope it will further provide us with the impetus and direction to guide the future of conservation away from absolute protectionism and toward a reconciliation of man and his environment.

Mr. Chairman, the Forest Service was kind enough to furnish me with a copy of the proposed testimony of the chief. It is my understanding from the testimony that the Forest Service is going to offer an alternative bill and that, per se, they are in opposition to this legislation, and I would point out respectfully to the committee that there are some valid distinctions and differences between these two bills.

The Forest Service bill, as I understand it, would merely add additional land to the existing Siuslaw National Forest, and they would propose to do what we are asking be done by regulation of the Forest Service. They also include a larger amount of land, and they provide for the power of condemnation of all of the land that they propose to add to the national forest.

We were as careful as we could be during the studies that were made by the Forest Service preparatory to the introduction of this bill to eliminate as much controversy as possible locally. There is virtually no opposition to the bill that we have on a local basis, and part of the reason for that is that there is just one portion of the property as described in our bill wherein we provide for the condemnation, and I do not anticipate that there would be real problems involved in that condemnation.

So we have attempted in every way that we can to eliminate the controversy from the bill. As I understand it, I think that the objections of the Forest Service have largely been forced upon them by the Office of Management and Budget, and I think there is some reluctance, perhaps even among the Forest Service itself, and I think principally, however, with the OMB, to a designation of a new type

of area, because this does not fit into a nice, neat, cubbyhole, and is not something that we have a precedent for.

To my mind, this is a unique area, and I do not think you are going to have a precedent in any other part of the United States, and I do not think that this is a valid reason for not enacting this legislation, and for taking the proposed substitute.

Now, the two principal reasons, however, that I would object to just merely enlarging the area of the national forest and then letting the rest of the purposes be accomplished by regulation are these:

No. 1, if we do it in the legislation, we know that it is going to be permanent. If the uses and preservations are done by regulation, no one in this room can say what is going to happen tomorrow, 1 years from now, 5 years from now, 10 years from now, or 100 years from now.

Of course, legislation can always be repealed, but it is certainly much more difficult to repeal legislation and to de-designate an area like this than it is to do it in the first place.

So I say that simply adding to the boundaries of the national forest and then accomplishing our purposes by regulation is not an adequate way to protect this very unique land.

And the second reason that I think the Forest Service suggested alternative is not adequate is because there is no provision for real, meaningful, local participation. In the bill before this committee, we have made express provision for an advisory council made up of local citizens. The bill speaks for itself in that regard, but it would guarantee absolutely that for the life of this area, you would have local input into the overseeing and management of this property, and I think this is extremely important, and I think it is a lot more than you would have just from a general Forest Service advisory committee on the management of the general, overall forest.

With these thoughts in mind, Mr. Chairman, I would strongly recommend the approval of this bill by this subcommittee, and again, I appreciate the opportunity of appearing before you.

Mr. MELCHER. Wendell, I have not looked at the Forest Service proposal for an alternative bill, and perhaps you have on this particular point.

What is the difference between what Chief McGuire would suggest and what you suggest for providing the money to acquire the land, or are there any differences?

Mr. WYATT. In the bill before the committee, H.R. 8352, we provide that the Land and Water Conservation Fund money shall be available for any acquisitions, and the Forest Service bill, I see, Mr. Chairman, has the same provision. So essentially there is no difference, with this exception, there is substantially more land involved in the Forest Service suggestion, and I think it would be more costly.

Mr. MELCHER. It would require more funds.

Now, would the money, the Land and Water Conservation Funds, be from that amount that was prorated to Oregon, or would it be from the balance of the funds?

Mr. WYATT. I would have to put my other hat on as a member of the Interior Appropriations Subcommittee, and I would ask the indulgence of the chairman to furnish that for the record if I may.¹

¹ See discussion between Cong. Dellenback and Mr. McGuire on p. 24.

I cannot answer that question, Mr. Chairman.

Mr. MELCHER. All right.

Are there any differences between your bill and what Chief McGuire is going to propose in the management? Is there substantial difference?

Mr. WYATT. Yes. I think there is substantial difference in that there is an advisory council set up in H.R. 8352 consisting of 11 members and instructions to the Secretary to consult with the advisory council on a regular basis with respect to the management of the area, and I think this is a very significant difference in regard to the management. I think that is the principal difference in regard to the management supervision of the area.

Mr. MELCHER. Is the term scenic-research area used anywhere else in existing Forest Service lands?

Mr. WYATT. So far as I know, the answer is in the negative, Mr. Chairman.

Mr. MELCHER. Would you view this, then, as a type of pilot project or pilot program that might be, if successful, duplicated in other areas of the country?

Mr. WYATT. I think this is possible, Mr. Chairman, but as I said in my principal testimony, I am not personally familiar with any area that has this exact combination of unique qualities. You see, the estuary and the Cascade Head itself are adjacent to a research forest which is already in existence, and that forest, together with the unique biological or botanical specimens, and also biological specimens of wildlife, I think make it pretty unique. It could be as a pilot project if there are areas that have similar qualities.

Mr. MELCHER. This would not be just a place to go and enjoy yourself. It would also be a place for research and if not protected at this time, might be lost forever?

Mr. WYATT. That is correct. It would, however, be a place that anyone interested in the outdoors could go and thoroughly enjoy himself without being a scientist. I have been on the property many times, and it is a magnificent area.

The opportunities for scientific investigations and study are almost unlimited.

Mr. MELCHER. Well, I am very much impressed with the potential as you have described it of this area. I am also impressed with the fact that if we are to enjoy these opportunities in the future—and I mean by enjoy not only for the pleasure of individuals going there, but also enjoy the opportunities for research on untainted, unspoiled, unchanged estuary land on the Oregon coast—the bill is most timely.

Wendell, I will listen very carefully to what Chief McGuire has to say, but I am very happy to know that in your proposal the question of condemnation is at an absolute minimum, and as I understand your testimony, the one case where condemnation might be necessary would not need be a hard fought struggle over an individual's property right.

Mr. WYATT. That is correct.

Mr. MELCHER. There might be a case of reluctance, jockeying, and horsetrading rather than one of an individual who absolutely and adamantly opposes giving up his property.

Is that correct?

Mr. WYATT. That is correct, Mr. Chairman. In the study that went into the preparation of this bill and the hearings that the Forest Service held, I directed particular attention to areas of potential conflict because I have seen too many of this type of area fall by the wayside because of intensive local controversy and opposition, and I think we have minimized that almost completely.

The gentleman from Oregon?

Mr. DELLENBACK. Thank you, Mr. Chairman.

I am delighted to see my colleague here. I know, Wendell, that this is an area you know very well. I know of your interest in this. This is anything but a hasty decision. I know that you have looked carefully at alternatives before coming to this conclusion, and submitting this particular bill.

It seems to me that the road you have followed in trying to be sure to get the strongest possible local support is a very sound one.

May I ask a couple of questions to make the record clear on this?

At the present time how many people live in the area that is embraced by what you propose as opposed to that which is proposed by the Forest Service?

Do you have a rough approximation? We do not need to know precisely.

Mr. WYATT. I think, Congressman, that I would have to defer to the Forest Service on that. There are very few people, a minimal number of people who actually make their residence in this area. The exact count I cannot tell you.

Mr. DELLENBACK. In getting the reaction of local people, either within the area or adjacent to the area, you feel that there is by and large, strong support for this kind of an action?

Mr. WYATT. There is not only strong support, but there is virtually no opposition, Congressman.

Mr. DELLENBACK. So far as the present ownership of this property is concerned, I noticed that H.R. 8352 talks in terms of several methods of acquiring the land. You talk in terms of those areas which are already owned by some instrumentality of the Federal Government transferring those to the Forest Service.

Do you find yourself in the possession of the statistics to help us out on how many of these approximately 8,500 acres are already federally owned, and how much would have to be acquired?

Mr. WYATT. Again, Mr. Dellenback, I think that the Forest Service can furnish you more accurate information on that. I think it is in the neighborhood of 50 percent in Federal ownership.

Mr. DELLENBACK. In the neighborhood of what, Mr. Wyatt?

Mr. WYATT. In the neighborhood of 50 percent that is already in Federal ownership.

Mr. DELLENBACK. So it would not be necessary for the Federal Government to acquire the entire acreage. Already they could transfer a substantial portion into what is already into this operation without having to put out money.

Mr. WYATT. Yes.

Mr. DELLENBACK. Are there present research activities going on in this area?

Mr. WYATT. Oh, yes. A portion of this area is a national research forest. A portion of the Siuslaw National Forest is a research forest at the present time.

Mr. DELLENBACK. I note that in your bill, you put in, some sound language about protecting present owners. Under your subsection (5) (b), you point out that so long as the owner is using the lands for substantially the same purposes in the same manner as was the case on June 1, 1973, the Secretary may acquire lands and interest only with the consent of the owner.

I think that is the kind of protection against condemnation that you were referring to in your testimony.

Would you have any objection to our amending the bill to give the Secretary power of injunctive relief against the use which was contrary to the purposes of the bill or those being followed on June 1, 1973?

Mr. WYATT. I would have no objection whatsoever on that.

Mr. DELLENBACK. It seems to me that in our Oregon Dunes area recreation situation, we are finding that there is one unexpected difficulty that follows from this kind of very sound protection. We say so long as they make compatible uses of the land you cannot acquire it by condemnation. If they start making noncompatible uses, you are thrown into only the bludgeoning, you must then condemn.

Would it not be sound to put something in between there?

Mr. WYATT. Yes. I think that would be excellent because you would have two remedies, and I think that that would improve the bill.

Mr. DELLENBACK. Well, I think that the purpose for which you have introduced this bill, Mr. Wyatt, is laudable. I know that area, not nearly as well as you, of course, but I know the area is truly a beautiful part of our State. The northern part of the State is not quite perhaps as lovely as the southern part, but I find the northern half a very lovely part of the State.

Mr. WYATT. Congressman, I can remember 2 or 3 years ago when you viewed that southern portion of my district with perhaps a little more favor than you do now.

Mr. DELLENBACK. The State legislature was bent on redistricting at that time, and I looked at it very carefully, and I found much in that area that is attractive, as I find now.

Mr. WYATT. Well, we will always welcome you back, John, so long as you do not keep it.

[General laughter.]

Mr. DELLENBACK. Thank you very much. We appreciate the introduction of the legislation. It is properly within the province of this committee to look for the protection to round it out in a balanced way that I think is sound, and we appreciated your testimony today. I think it is very helpful.

Mr. WYATT. Thank you.

Mr. MELCHER. The gentleman from Nevada?

Mr. TOWELL. Mr. Chairman, I have no questions of the witness. I appreciate your coming before us this morning, and I think that most of the questions have already been asked by yourself and my colleague from Oregon.

I just appreciate your coming to us with this bill. I think it is a sound bill and one that deserves our full consideration of the committee.

Thank you very much.

Mr. WYATT. I thank you very much, and thank you, Mr. Chairman.
Mr. MELCHER. Thank you very much.

Our next witness is Senator Mark Hatfield.

Senator, we are very much honored, and pleased to have you with us here. I suppose that there are many times that you have assisted my State of Montana, but I know of one in particular and I have always been very grateful to you for that.

I am delighted to have you here on this bill, and I hope there is some way we can help you.

STATEMENT OF HON. MARK O. HATFIELD, A U.S. SENATOR FROM THE STATE OF OREGON

Senator HATFIELD. Thank you very much, Mr. Chairman and members of this committee. I am very grateful for this opportunity to join my colleague, Congressman Wyatt, in urging favorable consideration of House bill 8352, and I am also grateful for your comments about our working together on behalf of projects in Montana.

As you well know, we have been involved on a number of occasions, and you have an excellent colleague working on our Interior Committee, Senator Metcalf, who has certainly carried the ball many times on behalf of your common interests in Montana.

I am very happy to be here today to give a few words on behalf of my colleague, Senator Packwood, who is not able to attend this session, but I do have a statement that he has prepared and I would like to introduce it for the record at this time.

Mr. MELCHER. Without objection, Senator Packwood's statement will be made a part of the record immediately following Senator Hatfield's remarks. Hearing no objections, so ordered.

Senator HATFIELD. I might add that Senator Packwood has introduced the bill on the Senate side which is pending. But I am here today to speak on the House bill.

I would first of all like to indicate to you that the State of Oregon has long been conscious of its great, magnificent coast. It has assumed responsibility of leadership at a very early time in our history in so protecting the beauty of the coastline that it can be enjoyed by all of our people. It was Governor Oswald West, I believe, in the year 1911 who was able to get through the Oregon Legislature a bill setting forth the Oregon beaches as a public highway. In so doing, he was able to guarantee public access to the Oregon beaches, and not experience, as we have in other parts of the coast of this country, such as in Hawaii, private ownership to the extent that it was able to exclude public access.

You are also very much aware of the leadership that Congressman Dellenback gave in resolving a longstanding controversy relating to the Oregon sand dunes, which was again a part of the expression of the people of our State, working through their Congressmen, to see a special designation made to a very unique geological area along the Oregon coast.

I do not have the exact figure, but I am well within the ball park when I cite to you the fact that Oregon has approximately 400 miles of coastline, of that only 21 miles is not in public ownership. I am talk-

ing now of that which is abutting to the public ownership of the beaches, which means that the State and the Federal Government together have done much to try to maintain the public character of our coast. I suppose that I have a vested interest, in that I am now a resident of one of the very beautiful coastal villages and have come to even appreciate more the beauty and majesty of Oregon's coastline firsthand.

Through Congressman Wyatt's efforts, the committee today is presented with an area that is as unique as America was, prior to the rise of industrial man. And I am not going to dwell a great deal on the description because it has been described to you by the Congressman. But I would only like to underline two or three unique characteristics of this particular Cascade Head.

First of all, Cascade Head is a rare biological microcosm of what the Oregon coast was before the settlement of man, and I think here we have very strong evidence of this, as the Oregon Museum of Science and Industry has undertaken many biology and other such scientific field trips made to this area because of its high scientific value, which is certainly to be measured along with the physical beauty of the Cascade Head.

If you have not seen the pictures of it, it is a very high rock promontory that juts out into the sea, and the streams flow down the mountains on the northern ridge and fall hundreds of feet into the surging surf.

You have heard that the Salmon River estuary has been left untouched by the industrial and commercial developments, and there it adds again to the biological wonderland and to the scientific values of this particular area.

Now, I am somewhat disappointed that the Forest Service has not fallen in behind this particular proposal, because frankly, I think that the Forest Service itself has probably given more testimony and evidence to the uniqueness of this area, as to its ecological uniqueness, in a report that they issued in 1972, which carefully distinguishes it from other forest lands in National Forests. And I would like to quote from that report. This report, issued by our Federal Forest Service, says that:

Research and nature study possibilities—in Cascade Head—are diverse and practically unlimited. Due to the relatively small size and unspoiled character of the estuary, the opportunity to study estuarine life forms and conditions and their interactions for application on a broader scale is outstanding. As the estuaries and bays of Oregon and the Nation become increasingly developed and exploited, the remaining natural estuarine areas become increasingly more valuable from a research and scientific standpoint.

Therefore, it seems to me, Mr. Chairman, that we have to look at this in its uniqueness and not merely as a lump of clay to be molded together with surrounding forest lands and other lands. But it is truly a great national gem and ought to be maintained in that particular unique status. To merely treat Cascade Head as another addition to the National Forest is to fail to recognize that there are areas of land in this country valuable enough and exceptional enough to warrant special concern on the part of Congress and the American people. And therefore I am urging this committee not to be guilty of benign neglect or any other such political label that may be applied by failure to act in setting forth this area for a unique, distinctive and special classification.

Mr. Chairman, I would only add one point. I am aware that the Forest Service and others are not anxious to have legislation setting up new classifications when they are trying to simplify their administrative procedures. But let us not fall prey to administrative convenience by following this line, but rather let us address ourselves as the Congress in perhaps setting forth new statutory classifications other than the statutory wilderness classification and the multiple-use forest classification.

I am sympathetic to the Forest Service's problem in trying to administer the various special classifications. But this is usually because we have not set ourselves to the task of developing something less than wilderness and more than forest land. So consequently, I am hopeful that this extraordinary proposal by Congressman Wyatt will be acted upon favorably, and I certainly want to pledge you my efforts in the Senate on behalf of establishing the Cascade Head Scenic Research Area as a permanent national treasure to be enjoyed by our children and theirs.

Thank you very much, Mr. Chairman.

[The prepared statement of Senator Bob Packwood follows:]

STATEMENT OF HON. BOB PACKWOOD, A U.S. SENATOR FROM THE STATE
OF OREGON

Mr. Chairman. In June of 1973, Congressman Wyatt and I introduced, in the House and Senate respectively, legislation to establish the Cascade Head Scenic-Research Area in the State of Oregon. The lands comprising the Cascade Head-Salmon River Estuary are among the most scenic I've had the privilege of visiting. The unique combination of natural values found here are unparalleled on the Oregon Coast. I hiked the area in March 1973 and was confirmed once again in the need to do something, at the earliest date, to protect this area from encroaching development. It is, therefore, most encouraging that we have progressed to the point of hearings in the House. Hopefully, they will be closely followed by Senate hearings.

I want to begin by stressing the very unique qualities which make up the Cascade Head-Salmon River area, qualities which, together, set this area apart as very special. First, three different geologic units are found here. A volcanic unit overlies marine sediments and comprise the steep mountainous portions of the headland. Moderate to heavy rainfall occurs in the area, and one will find here an eerie mist and an exhilarating quiet which permeates the area giving the feeling of being in a different world, a world far removed from the din of daily life. The estuary is important to wildlife in serving as a nesting and feeding area for migrating waterfowl. In addition, there are many uncommon waterfowl, shorebirds, and other estuary birds which have been identified in the Salmon River Estuary. Sea lions, too, make seasonal use of the coastal area. Estuaries depend on the maintenance of the delicate balance between the lands themselves and these marine and wildlife organisms. To upset this balance would result in loss of many of the unique qualities characteristic of the estuarial lands. For that reason, we cannot take the risk associated with development pressures. The certain result would be loss of those very values which make the Cascade Head-Salmon River area unusual.

The legislation introduced by Congressman Wyatt in the House and myself in the Senate would extend the boundaries of the Siuslaw National Forest to encompass the Cascade Head-Salmon River area, thus protecting these estuarial lands from residential and commercial development. The area would, under the bill, be managed under a plan developed by the Secretary of Agriculture and subject to a full public planning process. One of the most important aspects of the measure is its setting up of a citizen's advisory council. Our bill provides that the Secretary of Agriculture would consult regularly with the council as well as State and local agencies concerning the responsibilities of zoning, planning, wildlife management, etc.

Congressman Wyatt and I chose the scenic-research designation to describe our objectives for the area of preserving scenic, scientific, historic and educa-

tional values. The scenic-research name implies, as is intended, that man will be allowed a unique place in the ecosystem. At the same time we desire to provide the full protection so necessary to the life of the estuary and associated wetlands and headlands.

We had a number of specific objectives in mind for the area in drafting the bill. Foremost, of course, as I have already pointed out, is adequate protection of those values considered to be outstanding and unique to the area. In protecting those values, we help to ensure that the estuary life will thrive and the sensitive balance will be maintained. In the context of preservation, we felt that man should play a part and could very well lend to the perfection of the area and develop a greater understanding of estuaries and associated wetlands through recreation and research-educational activities. We felt it would be in the interest of the area to further a more sensitive relationship between man and his adjacent environment, an objective not specifically given reference in other bills of similar nature which come before the Congress.

Another objective is to involve as fully as possible the public in the planning process. As mentioned previously, an Advisory council for the area would be established. In addition, the Secretary of Agriculture is directed to seek the views of other private groups, individuals, and the public and Federal, State, and local agencies with variety of responsibilities.

Another important aspect of the legislation is the setting up of special management objectives for separate and distinct areas of the Cascade Head—Salmon River lands. This recognizes the special qualities of each land form and provides for the most sensitive utilization of the over-all area and its various sub-areas. These sub-areas would be managed with careful regard to their biological content and would be acquired only with the consent of the respective owners; however, specific provision is made that there shall be no changes in use of those sub-areas outside the estuary which would substantially alter the manner in which the lands were used and maintained on June 1, 1973. In this manner, we seek to provide the necessary care and protection for the area and avoid any upset of the sensitive biological interchange and natural integrity of the area.

In closing, I would like to say, that, regardless of the final, detailed form of the management plan for the Cascade Head—Salmon River area, special emphasis should be placed on the area's scientific value for public study, use, and enjoyment, its value in fostering public education in respect to the ecological values of the area, and its value for research into the ecological relationships of forest and estuarine systems and the ecology of the estuary itself.

I think that the Cascade Head—Salmon River area is worthy of the best protection we can offer it, and it is my hope that action can be completed at an early date and that we will see this measure become law in the 93rd Congress.

Mr. MELCHER. Thank you very much, Mark.

I think that you and Wendell have brought to the attention of this committee a proposal that deserves and merits not only attention but action. I think we are indebted to you. I think we should do something about this.

I am very much impressed with the testimony of the two of you. I had no knowledge prior to this morning of just what was involved. I am anxious to listen to what Chief Maguire has to say and what his proposals are to enlarge it or to change what you and Wendell have outlined. But frankly, I think you have brought us something that needs action. We are indebted to you for doing it.

Senator HATFIELD. Thank you very much, Mr. Chairman.

I hope that some time you might find it possible to come out and see it firsthand. We would certainly invite you to enjoy the hospitality of our Oregon coast.

Mr. MELCHER. Well, I certainly want to do that. I was pleased to be with John and members of the subcommittee at Medford a few weeks ago enjoying the interior of western Oregon. I must confess I am very anxious to have the experience of spending a day or longer on the Oregon coast.

The gentleman from Oregon?

Mr. DELLENBACK. I thank you, Mr. Chairman, and I join with my colleague and friend, Senator Hatfield, in hoping that you will come back. And we were glad that you came out at that time to look at the area in question the BLM Organic Act, and we hope that you will be able to extend your exploration of Oregon even further.

Senator Hatfield, it is always a pleasure to see you here, and it is valuable because your testimony is always helpful. It is built on an intimate personal knowledge of this area, so that you are not here just saying what you have been asked to say, and you are not here talking about what your staff has explored, but rather you are here talking about something that you and I both know and that you know yourself firsthand. And that makes the testimony that you give us particularly eloquently put, as always.

Senator HATFIELD. Thank you, Congressman.

Mr. DELLENBACK. May I ask just a couple of questions about it?

Is the Senate bill which has been introduced by your colleague Senator Packwood identical with the Wyatt bill?

Senator HATFIELD. Yes, it is identical. It is a corollary bill to Congressman Wyatt's bill.

Mr. DELLENBACK. So we are not talking about two different proposals within the congressional road. We are talking about the same road on the Senate side.

Senator HATFIELD. It is a companion bill.

Mr. DELLENBACK. You have indicated to us that it is at least likely that the Senate Interior Committee, on which you also serve, will be able to proceed with consideration some time this year so that if we on the House side move on it we might be doing not just something which is an empty exercise, but really moving constructively toward legislating something that is important to legislate.

Senator HATFIELD. Congressman, I am certain that we will be able to act upon it this year, and I think it would be helpful if we could get the action here, since it was introduced originally as a House bill, as I understand it, and if the House acted that would certainly do much to expedite the Senate handling of the companion bill that Senator Packwood has introduced.

As you know, our committee has been burdened down generally with energy legislation and other bills. I think you are also working on the BLM Organic Act. We are in the middle of that. There are these problems we have of getting quorums for the markups of some of these major bills that have already been acted upon by the subcommittees, and very frankly, I am sure that our subcommittee could act. But I feel we need the impetus of House action on this to give it the support necessary to spring it out of the Senate Interior Committee because of this other competition for time and attention of these other bills that we are acting on.

Mr. DELLENBACK. If the House were to act first on this particular matter and it got to the Senate after the House had acted, we could make good on the work our colleague, Mr. Wyatt, has already put into getting the electronic signs and everything.

Senator HATFIELD. I discussed this with Congressman Wyatt the other day as to what the name should be—Wyatt Head, Wyatt Jump-

off, or whatever would be best. But I have not found the ultimate answer for that yet.

[Laughter.]

Mr. DELLENBACK. Would you agree with the answer that Congressman Wyatt gave to my question about the possibility of extending the tools that would be available to the Forest Service under this act to not only either leave it alone or condemn, but also possibly to add the additional tool of injunctive relief, so that we could preserve the land the way it is, that being an important part of what you are testifying to?

Senator HATFIELD. Congressman, I think we have a good precedent in the dunes, where we had to face up to the problem that we are not going to have blanket condemnation authority and yet there were inholdings, if I understand your question relating to these private inholdings. And yet we said in that legislation that it could not be other than in concert with the purpose of that dunes area—that is, those private lands, inholdings, could not be used in ways that would violate or be antagonistic to the basic concept of the dunes area.

Mr. DELLENBACK. You were invaluable as being the force that moved the Dunes bill on the Senate side when we were moving it on the House side, and as you may recall we provided there a provision, that so long as the land was being used for purposes that were compatible with the thrust of the dunes area it could not be condemned. If, on the other hand, someone started to use it for purposes that were incompatible, then there could be condemnation.

We are finding some indications now that that may be too blunderbussish a weapon or an instrument in the hands of the Forest Service, that there are times when it would be well if the Forest Service had greater flexibility and could forbid a use that was contrary to the purposes that were there involved. We now find ourselves with at least one instance out there where someone has said we are going to use it for commercial purposes. The Forest Service has been struggling to find the funds to proceed with the acquisition of that land, and yet we run the risk that an area of the dunes will be thwarted in purpose by the deliberate action of an individual who knows that it is contrary to the purpose of the area's utilization. And I am talking about the possibility of increasing the flexibility of tools for dealing with that.

Senator HATFIELD. I would certainly not only support the necessary language for this bill to give that kind of flexibility to the Forest Service, but even going back, perhaps amending the sand dunes legislation, if that situation is not resolved through the present procedures or through the present authority granted to the Forest Service.

I know that in discussing this with you on the sand dunes question, we were hopeful that that would be able to resolve that machinery, that power and authority, that we vested under such language as compatibility or noncompatibility uses. If that language is not sufficient then let us amend that sand dunes legislation and address this bill with the same language. It would give greater authority or would give greater flexibility to the Forest Service, because I feel that we have ducked the question of condemnation to some degree on the Senate side. We have, I think, failed oftentimes to face the reality that perhaps condemnation is the only answer under certain circumstances,

and well-stated criterias and guidelines, perhaps restrictive use of condemnation rather than just ducking away from the whole idea of condemnation.

And I think that was part of the reason we had to come up with this language in the sand dunes bills. We had to face the reality of what the Senate would or would not accept. If we have some good evidence here that this language in the sand dunes is not working let us learn from that and put it in this bill.

Mr. DELLENBACK. It seems to me that we can, perhaps without going all of the way to condemnation as we have been talking about, take an intermediate route in saying that you cannot condemn land so long as people want to keep it. But they can be prohibited from making use which is violative of what the thrust of the whole legislation is. I am pleased to hear your comment on our dunes legislation because we may have to walk that particular road, and as experience has taught us, maybe make some modifications over what the original plan was.

Senator HATFIELD. I think one of the valuable experiences we have had from those dunes that Congressman Wyatt has incorporated here is the vehicle through which citizens and local people can participate, not only in the creation but in the administration in the continuity of the Cascade Head. And I think our experience with the sand dunes having such a citizens committee, has been a good one.

Do you not?

Mr. DELLENBACK. Some of the language that is in Mr. Wyatt's bill strikes me as language that I have read someplace before.

[Laughter.]

Mr. DELLENBACK. And it seems to me very well put, Senator Hatfield, and I thought it was beautifully expressed, and I commend Congressman Wyatt for the way he has stated it.

Senator HATFIELD. It is typical of Oregonians. We like to share the good things in life.

Mr. DELLENBACK. I would like to take the opportunity to at least put it in the record and call it to the attention of the chairman of the subcommittee something I think has been extremely important over the years that I have had the pleasure of serving in the Congress, and that is the importance to Oregon of the way that it has been possible for the Senate and House to work together on issues of concern. You find it here in you and Senator Packwood and Congressman Wyatt working closely together on this bill.

You and I have had experiences almost without number, where we have coordinated what you have done on the Senate side with what I have been able to do, and I think productively for Oregon. And I just want to express to you and to Congressman Wyatt while you are both here my appreciation for that kind of cooperation.

I found in some instances in some other States, unfortunately, that I do not think this holds true. There are members of the delegation within the same body who do not work closely together and certainly, where Members at one end of the Capitol have not worked so closely with Members at the other end of the Capitol.

But I think it deserves to be said that you have been most helpful, most constructive, and I found that this blend of operations between the Senate and the House has been not only enjoyable, but I think very effective.

Senator HATFIELD. Mr. Chairman, I want to thank the Congressman from Oregon for his kind words, and merely underline it by saying that I have enjoyed working with him on many subjects and problems and projects, and look forward to continuing to work with him in many years to come through this committee. I also express my regret that this great team effort that we have had in the past in the Oregon delegation will be badly hurt, and I think an almost irreplaceable void will be created because Congressman Wyatt is retiring. And I know that as a state and as a people we will miss his service to the people of Oregon very much. And I will miss it myself as an individual, too.

But as I say, I am very hopeful and looking forward to continuing a number of years, at least, with Congressman Dellenback on this committee.

And I want to thank you, Mr. Chairman, for your interest in our Oregon problems, and assure you of my continued interest in Montana problems.

Mr. MELCHER. Thank you very much, Mark.

Mr. WYATT. Mr. Chairman, may I say one additional thing?

I failed to offer for the record a letter from Malcolm Montague, an attorney in Portland, Oreg., who has been one of the real instigators of this project right from the beginning. He has a summer cabin in the vicinity and has been very, very closely acquainted with the project for at least 20 years with the area, and he in his letter has outlined and defined some of the unique characteristics of this property. And I would like to offer this for the record, if I may.

Mr. MELCHER. Without objection, Mr. Montague's letter will be made a part of the record at this point. Hearing no objection, so ordered.

[The information referred to follows:]

WILLIAMS, MONTAGUE, STARK, HIEFIELD & NORVILLE, P.C.,
ATTORNEYS AND COUNSELORS AT LAW,
Portland, Oreg., April 30, 1974.

HON. JOHN MELCHER,
Chairman, Public Lands Subcommittee, House Interior Committee, Longworth
Building, Washington, D.C.

DEAR CONGRESSMAN MELCHER: I would appreciate it if this letter could be placed before your subcommittee as written testimony concerning the above Bill. I will try to be brief, although my deep and lifelong concern for the area covered by the Bill makes that difficult.

1. *Witness's Background:* My name is Malcolm Montague, and I was born and live in Portland, Oregon, where I practice law. I have been familiar with the Cascade Head-Salmon River Estuary since 1937, when my parents acquired a modest beach house near the mouth of the Salmon River Bay. Since that time I have regularly hiked, fished, beachcombed, and generally took every opportunity or excuse to go to, the area, as have my own three children. I acted as the attorney for the Nature Conservancy Committee which raised over \$50,000 locally to purchase the scenic sea-grass headland of Cascade Head in 1967, and am a member of the management committee for the area. I speak here as an individual citizen, however, and not for the Nature Conservancy.

2. *Local Support:* The support for the Bill before you has been nearly unanimously favorable in the State of Oregon. Surprisingly, this support is also very strong in the two coastal counties—Lincoln and Tillamook—in which the area lies. Because these countries have low tax bases, and depend heavily on tourism and recreational housing for income, one would suppose that there might be considerable local opposition. However, in a "straw vote" conducted by the Lincoln County Planning Commission at a public hearing in 1971, the voice vote of over 100 people was unanimously and vigorously for this proposal.

3. *Designation—By Name and Sub-Areas:* The Forest Service appears to object to "designation" of the area as a scenic-research area, and to classification of sub-areas having special management values. This has been explained to me as being "administratively restrictive".

We who have worked with Congressman Wyatt, the House sponsor, in conceiving this project, hope that you will retain these designations and classifications. Our reasons are these:

(a) The proposed title for the area explains to the public something of what the area is—that it will be managed neither as wilderness nor as an asphalted, high density, state park—but rather as an area where "people values" and "natural values" will be managed and (where possible) blended.

(b) The Forest Service Headquarters' concern has not been shared by their field people. The "scenic-research" label was conceived by six Forest Service officers, some of them from the Regional Forester's office, in a brainstorming session in a cafe after a trip to the area several years ago. I was there. They had no doubt whatever that the area and the concept needed a special tag. We think they are right.

(c) We believe that the designation, and especially the sub-classifications, will relieve the Forest Service from a great deal of pressure from special interest groups (including conservationists), especially in the early years of establishing their management plans. The danger is not that they will do the wrong thing under such pressure, but that they will do nothing. Examples are unnecessary, although there are many. We are trying to be realistic, not critical.

(d) Finally, we hoped that this Bill would involve active Congressional involvement in planning in the area, rather than just putting it in the hands of a huge and often inaccessible administrative agency.

3. *Fish Hatchery:* One new fact that may not be before you, is that the Oregon Legislature in special session this year appropriated funds sufficient to build a large and modern fish hatchery on Slick Rock Creek, a Salmon River tributary. This will greatly aid our endangered salmon population from California to Alaska. The problem is that the Salmon River Estuary is so small, that the hatchlings will need every inch of it to make the difficult transition from fresh to salt water. This Bill will insure that they get it.

Thank you for your interest. We hope you will agree with us that this Bill will provide a truly great bargain for the American public.

Respectfully,

MALCOLM J. MONTAGUE.

Mr. MELCHER. The next witness is Chief McGuire, Forest Service, U.S. Department of Agriculture. Chief, we are pleased to have you back with us again.

Without objection, following Chief McGuire's remarks the report of the Department of Agriculture and a proposed bill will be made a part of the record. Hearing no objection, it is so ordered.

Without objection, at the outset of our hearings this morning, we will make H.R. 8352, Mr. Wyatt's bill, a part of our record and print it in our record. Hearing no objections, it is so ordered.

Chief?

STATEMENT OF JOHN R. MCGUIRE, CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. MCGUIRE. Thank you, Mr. Chairman, members of the committee. We appreciate this opportunity to participate in legislation to provide additional protection and for the public use and enjoyment of certain lands in Cascade Head-Salmon River area in the State of Oregon. This area is widely known for the spectacular beauty of its estuary, coastal beaches, headlands, and surrounding forested lands.

The area which would be affected by H.R. 8352 involves approximately 8,200 acres. The lands in this area are in a mixture of private

and public ownership. Approximately one-half of the area is within the existing national forest boundary and predominately in Federal ownership, and the remaining area outside the national forest is predominately in private ownership.

While we agree that the area should be managed for its scenic and research values as described in H.R. 8352, we believe this can best be accomplished by an extension of the national forest boundary to include the additional lands rather than by the statutory designation of a scenic research area. With the aid of a display map, I would like to discuss our recommendations for the area, the reasons for our recommendations, and the relationship of these recommendations to H.R. 8352. On the map before you the red line depicts an area where the land characteristics and resource values suggest a single management framework. We refer to this area as a management unit and it contains 9,800 acres. The central features in this area include the estuary, colored in blue, the coastal areas, and the Cascade Head pinnacle. The hachured area is the area outside the present national forest boundary. It involves approximately 5,400 acres. The green shaded areas are national forest lands. The green line is what we propose as the new national forest boundary. This boundary would place the entire management unit within the national forest. With this extension of the national forest boundary, we would be able to achieve the type of coordinated land management which is desired for the area. This could be accomplished under existing authority available to the Secretary of Agriculture. We are in fact presently managing portions of the national forest lands in the area as a research natural area, scenic area, and an experimental forest.

The boundary of the Cascade Head Scenic Research Area as proposed in H.R. 8352 is shown by a heavy black line on the overlay to the display map. It encompassed the major portion of our management unit.

Our recommendations for the area differ from H.R. 8352 primarily in that they would permit the Secretary of Agriculture using existing authorities to manage and provide any needed special designation for the area.

Within the national forest system the Forest Service administers numerous areas for special purposes similar to those proposed for the Cascade Head Area. Under Secretarial regulations special areas are designated and management plans developed for these areas. This form of management has provided the necessary protection and management of special areas to preserve their special and unique values. We consider it highly desirable that the designation and management of such areas be carried out under existing authority available to the Secretary of Agriculture. We would consider the legislative designation of the Cascade Head Scenic Research Area a possible invitation for similar legislation applying to many other special areas designated by the Secretary. We do not believe such statutory designations are necessary.

In conclusion, we recommend the extension of the national forest boundary as shown on the display map. For the convenience of the committee, we have also developed a proposed substitute bill to H.R. 8352 which would provide for this extension and would incorporate

acquisition authority for the area, comparable to that proposed in H.R. 8352.

This concludes my prepared statement, Mr. Chairman.

Mr. MELCHER. Chief McGuire, your red line, which is a slightly bigger area than Wendell's proposed area, which is the black line, does it, by enlarging that slightly, does this mean that there is going to be private landholders that are not willing to sell?

Mr. MCGUIRE. No, sir. I think that most of the additional land in the northeast block is in industry ownership, and there are some other private holdings to the south of the estuary. The reason for adding this additional area was that we held three public meetings after putting out our proposal in 1972, which is pretty close to Congressman Wyatt's bill. But we found a great deal of public interest in protecting those additional sections.

The local people thought that these additional lands ought to be given the same kind of protection as the area inside the boundary of H.R. 8352.

Mr. MELCHER. On page 2 of your proposed bill, right at the top, it said:

Provided, that such acquisition shall not preclude the continuation of any use exercised by the owner and to the extent exercised on January 1, 1974.

Does that mean that there is a business and industrial type operation that you acquire that continues to operate their business as they have before?

Mr. MCGUIRE. This provision appears twice in section 2 applying to acquisition of property and partial interests. We interpret this to mean that those businesses that are now in the addition but outside the estuary—and there are a few businesses around the town of Otis, which is sort of a road junction—would stay there.

Mr. MELCHER. What type of businesses are they?

Mr. MCGUIRE. Gasoline stations, grocery stores. There is one amusement area called Pixieland.

Mr. MELCHER. Could they fix up their business, enlarge it?

Mr. MCGUIRE. We would have to draw up some regulations defining how far an owner could go in maintaining and improving and perhaps to some extent exchanging the kind of business he now conducts.

Mr. MELCHER. Have you ever acquired land with an amusement park on it before, drawn up regulations and kept it within the national forest?

Mr. MCGUIRE. Not that I know of, and we would not intend to acquire this amusement park.

Mr. MELCHER. Oh, you would not?

Mr. MCGUIRE. No. But we would try to regulate development of that kind, new developments of that kind elsewhere. But the present uses could stay as they are in most cases.

Mr. MELCHER. Then that is not part of the acquisition that you are speaking of at the top of page 2?

Mr. MCGUIRE. That is correct, Mr. Chairman.

Mr. MELCHER. Well, what are you speaking about there?

What acquisition of businesses are you talking about?

Mr. MCGUIRE. We are talking about any future developments that might occur on the private lands beyond what is there now.

Mr. MELCHER. Let me understand, Chief.

Are you suggesting to acquire land that has a business on it and that business is to continue after you have acquired that land?

Mr. McGUIRE. No, sir. We are not.

Mr. MELCHER. What does this sentence mean:

Such acquisition shall not preclude the continuation of any use exercised by the owner and to the extent exercised on January 1, 1974.

Mr. McGUIRE. The purpose of this is to permit such businesses outside of the estuary to continue without the threat of condemnation. We would not acquire those interests at all. However, if the owner were to change his business in some fashion in violation of the regulations that are to be developed, then we would proceed with condemnation.

Mr. MELCHER. Well, you are not proposing acquisition, then, if there is a business?

Mr. McGUIRE. Not if it stays the way it is.

Mr. MELCHER. Would it be within the national forest?

Mr. McGUIRE. I think the principal businesses within the national forest are some subdivisions within the proposed area. There are no businesses in the present national forest.

Mr. MELCHER. Do you see this as a big stumbling block, whether you use the red line or the black line?

Mr. McGUIRE. No, sir, I do not think this is a major issue. But I think there is public support for giving the same protection out to the red line.

Mr. MELCHER. Well, but it is not something to hang up this bill for 6 months or beyond this Congress?

Mr. McGUIRE. That is certainly correct.

Mr. MELCHER. All right.

Now then, the major difference between the bill you are proposing and the bill that Wendell has offered is how the land is managed and whether or not we follow a procedure having it statutorily directed to be managed as a research and scenic area combination?

Mr. McGUIRE. That is correct, Mr. Chairman. Basically we are in full agreement on what we are trying to do here. But we see some danger in sitting up an area of this kind, in the sense that it might be starting a new system like national recreation areas and wilderness areas and so on.

It may be the start of a new system, and we are a little worried about that feature. But otherwise, there is really no major difference between them.

Mr. MELCHER. Well, I understand the philosophical difference between Wendell's proposal and the point that you are making. But I am not so sure but what Wendell is correct on this that the uniqueness here deserves the special attention and the special guidance and the special protection that an act of Congress provides. And I think we have some parallel with the BLM in the Kings Range Conservation Area. Now, that has proved to be highly successful so far, is that not right?

Mr. SHAFER. The report that we have on it, Mr. Chairman, is that it has been very successful. There seems to be a good deal of satisfaction in the Congress.

Mr. McGUIRE. That is my understanding, too. Mr. Chairman, I think that was a very successful establishment.

Mr. MELCHER. Thank you very much, Chief.
The gentleman from Oregon?

Mr. DELLENBACK. Thank you, Mr. Chairman.

We appreciate your being here, Chief McGuire. As always, your testimony is helpful to us.

Now, to pursue this last point just a little bit about the Kings Range National Conservation Area in the State of California, I have before me a copy of the act, and I wanted to ask you myself about this.

Was this not an example of something with a similar idea to what we are doing here, where Congress moved in and legislated the creation of an area which would be managed by the Secretary of Agriculture?

Mr. McGUIRE. It is quite similar. The only difference is, I believe, in that instance is the Interior Department had not made an administrative designation first. I could be wrong, but I think that is right.

Mr. DELLENBACK. Through the Forest Service—this one was through the Secretary of the Interior—through the Agriculture, of course.

But your information, as you have given it to us, is that that has really worked rather well?

Mr. McGUIRE. That is right. I think there has been a great deal of interest in that area for a long time, and I think the citizens who were concerned about the protection of that area are very pleased with the action that Congress took.

Mr. DELLENBACK. In this particular instance, would you have any apprehension about the capacity of your Department to manage this property substantially as called for by H.R. 8352, if substantially that piece of legislation were to become law?

Mr. McGUIRE. I find no difference between the direction in the bill and our intention. The management would be the same in either case.

Mr. DELLENBACK. So getting to the points that you have made in your testimony, or at least setting them aside, Chief, and looking at this concept as proposed in the Wyatt bill, you would find that idea of this kind of management a desirable goal to be followed up by the Forest Service?

Mr. McGUIRE. Yes, sir.

Mr. DELLENBACK. I really do not mean to put you on the spot with this question, and I recognize to a degree that I do. If you should not or cannot answer, just so inform us.

But was the decision not to be supportive of H.R. 8352 a decision that was reached strictly inhouse by the Forest Service, or was it after consultation with the Office of Management and Budget?

Mr. McGUIRE. We have been talking about this general concept with the Office of Management and Budget for some time. But in this instance, we are in full agreement with the administration's view that we should go slowly in setting up more new land classifications systems.

Within the Forest Service we now have more than 90 scenic areas and we have hundreds of research natural areas, experimental forests,

botanical areas, geologic areas, and so on. Our concern here is to go on record as to some of the hazards that might be involved in starting a new system of land classification by enacting the bill proposed here.

Mr. DELLENBACK. The answer then, directly to my question was that the decision was reached after consultation with the Office of Management and Budget?

Mr. McGUIRE. That is correct.

Mr. DELLENBACK. It was not strictly an inhouse decision?

Mr. McGUIRE. Not strictly, no.

Mr. DELLENBACK. Is there any portion, looking at geographical boundaries for the moment, of what is proposed to be acquired under the Wyatt bill which would not be acquired or managed as part of this area if you were to do it as you propose to us that you do it?

Mr. McGUIRE. The areas that we would not be able to acquire under the Wyatt bill are those outside the black line.

Mr. DELLENBACK. No, the question I meant to direct was the other way.

Was there any portion of that which is proposed to be acquired by the Wyatt bill which is not to be acquired under the proposal that you have made?

In other words, looking at the colors, is there anything which is within the black line that you have pointed out on the map which is the Wyatt proposed boundary which is not included within the red line which is your proposed boundary?

Mr. McGUIRE. No, sir. I think that the black line, the area within the black line, is entirely within the area proposed by the administration in the red line. And the acquisition intentions would be the same in both cases inside that area.

Mr. DELLENBACK. So the difference is, without deletion of any of the proposed Wyatt area, the administration proposal is to have—do I have it correctly?—some 1,600 acres of additional—I am just trying to make clear that first there is an addition under the administration proposal, secondly the size of that addition, and thirdly that there is no deletion whatsoever from the Wyatt proposal in what is proposed by the administration. And I am not sure about the third of those questions. I am quite sure about the first two. But I want to be sure that I am correct.

Mr. McGUIRE. The acreage in H.R. 8352 is 8,200 acres.

Mr. DELLENBACK. Your testimony has indicated that your management unit contains 9,800 acres.

Mr. McGUIRE. So that is the 1,600 acres difference. All the area within H.R. 8352 is within the administration's proposal. There is no part of it that is outside.

Mr. DELLENBACK. So far as private ownerships are concerned, the draft environmental statement that the National Forest Service has prepared has indicated that about 300 persons are living within the unit on a yearlong basis, and perhaps as many as 450 people reside there during the summer season.

How many of those 300 are in that additional 1,600 acres that you would propose to add over and above the Wyatt bill?

Do you have that statistic, or does your staff have that statistic?

Mr. McGUIRE. There are about 3,250 acres in the whole addition, but

I do not have the acreage in the parts between the black line and the red line. However, I would estimate—

Mr. DELLENBACK. The difference in acreage is about 1,600 between the black and the red?

Mr. McGUIRE. That is right.

Mr. DELLENBACK. But the question is:

How many people are involved in that so far as residents are concerned?

[Pause.]

Mr. McGUIRE. Mr. Dellenback, we do not have the figure. We think it is probably less than a hundred in that part of the addition, the administration proposal.

Mr. DELLENBACK. So most of the residents who would be embraced within the area of whatever is finally done here would be covered by both proposals and we would not be adding to it a substantial number of people, as opposed to acres?

Mr. McGUIRE. That is correct. And when we held our public meetings we found very little opposition to the addition of the area between the black and the red lines. In fact, the idea for adding those areas came largely from the local people. They felt that the same protection as given by the bill should be extended a little further.

Mr. DELLENBACK. Mr. Chairman, may I ask that for the sake of our record, if the Forest Service could give us that statistic it would be at least of interest and I think potentially of value to know how the additional 1,600 acres would have impact on the number of additional people who would be brought within the scope of the bill, and I would ask unanimous consent that we make that request of the Forest Service, and ask them to supply that, and when they supply it to have it made a part of the record.

Mr. MELCHER. Hearing no objection, so ordered.

[The information referred to follows:]

The Forest Service's latest information indicates that approximately 125 people live within the 9,800 acre unit on a year-long basis and an additional 60 on a seasonal basis. Of this total approximately 25 of the year-long residents and none of the seasonal residents live within the 1,600 acre portion of the unit which is proposed as an addition to area proposed in H.R. 8352.

Mr. McGUIRE. Mr. Chairman, if I could correct one of my earlier answers. There is one very small parcel of land of approximately 10 acres between the section line and the highway near the town of Otis that is in Mr. Wyatt's bill and is not in the administration proposal. I am sorry I overlooked that.

Mr. DELLENBACK. I see that it is a very minor piece.

Can you give us any brief comment, Chief, as to why you leave that out?

Is there some strong reason for taking that out in your proposal?

Mr. McGUIRE. I do not think there is a strong reason either way. We left it out because we are following the survey lines, section lines. But you could go to the highway there without any problem.

Mr. DELLENBACK. If we were to walk the road of the Wyatt proposal in this regard, as opposed to the administration proposal, you would have no objection to our extending the boundary of the Wyatt proposal to be coincidental with the boundary of your proposal?

Mr. McGUIRE. That is correct.

Mr. DELLENBACK. So the differences, I think, become fairly clear, as I see them, Mr. McGuire. The differences are: one, the acreage involved with the consequent factor of how many people would be involved, and you could go either way on that. You prefer the boundaries that are in your particular bill.

Second, the nature of the designation—that is, whether it be by statute with the consequences of permanence and inflexibility, or by rule and regulation within the Department, with the adverse effects or disadvantages.

But so far as what would be done within the area, you see it to be substantially the same?

Mr. McGUIRE. That is correct.

Mr. DELLENBACK. You would do what you are doing at the present time in the expanded area?

Mr. McGUIRE. That is correct, Mr. Dellenback. We can manage it under either arrangements in substantially the same way.

Mr. DELLENBACK. I note that you indicate in your testimony that in the event we were to go the way that is proposed in your bill, you estimate additional operating costs would be some \$80,000 a year, if I am correct in this. In the expanded departmental statement, I think, the letter under the date of May 3, signed by Mr. Ashworth, Deputy Undersecretary of the Department of Agriculture, he indicates that:

A land acquisition plan has not developed for area; however, we estimate a possible 5-year land acquisition program of \$1.5 million, which would be funded through the Land and Water Conservation Fund. Our estimated increased annual cost for administration of the area as part of the National Forest is \$80,000.

Mr. McGUIRE. That is for the whole area, Mr. Dellenback.

Mr. DELLENBACK. That is an increased cost.

Can you give us an indication of what the present cost of that is?

Mr. McGUIRE. I do not think we could easily break that out. You see, we are spending some administrative money now on the scenic area and the experimental forest, but it is mixed up with the administration of larger areas. I would think that it probably is in the neighborhood of \$20,000 or \$30,000 a year at the most.

Mr. DELLENBACK. So the difference in cost would not be because of the difference in area as much as it would be because of the difference in program. Of course, there would be some, because of the increased area.

But would it be principally a programmatic difference, Chief?

Or would it be principally multiplication of size?

Mr. McGUIRE. It is some of each, but we anticipate that by designation we are going to have more visitation, we are going to have to develop rules, we are going to have to enforce those rules, and there is just going to be more activity related to the use of the area and to the remaining private inholdings than we have now in the National Forest, where we own 90 percent of the land.

Mr. DELLENBACK. Would that hold, Chief, under either system?

That is, whether it was by administrative rule and regulation or by legislation?

Mr. McGUIRE. I think it would be almost exactly the same either way.

Mr. MELCHER. So that cost difference would not be major, the programmatic difference would not be major, the geographical boundary difference would not be major, and it shapes up principally to a question of whether or not it should be made permanent and possessed of the attributes such as an advisory council and the like that are called for in the Wyatt bill, versus it being done within the Department and subject to whatever flexibilities that adds?

Mr. McGUIRE. That is about right. The principal differences, really, outside of those that you mentioned and the acreage, are in the condemnation authority, which is somewhat more restricted in the Wyatt bill than in the administration bill, but even there the differences are not great. In fact, the only difference in condemnation under our proposal is we would have no change in condemnation authority with respect to the presently green area within the National Forest boundaries. Under the Wyatt bill there would be some reduction in condemnation authority within that area.

The other difference is in the advisory committee.

Mr. DELLENBACK. I was going to ask a few followup questions about that condemnation authority, but I do not think that we need to dwell upon it to any great length. I am not sure I would be in complete agreement with what I understood you to be saying, that in effect they were exactly the same. I thought you had said something like that in your testimony. But I understand what you are now amplifying to say that there are some differences in that condemnation authority and that coincides with my reading of what is actually here.

Mr. McGUIRE. They are relatively minor, and we realize this can be a controversial issue. We are trying to go as far as we can to maintain the similarity of the two proposals.

Mr. DELLENBACK. I would ask one last question, and that has to do with the question of additional authority, first to Congressman Wyatt and then to Senator Hatfield.

Would you have any comment to make on the possible additional authority to be given to the Forest Service to ask for injunctive relief in the event of a threatened violation of the purpose of the general area, whether it be under the Wyatt proposal or the administration's?

Mr. McGUIRE. I was very interested in the earlier discussion of this. Of course, I am not sure how it would work and I would like to explore it further with our attorneys, but you are right in the sense that the way things stand now if a private landowner sets out to exceed the guidelines for the use of the private land, the only way he can be stopped is through condemnation, and this requires obtaining the necessary funds. If we could find some intermediate way of slowing down undesirable development it would be of a great deal of help. I am not sure how far we could go on injunctive relief with what claims, of course, if we sought such injunctions. There may be some problem with the State zoning authority here as to what we can do on the Federal side.

So I am not sure how it would work, but I think it should be looked into.

Mr. MELCHER. As you know, we are facing a problem out there in the Oregon Dunes Recreation Area right now with some threatened violation of the general hoped for utilization, and yet, with the Forest

Service not anxious to proceed to condemn, with also peripheral condemnation problems such as, if a person begins to use a small portion of what is in ownership for a purpose that is violative, does that create in the Forest Service the right to condemn the entire piece or the obligation to condemn the entire piece, or can it be done in part?

And the series of spinoff questions of that nature that we did not contemplate at the time we drafted that legislation, and which are now appearing on the scene—we certainly do not want to do the same kind of thing, whatever we do legislatively, at this time.

Mr. McGUIRE. You state the problem very well. I am not sure yet that we are up to the solution of it.

Mr. DELLENBACK. I am not ready to state the solution equally well.

But may we request that you ask your staff to give some attention to that, and make a recommendation to us on that, or at least a comment to us, so that we may include this as part of this particular hearing?

Mr. McGUIRE. We would be glad to do that.

Mr. DELLENBACK. And without objection it will be made a part of the record.

[The information referred to follows:]

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C.

HON. JOHN MELCHER,
*Chairman, Subcommittee on Public Lands,
House of Representatives.*

DEAR MR. CHAIRMAN: During the recent hearing on the proposed Cascade Head Scenic-Research Area (H.R. 8352), Mr. Dellenback asked us for comments on the possible need for the Secretary of Agriculture to have additional authority to seek injunctive relief when actions on private lands threaten values for which a National Forest is being protected. This letter is in response to that request.

Under the provisions of H.R. 8352, the Secretary would have authority to acquire lands and interests outside the estuary area only if the owner consents, so long as the owner uses the land for the same purposes and in the same manner as the lands were used on June 1, 1973. The Secretary would be directed to publish guidelines defining these uses. The Secretary would be authorized to acquire lands *without* the consent of the owner where uses varied from those occurring on June 1, 1973, as defined in the guidelines. A similar framework for acquisition is provided for several National Recreation Areas administered by this Department. In each case the use of condemnation authority is the mechanism provided the Secretary to enforce the private land use guidelines.

If the Secretary were granted authority to enjoin uses on private lands which he determined were inconsistent with purposes or management objectives of a National Forest area, he would in effect be in a position of regulating the use of those lands. The result would even be clearer if the injunction authority were based on specific land use guidelines which the Secretary might promulgate.

Under our Federal constitutional system, the States have the powers reserved to them to regulate use of private land. An express grant of land use control power to a Federal Department can be easily construed as an infringement of this traditional and historical State prerogative.

Another constraint must be seriously considered. This is the Fifth Amendment due process requirement that just compensation be given for a "taking" of private property. A restriction on private land use through a Federal injunction, unless founded on a clear Constitutional basis, can likely be deemed a taking without due process of law. If a taking occurs, it would essentially result in an acquisition of interests in the land, which could more appropriately be accomplished by a direct acquisition rather than through an injunctive process.

The acquisition and condemnation authority provided by H.R. 8352 goes a long way toward providing the necessary protection of the area within the proposed Scenic-Research Area. An alternative to Mr. Dellenback's suggestion of

providing the Secretary of Agriculture additional authority to seek injunctive relief to prevent undesirable actions on lands within the area would be to broaden the Secretary's authority to acquire lands without the consent of the owner. This could be accomplished within the acquisition framework of H.R. 8352 by adding a provision in section 5 to allow the Secretary to acquire lands without the consent of the owner when lands are in imminent danger of being used for different purposes or in a different manner from the uses existing on June 1, 1973. This provision would make it possible to acquire lands prior to, rather than after, a change in land use. A provision could also be included to require that landowners notify the Secretary or his designee in advance of any change in land use. This would provide the Secretary additional time to evaluate proposed land use changes and initiate acquisition action when necessary.

In addition to Federal action, we will encourage the nearby local governments involved to use their land use planning and zoning authority to protect the lands adjacent to the area. Should a serious and grievous use occur in the vicinity of the area we will explore all possible approaches, such as common law nuisance actions, to avoid damage to the area's natural features.

We appreciate the Committee's interest and concern that the Secretary be provided with the necessary authority to insure proper use and development of special areas designated by Congress. We believe that any problems in the control of such uses can be worked out through the existing and proposed framework of State and Federal authorities.

Sincerely,

R. MAX PETERSON,
Deputy Chief, Programs and Legislation.

Mr. DELLENBACK. I have no further questions.

Does Counsel have any questions he wishes to ask?

Mr. SHAFER. No, thank you.

Mr. DELLENBACK. We thank you, Chief McGuire. You have been helpful and we appreciate your being here.

We have a letter from the Acting Secretary of the Interior on the date of May 2, 1974, addressed to the Chairman of the full Committee, which deals with the views of the Interior Department on the subject of H.R. 8352. Without objection, this letter will be made a part of the record as well as a letter from Under Secretary Ashworth.

[The information referred to follows:]

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 2, 1974.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs, House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 8352, a bill "To establish the Cascade Head Scenic-Research Area in the State of Oregon, and for other purposes."

H.R. 8352 would establish certain ocean headlands, rivers, streams, estuaries, forested areas, recreational and research-scientific facilities in Oregon within and adjacent to the Siuslaw National Forest as the Cascade Head Scenic-Research Area. The proposed area would become part of the Siuslaw National Forest and would be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to national forests.

Some of the acreage in the proposed area is already in Federal ownership, including 197 acres administered by the Bureau of Land Management. We have no objection to this acreage being transferred into an enlarged Siuslaw National Forest. However, since the Department of Agriculture would administer the proposed area, we defer to the views of that agency as to whether H.R. 8352 should be enacted.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL REED,
Acting Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 3, 1974.

Hon. JAMES A. HALEY,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives*

DEAR MR. CHAIRMAN: As you requested here is our report on H.R. 8352, a bill "To establish the Cascade Head Scenic-Research Area in the State of Oregon, and for other purposes."

The Department of Agriculture agrees that additional lands in the Cascade Head-Salmon River area should be included within the National Forest boundary and that the area should be managed to provide for the protection and use of its unique values. The type of land management desired for the area can be achieved under existing authorities, provided the National Forest boundary is extended to include all of the Cascade Head Area and use of Land and Water Conservation Fund monies is authorized. We support legislation to extend the National Forest boundary; however, we recommend enactment of our proposed substitute bill in lieu of H.R. 8352.

H.R. 8352 would establish the Cascade Head Scenic-Research Area for public outdoor recreation use and enjoyment and conservation and study of scenic, scientific, historic, and other values. It would provide that the entire area be included in the Siuslaw National Forest and be administered by the Secretary of Agriculture. It would specify management direction for separate subareas within the area and withdraw the entire area from mineral entry and leasing. The Secretary would be authorized to acquire lands and interests in lands; however, except in the estuary and associated wetlands subarea, acquisition could only be done with the consent of the owner so long as the owner uses the land for substantially the same purposes and in the same manner as the lands were used on June 1, 1973. Use of Land and Water Conservation Fund monies would be authorized and an advisory council would be established.

The Cascade Head-Salmon River area is known for the spectacular beauty of its estuary, coastal beaches, headlands, and the surrounding forested lands. The area which would be affected by H.R. 8352 involves approximately 8,200 acres consisting of a mixture of public and private lands. Approximately one-half of the area is outside the existing National Forest boundary. Approximately 90 percent of the lands within the National Forest boundary are National Forest lands. Portions of these National Forest lands are presently administered under regulations of the Secretary of Agriculture as a Research Natural Area, a Scenic Area, and an Experimental Forest. Major public concern has been concentrated on the future management of the estuary, associated wetlands, and immediately adjacent forest lands. These lands are predominately outside the National Forest boundary and presently used for recreational and agricultural purposes. Studies by the Forest Service and others indicate the desirability of including the entire area within the Siuslaw National Forest with management plans for the public and private lands jointly developed by the Forest Service and local authorities. Public ownership of lands within the estuary and associated wetlands and certain adjacent lands is considered necessary to the protection of unique esthetic and research-natural values in the area.

Our proposed substitute bill, which is included with this report, would provide for an extension of the National Forest boundaries to include the estuary and associated wetlands. Lands or interests in lands acquired or transferred to the National Forest would be administered in accordance with the laws, rules, and regulations applicable to the National Forests, with emphasis on purposes set forth in the substitute bill. These purposes are essentially the same as those set forth in H.R. 8352. Our proposed bill would limit acquisition of privately-owned property, authorize use of Land and Water Conservation Fund monies, and provide for transfer of Federal property to the administrative jurisdiction of the Secretary of Agriculture in a manner very similar to that proposed in H.R. 8352.

Our proposed substitute bill differs from H.R. 8352 primarily in that it would permit the Secretary of Agriculture, using existing authorities, to designate the Cascade Head Scenic-Research Area. Within the National Forest System the Forest Service administers numerous areas for special purposes similar to those proposed for the Cascade Head area. Under Secretarial Regulations special areas are specifically designated and management plans developed. Through a long

history, we have demonstrated an ability to provide the necessary protection and management of such special areas to preserve the unique values recognized at the time of their designation. We consider it highly desirable that the designation and management of such areas be carried out under existing authority available to the Department. We would consider the legislative designation of the Cascade Head Scenic-Research Area an invitation for similar legislation applying to many other special areas designated by the Secretary. We do not believe legislative designations are necessary for the protection and management of these areas in the National Forest System. Consequently, we strongly recommend the adoption of our substitute bill in lieu of H.R. 8352.

A land acquisition plan has not been developed for the area; however, we estimate a possible 5-year land acquisition program of \$1.5 million which would be funded through the Land and Water Conservation Fund. Our estimated increased annual cost for administration of the area as part of the National Forest is \$80 thousand.

An environmental statement has been prepared pursuant to the provisions of subsection 102(2)(c) of the National Environmental Policy Act (83 Stat. 853) and is enclosed.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD A. ASHWORTH,
Deputy Under Secretary.

A BILL To provide for the Cascade Head Scenic-Research Area Addition to the Siuslaw National Forest in the State of Oregon, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide present and future generations with the use and enjoyment of certain ocean headlands, rivers, streams, estuaries, and forested areas and to promote the protection and study of significant areas for research and scientific purposes, and to promote a more sensitive relationship between man and his adjacent environment, the boundaries of the Siuslaw National Forest are hereby extended to include those lands depicted on a map entitled, "Proposed Cascade Head Scenic-Research Areas Addition to the Siuslaw National Forest," dated January, 1974, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

SEC. 2. (a) Except as provided in subsection (b) of this section, within the area added to the Siuslaw National Forest by this Act the authority of the Secretary of Agriculture to acquire privately-owned property without the consent of the owner shall be suspended so long as the owner uses such property for the same purposes and to the same extent as the property was being used and maintained on January 1, 1974. The Secretary shall document present use and shall establish guidelines which shall be used by him to determine what constitutes a change in use or maintenance of privately owned property within the area. Nothing in this subsection shall limit the authority of the Secretary of Agriculture to acquire interests in land or water within the area added to the Siuslaw National Forest by this Act without the consent of the owner: *Provided*, That such acquisition shall not preclude the continuation of any use exercised by the owner and to the extent exercised on January 1, 1974.

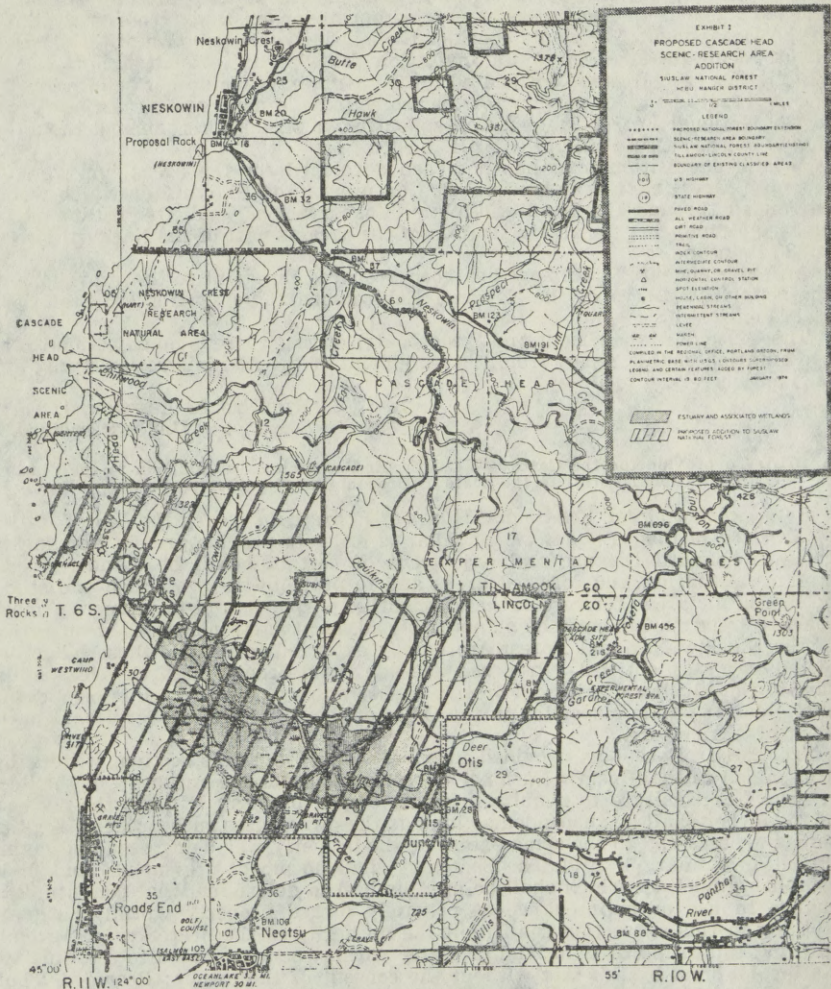
(b) Within the "Estuary and Associated Wetlands Areas" as delineated on the map referred to in section 1, the Secretary of Agriculture may acquire lands, waters, or interests therein, without the consent of the owner.

SEC. 3. Notwithstanding any other provision of law, any Federal property located within the area added to the Siuslaw National Forest by this Act may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary of Agriculture. Any lands so transferred shall become part of the Siuslaw National Forest.

SEC. 4. Lands, or interests therein, acquired or transferred to the National Forest pursuant to this Act shall be administered in accordance with the laws, rules, and regulations applicable to national forests, with emphasis on the purposes set forth in section 1 of this Act.

SEC. 5. Notwithstanding the provisions of subsection 6(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, 16 U.S.C. 4601-9(a)(1)) monies appropriated from the Land and Water Conservation Fund shall be avail-

able for the acquisition of any lands, waters, or interests therein, within the area added to the Siuslaw National Forest by this Act.



Mr. DELLENBACK. We will go off the record for just a moment.
 [Discussion off the record.]

Mr. DELLENBACK. We will be in recess for about 5 minutes.
 [A brief recess was taken.]

Mr. MELCHER. The committee will come to order.

Our next witness is Mr. Jon Roush, executive vice president of The Nature Conservancy. Mr. Roush, I am sorry to keep you waiting.

STATEMENT OF G. JON ROUSH, EXECUTIVE VICE PRESIDENT, THE NATURE CONSERVANCY

Mr. ROUSH. That is all right.

Mr. Chairman, as you know, I think, The Nature Conservancy is a national, nonprofit organization, 22 years old, devoted solely to the

preservation of ecologically significant land areas. During the last 12 months, the Conservancy has acquired some 300,000 acres of land across the United States, and we have devoted that land to educational and scientific uses. Through our professional staff in regional and field offices, and through our 25,000 members across the country, we have worked closely with governmental agencies at all levels to cooperate in the acquisition and protection of critical environmental areas, including some two dozen projects which were done with the U.S. Forest Service.

We are currently managing some 500 areas that we own ourselves, but one of those areas consists of approximately 300 acres of Cascade Head. This land was purchased with funds donated by private citizens, and is currently used for purposes of scientific research and limited public recreation. It is located in the proposed subarea 3 and 4 of the upper timbered slopes and headlands. It is, specifically, that part of the Oregon headlands north of the Salmon River Estuary.

On behalf of The Nature Conservancy, both as a national scientific organization and as a landowner affected by the bill, I speak in support of the bill. We believe that H.R. 8352 provides an excellent solution to some of the most pressing problems of the area. Our own property is currently managed by a local committee of Oregonians. That committee is fully prepared to cooperate with the Forest Service in the development and implementation of a sound management plan for the area. We urge only that the Secretary, in appointing the Advisory Council, include representatives of appropriate environmental organizations.

That is the end of my prepared statement, Mr. Chairman. I just wanted to add that we have taken no stand on the question of the proposed boundaries, as between H.R. 8352 and the Forest Service bill. We are speaking only to the management provisions of the bill, H.R. 8352, which we regard as appropriate, innovative, and we feel strongly that these management provisions do provide the opportunity for some experimentation with new management techniques.

Mr. MELCHER. The 300 acres The Nature Conservancy owns there would become part of the proposed area for scenic values and research values under the Wyatt bill.

Is that correct?

Mr. ROUSH. They are included within the authorized boundaries, yes. Whether that land would eventually be turned over to the U.S. Government, or would be retained in our ownership is a question I cannot answer at this time.

Mr. MELCHER. What does the Wyatt bill propose on that point?

Mr. ROUSH. The Wyatt bill does not speak to that point, as far as I can tell.

Mr. MELCHER. The Wyatt bill said that all of that area would become part of the U.S. forest.

Mr. ROCK. It would become an in-holding within the forest.

Mr. MELCHER. Become an in-holding? Just become a part of the estuary boundaries?

Mr. ROUSH. We are, as any other private landholder, affected by the provisions of the bill. We would remain a private landholder with an inholding within the private boundaries.

Mr. MELCHER. Wendell's testimony was to the effect that the lands were to be acquired, and that condemnation would only be needed in one instance, and maybe not even in that instance. That lead me to believe that he envisioned all of it becoming a part of the forest.

Mr. ROUSH. That might well be. Our procedure in such cases then would be to sit down with the Forest Service, work with them in the development of a management plan. We are already, as I say, managing our own areas, currently for purposes that are really quite concurrent with the purposes envisioned in the bill; sit down with the Forest Service and see whether it made joint sense for us to retain the land in private ownership, or to sell it to the Forest Service.

In any event, I can see no problems at this time in our cooperation with the Forest Service.

[Pause]

Mr. MELCHER. We have a little problem, I think, here, Mr. Roush, in that while your organization is in complete agreement with the bill and the purposes of the bill, we would want to make statutory protection for that land if it was within the boundaries of this proposed research area. So, do you think this language does that adequately?

You see, if this is something—if this deserves the status of an act of Congress to set up this type of area, we should clearly say why, and why we think it should be done that way, and then that is it. That is the direction to the Forest Service.

Mr. ROUSH. That is right.

Mr. MELCHER. And you are in complete agreement now—your organization is in complete agreement with the retained title to the land? If you disagree at some other point—

Mr. ROUSH. If at some point our management of land is contrary to the purposes of the bill that establishes the area, then at that point I would assume that the Forest Service would acquire the land.

Mr. MELCHER. I think we want to say that in the statute, do you not?

Mr. ROUSH. Sure, sure.

Mr. MELCHER. In the bill itself?

Mr. ROUSH. Yes.

Mr. MELCHER. If there ever is a disagreement, it is not the act that is wrong, it is The Nature Conservancy.

Mr. ROUSH. We would clearly have nothing to say about that.

Mr. MELCHER. Pardon me?

Mr. ROUSH. As I understand the bill, at this time we would have nothing to say about that.

Mr. MELCHER. You would want it to say that? You think it does say that?

Mr. ROUSH. I think it says that now, as I read the bill; yes.

Mr. MELCHER. You are probably correct; and there is no conflict there?

Mr. ROUSH. No.

Mr. MELCHER. In effect, you are saying, OK, we agree with you now. If we would disagree with you in the future, we know we are not going to win.

Mr. ROUSH. That is right. We acquired our land, which is the orange part of the map—we acquired that land because we feel very strongly that the entire Salmon River Estuary deserves protection. At that time, that was a key purchase, and we felt it was necessary

to step in and acquire that land in order to protect that part of the estuary, the mouth of the estuary, and consequently the whole estuary; and that is our main purpose, to protect the estuary, not any particular 300 acres.

Mr. MELCHER. I suppose there are instances where The Nature Conservancy either donates or turns over to the Forest Service or some other Federal agency the land that they have, either by donation or at cost.

Mr. ROUSH. We have done that over 20 times, yes, with the Forest Service alone.

Mr. MELCHER. Over 20 times with the Forest Service alone?

Well, I guess we have no problem, then, as long as it is understood that that would happen. The bill as I read it says that the Forest Service must obtain the land in ownership around the estuary, and this is not around the estuary.

Mr. ROUSH. That is right.

Mr. MELCHER. I thank you very much, Mr. Roush.

Do you have any questions?

Mr. SHAFER. No; thank you.

Mr. MELCHER. Thank you very much. We appreciate your testimony.

Mr. ROUSH. Thank you very much.

Mr. MELCHER. Without objection, the statement of George Alderson, wilderness affairs, the Wilderness Society, and the prepared testimony of Larry Williams, executive director of the Oregon Environmental Council, and the letter addressed to me by the Oregon Shores Conservation Coalition and signed by Robert L. Bacon, president, plus a letter from Dale Jones, Friends of the Earth, will be made part of the record at this point.

Hearing no objection, so ordered.

[The information referred to follows:]

STATEMENT OF GEORGE ALDERSON, DIRECTOR OF FEDERAL AFFAIRS, THE
WILDERNESS SOCIETY

I am George Alderson, Director of Federal Affairs of The Wilderness Society, a national organization devoted to the perpetuation of an enduring resource of wilderness for the benefit of present and future generations. Our offices are at 1901 Pennsylvania Avenue, N.W. We appreciate the invitation to present our views on H.R. 8352, a bill to establish the Cascade Head Scenic-Research Area in Oregon.

This bill would provide a statutory mandate to the Forest Service to manage the area of Cascade Head and the Salmon River estuary for scenic, recreational, conservation and research purposes. It would also authorize acquisition of private lands, extending the boundary of the Siuslaw National Forest to include the entire 8,500-acre Scenic-Research area. It would withdraw the Scenic-Research area from mineral entry and mineral leasing, and it would establish an advisory council.

Legislation recognizing the special characteristics and values of this area is a suggestion which The Wilderness Society warmly supports. Cascade Head and the Salmon River estuary are an island of nature in the midst of an already-developed region. We have the opportunity to steer future development around this remaining island, protecting it as a small sample of the wild Oregon coast, for enjoyment and study.

We joint with Oregon citizen groups in recommending that the bill be strengthened in several respects to make sure that it will achieve the scenic and research purposes that are the basis of the proposal:

1. We suggest adding language to Sec. 7 to withdraw the area from geothermal leasing. The Geothermal Steam Act of 1970 contained a major loophole in that it did not grant protection to wilderness areas, wild and scenic rivers, or certain

other special categories. This omission could be remedied in this case by the following amendment: On page 5, line 22, after the word "leasing" add the words "geothermal steam leasing."

2. We suggest adding a wilderness study provision like that included in all recent legislation on new parks and recreation areas reported from the House Interior Committee. This is needed to insure that the wilderness potential of the area will be evaluated by the Forest Service, subjected to public hearings, and a report thereon submitted to the Congress. The following language, based on that enacted in prior legislation, would serve the purpose:

On page 7, add a new Sec. 10: "Within two years from the date of enactment of this Act, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or unsuitability of any area within the Scenic-Research Area for preservation as wilderness, and any designation of any such area as a wilderness shall be in accordance with said Wilderness Act."

3. We recommend that Sec. 3(b) (3 and 4) be amended to bar all timber harvesting in the area. As written, this bill would allow logging on the upper slopes, in direct contradiction to the basic objectives of the measure. If we are going to have logging at Cascade Head, let's call it the Cascade Head Logging Area, instead of Scenic-Research Area. Surely logging has no place in an area that is being designated for research and scenic values. Logging is simply incompatible with the purpose of this bill. We suggest that the words on page 4, line 2, "and timber harvesting activity" be stricken.

4. We share the concerns expressed by Oregon citizens that recreational uses of the Scenic-Research Area should be carefully planned, protecting the area against the often severe impact of heavy use and ill-planned recreational development. We suggest deleting the word "extensive" in two places where it appears—on page 4, lines 1 and 7.

On the other hand, if the word "extensive" was meant to imply dispersed use, as opposed to the "intensive" use cited under Sec. 3(b) (2), then it would be better to adopt a more precise word. "Extensive" is obviously subject to more than one interpretation.

5. In general, we have found citizens' advisory councils to be an ineffective way of involving the public in management decisions. The open forum of hearings provides far better opportunities for the average citizen to express his views. If the subcommittee decides to retain Sec. 8 of the bill, we suggest that the criterion under Sec. 8(a) (iii) for the eight public members of the council should be amended to require these appointees to be representatives of nonprofit environmental or conservation public-interest groups. Language reflecting this concept might be as follows: (iii) not to exceed eight members appointed by the Secretary from among persons representing national or local nonprofit citizens' groups devoted to the protection of the environment or natural resources.

We commend the interest of Congressman Wyatt and Senator Packwood and their initiative in proposing this measure. We favor the bill, with the amendments outlined above, and recommend its enactment.

STATEMENT OF LARRY WILLIAMS, EXECUTIVE DIRECTOR OF THE OREGON
ENVIRONMENTAL COUNCIL

My name is Larry Williams; I am Executive Director of the Oregon Environmental Council. The O.E.C. is a coalition of 80 planning and sportsmen organizations in the state of Oregon, representing approximately 2,000 individual dues paying members.

We are extremely pleased to have the opportunity to testify on this legislation. The O.E.C. has long been interested in the Cascade Head and the Salmon River Estuary. This is an extremely valuable site, both scientifically and for the enjoyment of the general public. It is a unique area, where mountain, forest, and sea form a glorious meeting of ecosystems. The area ranges from rich tidal marshes to the rugged cliffs of the Oregon coast, with the marginal rain forest of the coast range towering above. This unique combination of natural values make the Cascade Head and its adjacent estuary a unique ecological unit, which still remains viable and undamaged.

The O.E.C. fully endorses this legislation whose objective is the preservation of the scenic and scientific, historic and educational. However, we feel that this legislation can further ensure the fulfillment of its objectives with the following suggestions:

We are in agreement that the recreational values in this area should not be overlooked. However, we feel that the recreational aspects should not be allowed to overshadow the need to protect the viable ecosystems. Therefore, we ask that in subsections 3(b) and (3), (4), (5), and (6), the word "extensive" should be eliminated from the description of the nature of recreational activities encouraged in this area. This may seem like a small point, but, after all, it is the direction of the Congress that sets the tone and pace for the future use and development of such an area. I would like to point out that the land use and ownership plan produced by the Siuslaw National Forest on Cascade Head-Salmon River observes that the "climate of the area is not overly conducive to outdoor recreational activities. Along with the heavy precipitation, continuous wind velocity of 15-25 miles per hour are common along the coast."

The recreational value of this area is obvious. What concerns us is that as key estuaries such as this become fewer due to industrial and residential development, recreational interest will increase proportionately. The hilly and mountainous subareas are highly susceptible to land slump and land slides. Future intensive recreational development could further aggravate this condition.

Another attractive feature of this area is that it is the home for a large variety of wildlife: the California sea lion, the Pacific giant salamander, the bald eagle, to name just a few. There are no sanitary or garbage facilities provided. Extensive recreational use would demand these basic requirements. All we ask is that Congress direct the Department of Agriculture to keep these developments to a minimum so as to protect the natural and scenic condition that is the motivation for this legislation.

In subsection 3(b) (3) timber harvesting was included as one of the management objectives. We feel that timber harvesting would not be compatible with the preservation of the scenic and ecological values of this area. Much of the area which would be economically attractive to logging is susceptible to land slides and slumping. Logging activities, along with the associated road construction, could truly damage the quality of the Cascade Head. We are not in agreement with the Forest Service that continued commercial exploitation of the timber resources is compatible with the objectives of this legislation. This committee should note that the Forest Service's own report recognizes that, in the lower slope area where road development is proposed, hazards are moderate to severe, and run off is medium to rapid. Road construction would only aggravate this condition. The run off and siltation from road and logging activities would do irreparable harm to the estuary. Silt is a number one enemy of a viable living estuary.

Section 8 deals with the make-up of the advisory council. We feel that advisory councils can provide a very meaningful insight into the broad objectives and goals of managing such an area. However, we have found that through past experience the Congress must be fairly specific, in the actual legislation, or the committee report, as to what would be the make-up of the advisory committee: In section 8(a) (iii) it is directed that the secretary shall appoint members to represent the local or national organizations that have an interest in the administration of this area. We ask that it be specifically noted in the legislation or in the committee report that these people should represent non-profit environmental/conservation public interest groups. Our reason for this concern is that we wish to see a balance with the local landowners and the timber operators.

We urge this committee to include in their report to the secretary suggestion that the state of Oregon, through its Land Conservation and Development Commission, identify this area as an "area of critical state concern." This would ensure highest degree of coordination between the Department of Agriculture and the state of Oregon.

Again, we very much appreciate the opportunity to appear before this committee and ask that the legislation is favorably acted upon.

Thank you, Mr. Chairman.

OREGON SHORES CONSERVATION COALITION,
Portland, Oreg., April 30, 1974.

HON. JOHN MELCHER,
*Chairman, Subcommittee on Public Lands,
House of Representatives,
Washington, D.C.*

DEAR CHAIRMAN MELCHER AND MEMBERS OF COMMITTEE: Because the Oregon Shores Conservation Coalition is unable to have a representative present to testify in person at your hearing on S. 1943, we have asked that this testimony

be relayed to you for your consideration and inclusion in the records of the hearing.

The Oregon Shores Conservation Coalition, an alliance of individuals and citizens organizations interested in preservation of the coastal resources in Oregon, from the outset has been one of the proponents of establishing the Cascade Head Scenic-Research Area because of the incomparable attributes that make it unquestionably appropriate for such designation.

In general, our Coalition is strongly supportive of S. 1943 in the form appearing in the Congressional Record of June 4, 1973, the last version of the bill we have seen. Therefore, we wish to go on record favoring its adoption but with a few possible amendments to strengthen it.

In Sec. 3, sub-sections (5) and (6), we recommend deletion of "extensive" and substitution of "selective." The entire concept of "extensive" is harmful to the notion of a scenic-research area, whether extensive use applies to recreation, research-educational activities or timber harvesting activities. In short, it would be unfortunate to convey the idea that either maximum utilization for tourism or clearcutting would be compatible. Intensive use by humans would defeat the purpose. Selective use would enhance it.

We urge that boundary extension include the wetlands (Sam Creek and along the Salmon) on the east side of Highway 101. Location of Highway 101 on fill across the wetlands cut the estuarine system in half, effectively isolating the "Pixieland" side from the ocean side. Biological interchange, though constricted, continues, and the tributaries east of the highway are important nursery grounds. Since biological protection for the estuary is one of the paramount features of this bill, it would be a grave mistake to exclude these wetlands from the control area. The eastern boundary should be back to Otis and the old Neskowin Highway.

A major reservation has to do with Sec. 8 (a) (iii). So that proper balance exists on the Advisory Council, with voting rights included and available to conservation interests as well as to timber and development interests, it is essential that public and conservation-environmental interests be represented officially on the Advisory Council.

Therefore the Oregon Shores Conservation Coalition proposes amendment by addition of the underscored wording: "(iii) Not to exceed eight members appointed by the Secretary from among persons who, individually or through association with national or local *public-interest and conservation* organizations have an interest in the administration of the Area:" and—

From this kind of makeup, expertise could be drawn that would address itself admirably to the proper management of the Area, in best keeping with the intent and the promise of the proposed Act.

The Coalition strongly supports inclusion in this bill of specific classifications for areas within the new boundaries, and management guidelines for each of these classifications (estuarine and wetland, lower slope, etc.) Simple expansion of the Forest Service boundary would not be sufficient.

We urge swift passage of this bill with the minor modifications that we have suggested.

Respectfully,

ROBERT L. BACON,
President.

FRIENDS OF THE EARTH,
Seattle, Wash., May 16, 1974.

HON. JOHN MELCHER,
*Chairman, Subcommittee on Public Lands,
Longworth House Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Please include this letter in the hearing record regarding Cascade Head-Salmon River legislation H.R. 8352. In general Friends of the Earth supports the testimony presented by the Oregon Environmental Council at the recent Washington, D.C. hearings.

The legislation's objective is the scenic, scientific, historic, and educational preservation of an area where mountain, forest, and sea meet to form a unique combination of natural values. In order to ensure the legislation meets these objectives we suggest the following: be embodied in the final bill.

Although the area has great recreational value, extensive recreation could be damaging to the environment. Therefore, the word "extensive" should be elimi-

nated from subsections 3(b) (3), (4), and (6). The *Land Use and Ownership Plan* produced by Siuslaw National Forest on Cascade Head-Salmon River points out that the "climate of the area is not overly conducive to outdoor, recreational activities. Along with the heavy precipitation, continuous wind velocity of 15-25 miles per hour are common along the coast."

As industry and residential development expand and destroy other estuaries similar to Cascade Head-Salmon River, the recreational use of the area will expand proportionately. The hills and mountainous subareas are susceptible to land slides and land slump. Future intensive recreational use could aggravate this problem.

Extensive recreational use could serve as a threat to the wildlife living there which includes the California sea lion, the Pacific giant salamander, the Bald Eagle, to name a few.

Extensive recreational use would require refuse and sanitary facilities. These should be kept to a minimum to protect the natural and scenic condition which is the purpose of the legislation.

In subsection 3(b) (3), timber harvesting was included as one of the management objectives. Besides not being compatible with the scenic and ecological values of the area, the area most economically attractive for timber harvest is susceptible to land slides and slumping. Logging and associated road construction could easily damage the quality of Cascade Head. Again, the *Land Use and Ownership Plan* states that in the lower slope area, where road development is proposed, run off is medium to rapid, and erosion hazards are moderate to severe. Run off and siltation from road and logging activities would do irreparable harm to the estuary, silt being a number one enemy to a living estuary.

Section 8 deals with the make up of the advisory council. In order to assure a balance with the local landowners and timber operators, section 8(a) (iii) should include in the council representatives from non-profit environmental/conservation, public interest groups.

Along with these points, Friends of the Earth would like to add that there are six roadless areas in the area that have potential to go under the provisions of the Wilderness Act. An environmental impact statement has been made on Cliff Creek and should be submitted to the Council on Environmental Quality sometime in May. Studies will begin on Caulkins Creek soon. Road development and timber harvesting should not take place in the six roadless areas until these areas have been fully studied.

Sincerely,

DALE JONES,
Northwest Representative.

Mr. MELCHER. The committee will stand adjourned subject to the call of the Chair.

[Whereupon, at 12:05 o'clock, the subcommittee adjourned, subject to the call of the Chair.]



