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SENATE

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### OREGON CAVES NATIONAL MONUMENT BOUNDARY ADJUSTMENT ACT

AUGUST 5, 2010.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1270]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1270) to modify the boundary of the Oregon Caves National Monument, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Oregon Caves National Monument Boundary Adjustment Act of 2010”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term “map” means the map entitled “Oregon Caves National Monument and Preserve”, numbered 150/80,023, and dated May 2010.

(2) MONUMENT.—The term “Monument” means the Oregon Caves National Monument established by Presidential Proclamation Number 876 (36 Stat. 2497), dated July 12, 1909.

(3) NATIONAL MONUMENT AND PRESERVE.—The term “National Monument and Preserve” means the Oregon Caves National Monument and Preserve designated by section 3(a)(1).

(4) NATIONAL PRESERVE.—The term “National Preserve” means the National Preserve designated by section 3(a)(2).

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) the Secretary of Agriculture (acting through the Chief of the Forest Service), with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to land managed by the Bureau of Land Management.

(7) STATE.—The term “State” means the State of Oregon.

**SEC. 3. DESIGNATIONS; LAND TRANSFER; BOUNDARY ADJUSTMENT.****(a) DESIGNATIONS.—**

(1) **IN GENERAL.**—The Monument and the National Preserve shall be administered as a single unit of the National Park System and collectively known and designated as the “Oregon Caves National Monument and Preserve”.

(2) **NATIONAL PRESERVE.**—The approximately 4,070 acres of land identified on the map as “Proposed Addition Lands” shall be designated as a National Preserve.

**(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—**

(1) **IN GENERAL.**—Administrative jurisdiction over the land designated as a National Preserve under subsection (a)(2) is transferred from the Secretary of Agriculture to the Secretary, to be administered as part of the National Monument and Preserve.

(2) **EXCLUSION OF LAND.**—The boundaries of the Rogue River-Siskiyou National Forest are adjusted to exclude the land transferred under paragraph (1).

**(c) BOUNDARY ADJUSTMENT.**—The boundary of the National Monument and Preserve is modified to exclude approximately 4 acres of land—

(1) located in the City of Cave Junction; and

(2) identified on the map as the “Cave Junction Unit”.

**(d) AVAILABILITY OF MAP.**—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

**(e) REFERENCES.**—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Monument shall be considered to be a reference to the “Oregon Caves National Monument and Preserve”.

**SEC. 4. ADMINISTRATION.**

**(a) IN GENERAL.**—The Secretary shall administer the National Monument and Preserve in accordance with—

(1) this Act;

(2) Presidential Proclamation Number 876 (36 Stat. 2497), dated July 12, 1909 ; and

(3) any law (including regulations) generally applicable to units of the National Park System, including the National Park Service Organic Act (16 U.S.C. 1 et seq.).

**(b) FIRE MANAGEMENT.**—As soon as practicable after the date of enactment of this Act, in accordance with subsection (a), the Secretary shall—

(1) revise the fire management plan for the Monument to include the land transferred under section 3(b)(1); and

(2) in accordance with the revised plan, carry out hazardous fuel management activities within the boundaries of the National Monument and Preserve.

**(c) EXISTING FOREST SERVICE CONTRACTS.—**

**(1) IN GENERAL.**—The Secretary shall—

(A) allow for the completion of any Forest Service stewardship or service contract executed as of the date of enactment of this Act with respect to the National Preserve; and

(B) recognize the authority of the Secretary of Agriculture for the purpose of administering a contract described in subparagraph (A) through the completion of the contract.

**(2) TERMS AND CONDITIONS.**—All terms and conditions of a contract described in paragraph (1)(A) shall remain in place for the duration of the contract.

**(3) LIABILITY.**—The Forest Service shall be responsible for any liabilities relating to a contract described in paragraph (1)(A).

**(d) GRAZING.—**

**(1) IN GENERAL.**—Subject to paragraph (2), the Secretary may allow the grazing of livestock within the National Preserve to continue as authorized under permits or leases in existence as of the date of enactment of this Act.

**(2) APPLICABLE LAW.**—Grazing under paragraph (1) shall be—

(A) at a level not greater than the level at which the grazing exists as of the date of enactment of this Act, as measured in Animal Unit Months; and

(B) in accordance with each applicable law (including National Park Service regulations).

**(e) FISH AND WILDLIFE.**—The Secretary shall permit hunting and fishing on land and waters within the National Preserve in accordance with applicable Federal and State laws, except that the Secretary may, in consultation with the Oregon Department of Fish and Wildlife, designate zones in which, and establish periods during which, no hunting or fishing shall be permitted for reasons of public safety, administration, or compliance by the Secretary with any applicable law (including regulations).

**SEC. 5. VOLUNTARY GRAZING LEASE OR PERMIT DONATION PROGRAM.****(a) DONATION OF LEASE OR PERMIT.—**

(1) ACCEPTANCE BY SECRETARY CONCERNED.—The Secretary concerned shall accept a grazing lease or permit that is donated by a lessee or permittee for—

(A) the Big Grayback Grazing Allotment located in the Rogue River-Siskiyou National Forest; and

(B) the Billy Mountain Grazing Allotment located on a parcel of land that is managed by the Secretary (acting through the Director of the Bureau of Land Management).

(2) TERMINATION.—With respect to each grazing permit or lease donated under paragraph (1), the Secretary shall—

(A) terminate the grazing permit or lease; and

(B) ensure a permanent end to grazing on the land covered by the grazing permit or lease.

(b) EFFECT OF DONATION.—A lessee or permittee that donates a grazing lease or grazing permit (or a portion of a grazing lease or grazing permit) under this section shall be considered to have waived any claim to any range improvement on the associated grazing allotment or portion of the associated grazing allotment, as applicable.

**SEC. 6. WILD AND SCENIC RIVER DESIGNATIONS.**

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

“(208) RIVER STYX, OREGON.—The subterranean segment of Cave Creek, known as the River Styx, to be administered by the Secretary of the Interior as a scenic river.”.

**(b) POTENTIAL ADDITIONS.—**

(1) IN GENERAL.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

“(141) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—

“(A) CAVE CREEK, OREGON.—The 2.6-mile segment of Cave Creek from the headwaters at the River Styx to the boundary of the Rogue River Siskiyou National Forest.

“(B) LAKE CREEK, OREGON.—The 3.6-mile segment of Lake Creek from the headwaters at Bigelow Lakes to the confluence with Cave Creek.

“(C) NO NAME CREEK, OREGON.—The 0.6-mile segment of No Name Creek from the headwaters to the confluence with Cave Creek.

“(D) PANTHER CREEK.—The 0.8-mile segment of Panther Creek from the headwaters to the confluence with Lake Creek.

“(E) UPPER CAVE CREEK.—The segment of Upper Cave Creek from the headwaters to the confluence with River Styx.”.

(2) STUDY; REPORT.—Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following:

“(20) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary shall—

“(A) complete the study of the Oregon Caves National Monument and Preserve segments described in subsection (a)(141); and

“(B) submit to Congress a report containing the results of the study.”.

**PURPOSES**

The purposes of S. 1270 are to modify the boundary of the Oregon Caves National Monument to include approximately 4,070 acres of lands currently administered by the Forest Service, and to designate several river segments within the monument as additions to the National Wild and Scenic Rivers System in order to enhance the protection of the natural resources associated with the Monument.

**BACKGROUND AND NEED**

Located in southwestern Oregon, Oregon Caves National Monument was established by Presidential Proclamation (36 Stat. 2497) in 1909 to protect and interpret a unique marble cave formation. The national monument also preserves a remnant of old-growth

Douglas fir forest and Northwestern rustic architecture within a National Historic District.

The 480 acres that make up the Oregon Caves National Monument were included in a 1907 withdrawal of approximately 2,560 acres for the purposes of establishing a national monument. The land included in the 1907 withdrawal that lies outside of the Oregon Caves National Monument is administered by the Forest Service as part of the Rogue River-Siskiyou National Forest.

A 1998 general management plan prepared by the National Park Service recommended a boundary expansion to protect a watershed above the Oregon Caves and adjacent lands. Legislation is needed to add the land under the original withdrawal and an additional 1,030 acres of the Rogue River-Siskiyou National Forest to the Oregon Caves National Monument. S. 1270 will provide better protection for the cave ecology, establish a logical topographical boundary, and enhance public outdoor recreation opportunities.

#### LEGISLATIVE HISTORY

S. 1270 was introduced by Senators Wyden and Merkley on June 16, 2009. The Subcommittee on National Parks held a hearing on the bill on July 22, 2009. The Committee on Energy and Natural Resources considered the bill and adopted an amendment in the nature of a substitute at its business meeting on June 16, 2010. The Committee ordered S. 1270 favorably reported, as amended, at its business meeting on June 21, 2010.

#### COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on June 21, 2010, by a voice vote of a quorum present, recommends that the Senate pass S. 1270, if amended as described herein.

#### COMMITTEE AMENDMENT

During the consideration of S. 1270, the Committee adopted an amendment in the nature of a substitute. In addition to making several technical, clarifying, and conforming edits, the amendment deletes the Congressional finding and purposes section and a subsection relating to carrying out ecological forest restoration activities at the Monument. It changes the bill's designation of several waterways as "components of" to "potential additions to" the national wild and scenic rivers system.

The amendment adopted by the Committee adds subsections that modify the Oregon Cave National Monument's fire management plan to include the transferred land and allow outstanding Forest Service contracts to be completed on the transferred land. The Committee amendment is further explained in detail in the section-by-section analysis below.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title, the "Oregon Caves National Monument Boundary Adjustment Act of 2010."

*Section 2* defines key terms used in the bill.

*Section 3(a)* designates the 4,070 acres of land currently administered by the Rogue River-Siskiyou National Forest as a National Preserve to be collectively known as the Oregon Caves National Monument and Preserve.

Subsection (b) transfers administrative jurisdiction over the National Preserve from the Secretary of Agriculture to the Secretary of the Interior (Secretary), and adjusts the boundaries of the Rogue-River-Siskiyou National Forest to exclude the transferred land.

Subsection (c) adjusts the boundary of the Oregon Caves National Monument and Preserve to exclude approximately four acres of land located in the City of Cave Junction.

Subsection (d) requires that the National Park Service make the map of the Oregon Caves National Monument and Preserve available to the public.

Subsection (e) clarifies that any reference made in Federal records to the Oregon Caves National Monument shall be considered a reference to the Oregon Caves National Monument and Preserve.

*Section 4(a)* directs the Secretary to administer the Oregon Caves National Monument and Preserve in accordance with the bill, the presidential proclamation made in 1909, and any law generally applicable to units of the National Park System, including the National Park Service Organic Act.

Subsection (b) directs the Secretary to revise the fire management plan for the Oregon Cave National Monument to include the transferred land, and carry out hazardous fuel management activities on the transferred land in accordance with the fire management plan.

Subsection (c) directs the Secretary to allow Forest Service stewardship or service contracts related to the transferred land that are executed on or before the date of enactment of the bill to be completed, and to recognize the authority of the Secretary of Agriculture in such contracts.

Subsection (d) requires the Secretary to allow livestock grazing within the National Preserve to continue under permits or leases in existence at the date of enactment of the bill at a level no higher than the level at the date of enactment of the bill.

Subsection (e) directs the Secretary to allow hunting and fishing within the National Preserve in accordance with Federal and State laws, but allows the Secretary, in consultation with the Oregon Department of Fish and Wildlife, to designate zones and periods in which hunting and fishing is not allowed due to public safety, administration, or laws applicable to the Secretary.

*Section 5(a)* directs the Secretary or the Secretary of Agriculture to accept the donation of grazing leases or permits for the Big Grayback Grazing Allotment and the Billy Mountain Grazing Allotment. Upon donation of a lease or permit, the Secretary is required to terminate the lease or permit to ensure a permanent end to grazing on the donated land.

Subsection (b) clarifies that those who donate grazing leases or permits waive any claims to range improvements on the associated grazing allotments.

*Section 6(a)* amends section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) to designate the subterranean segment of Cave Creek, known as the River Styx, as a scenic river.

Subsection (b) amends section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) to designate several segments of waterways within the Oregon Caves National Monument and Preserve, including a 2.6-mile segment of Cave Creek, a 3.6-mile segment of Lake Creek, a 0.6-mile segment of No Name Creek, a 0.8-mile segment of Panther Creek, and a segment of Upper Cave Creek, as potential additions to the National Wild and Scenic Rivers System. Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended to direct the Secretary to complete a study of the potential additions and submit a report to Congress with the results no later than three years after the date on which necessary funds are made available.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

##### *S. 1270—Oregon Caves National Monument Boundary Adjustment Act of 2010*

Summary: S. 1270 would authorize the transfer of 4,070 acres of land from the Forest Service to the National Park Service (NPS) to expand the boundaries of the Oregon Caves National Monument. The bill also would require the Secretary of the Interior to accept the donation of certain grazing permits and to prohibit future grazing on land covered by those permits. Finally, the bill would designate the River Styx as a scenic river and require the Secretary to conduct additional studies regarding the designation of other waterways in Oregon as scenic rivers.

Assuming availability of appropriated funds, CBO estimates that implementing the legislation would cost about \$1 million over the 2011–2015 period. Enacting S. 1270 could reduce offsetting receipts (a credit against direct spending) from grazing fees; therefore, pay-as-you-go procedures would apply. However, CBO estimates that any reduction in those receipts would be negligible for each year. Enacting the legislation would not affect revenues.

S. 1270 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: CBO estimates that implementing S. 1270 would cost \$1 million over the 2011–2015 period, assuming the availability of appropriated funds. The costs of this legislation fall within budget function 300 (natural resources and environment). Enacting the legislation also could result in a small loss of offsetting receipts from grazing fees.

Basis of estimate: S. 1270 would authorize the transfer of 4,070 acres of land from the Forest Service to the NPS to expand the boundaries of the Oregon Caves National Monument. Because lands that would be exchanged under the bill are already administered by a federal agency, CBO expects that federal costs to manage the affected lands would not change significantly. The bill also would require the Secretary of the Interior to designate the River Styx as a scenic river and to study the impact of designating cer-

tain other waterways in Oregon as scenic rivers. Based on information from the NPS, CBO estimates that carrying out those activities would cost about \$1 million over the 2011–2015 period.

The legislation would require the Secretary of the Interior to accept donations of certain grazing permits from current permit holders. Under the bill, donated permits would be terminated and future grazing on land covered by those permits would be prohibited. Based on information from the affected agencies, CBO expects that those permits would be donated if the bill is enacted. CBO estimates that offsetting receipts collected from grazing fees would be reduced under the bill by less than \$7,000 over the 2010–2020 period.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. S. 1270 could reduce offsetting receipts (from grazing fees) by prohibiting future grazing on certain land covered by existing permits. However, CBO estimates that any reduction in offsetting receipts would be negligible. The net budgetary changes that are subject to pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1270, THE OREGON CAVES NATIONAL MONUMENT BOUNDARY ADJUSTMENT ACT OF 2010, AS ORDERED REPORTED  
 BY THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES ON JUNE 21, 2010

	By fiscal year, in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010-2015	2010-2020
Statutory Pay-As-You-Go Impact .....	0	0	0	0	0	0	0	0	0	0	0	0	0
	NET INCREASE OR DECREASE ( - ) IN THE DEFICIT												
	0	0	0	0	0	0	0	0	0	0	0	0	0



Intergovernmental and private-sector impact: S. 1270 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On May 17, 2010, CBO transmitted a cost estimate for H.R. 2889, the Oregon Caves National Monument Boundary Adjustment Act of 2010, as ordered reported by the House Committee on Natural Resources on May 5, 2010. The House and Senate versions of the legislation are similar, and the CBO cost estimates are the same.

Estimate prepared by: Federal Costs: Jeff LaFave; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Peter H. Fontaine Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1270.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1270, as ordered reported.

#### CONGRESSIONALLY DIRECTED SPENDING

S. 1270, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service and the Forest Service at the July 22, 2009 Subcommittee hearing on S. 1270 follows:

##### STATEMENT OF DANIEL N. WENK, ACTING DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the committee, thank you for the opportunity to present the views of the Department of the Interior on S. 1270, a bill to modify the boundary of Oregon Caves National Monument, and for other purposes.

The Department supports the intent of S. 1270 as consistent with the General Management Plan (GMP) for the park, but recommends deferring action on the bill to give us the opportunity to continue exploring ways to maintain interagency coordination. DOI and USDA look forward to reporting on these discussions within 6 months.

S. 1270 would adjust the boundary of Oregon Caves National Monument to include the addition of approximately 4,070 acres to enhance the protection of resources associated with the monument and to increase quality recreation opportunities. The lands that would be added are currently managed by the U.S. Forest Service as part of the Rogue-Siskiyou National Forest.

S. 1270 would designate approximately 7.6 miles of these waterways as wild, scenic, or recreational under the Wild and Scenic Rivers Act, including the first subterranean designated waterway in the country, the River Styx, which flows through the caves as a “recreational” river.

S. 1270 provides authority for the Secretary to protect the water quality—in the caves and for public consumption—and to administer the lands in accordance with current laws and regulations. The Secretary is also directed to carry out ecological forest restoration activities that would establish a fire regime, manage revegetation projects, and reduce the risk of losing key ecosystem components. The land that this bill would transfer is categorized by the U.S. Forest Service as condition class 3—high risk of fire. Most of it is also designated as Late Successional Reserve under the Northwest Forest Plan. We understand that the Forest Service is currently working on a multi-year effort to reduce fuels under a comprehensive forest plan which is intended to help restore the appropriate role of fire in the entire ecosystem, which in turn would benefit monument resources that are at risk from fire and fire suppression damage.

The bill also requires the Secretary to accept any grazing lease or permit that is donated by a lessee or permittee and further requires that no new leases or permits be granted.

In 1907, the Secretary of the Interior withdrew approximately 2,560 acres for the purposes of establishing a national monument. The 1909 presidential proclamation establishing Oregon Caves National Monument included only 480 acres. The monument was managed by the U.S. Forest Service until its administration was transferred to the National Park Service in 1933. The remaining withdrawal outside of the monument is administered by the USFS as part of the Rogue-Siskiyou National Forest. S. 1270 restores these lands to the original monument boundary.

The explorer Joaquin Miller extolled “The Wondrous marble halls of Oregon!” when speaking about the newly proclaimed Oregon Caves National Monument in 1909. Oregon Caves is one of the few marble caves in the country that is accessible to the public. This park, tucked up in the winding roads of southern Oregon, is known for its remoteness, the cave majesty and unusual biota.

The stream flowing from the cave entrance is a tributary to a watershed that empties into the Pacific Ocean. There are no human-made obstructions that would prevent salm-

on migration, which makes this the only cave in the National Park Service with an unobstructed link to the ocean.

The caves are nationally significant and a favorite visit for school kids and travelers alike. They remain alive and healthy because of the watershed above them. The park recognized this when developing the 1998 GMP and accompanying Environmental Impact Statement. The plan recommended the inclusion of the watershed into the park to provide for better cave protection and to protect the surface and subsurface hydrology and the public water supply.

If S. 1270 were enacted, there would be no acquisition costs associated with the boundary expansion and we estimate National Park Service's management, administrative, interpretive, resource protection, and maintenance costs to be approximately \$300,000 to \$750,000 annually.

The Department has four major issues with the bill at this time:

1. Section 6 of the bill designates the River Styx as a recreational river. The recreational status does not afford any additional protection to the water or cave resources and may encumber the current management of the cave resources.

2. Section 7 of the bill requires the Secretary to ensure that forest attributes remain intact and functioning within a "historical range". However, because of environmental uncertainties, it may be more prudent to use "normal range of ecosystem variability" rather than "historical range".

3. Section 8 of the bill requires that if a grazing permittee or lessee chooses to voluntarily donate a grazing permit or lease within either the Big Grayback Grazing Allotment (managed by the U.S. Forest Service) or the Billy Mountain Grazing Allotment (managed by the BLM) the Secretary shall accept the donation, terminate those permits or leases and that those allotments shall be permanently retired. It is our understanding that the same individual runs livestock on both the Big Grayback and Billy Mountain Allotments. We note that the Billy Mountain Grazing Allotment is approximately 15 miles from the boundary of the proposed monument expansion. We would like the opportunity to work with the Committee and sponsor to further explore these grazing provisions.

4. Section 9 of the bill discusses hunting, fishing and trapping. We support the Administrative Exceptions under subsection (b) since it provides flexibility in managing the resources within the preserve. With respect to Section 9, we would like to terminate hunting within the preserve after five years with the acreage being converted to national monument status. We base this request on the information collected during the public participation process for the General Management Plan. Of the 892 comments received on the plan, only 8, less than one percent, expressed concern about the loss of hunting should the added acres be designated as part of the national monument.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you may have.

STATEMENT OF JOEL HOLTROP, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

S. 1270, The Oregon Caves National Monument Boundary Adjustment Act of 2009 and S. 635, To Amend the Wild and Scenic Rivers Act To Designate a Segment of Illabot Creek in Skagit County, Washington, as a Component of the National Wild and Scenic Rivers System

Thank you for inviting me to testify on S. 1270, the Oregon Caves National Monument Boundary Adjustment Act of 2009, and S. 635, to Amend the Wild and Scenic Rivers Act to Designate A Segment of Illabot Creek in Skagit County, Washington, as a component of the National Wild and Scenic Rivers System.

S. 1270

S. 1270 would modify the boundary of the Oregon Caves National Monument to include approximately 4,070 acres of land currently managed by the Rogue River-Siskiyou National Forest. The resulting Monument would be designated as the Oregon Caves National Monument and Preserve. The bill would also designate six segments of rivers as part of the National Wild and Scenic Rivers System, and it would provide for possible termination of grazing use on a Forest Service-managed grazing allotment, a portion of which is located within the proposed boundary of the Preserve. USDA believes that interagency coordination and cooperation, with joint public involvement, is the most effective way of managing the Oregon Caves National Monument and surrounding Forest Service land. USDA and DOI look forward to reporting on the progress of our interagency coordination efforts within 6 months.

I would like to take this opportunity to discuss the current status of cooperative management of the Rogue River-Siskiyou National Forest and the Oregon Caves National Monument and provide a few comments to the bill.

We believe interagency cooperation would carry out the purpose of the bill to enhance the protection of the resources associated with the Monument and increase public recreation opportunities through a joint public involvement and review process, to ensure that public concerns and desires are addressed.

#### BOUNDARY ADJUSTMENT AND MANAGEMENT

Section 4 of the bill would direct the Secretary of Agriculture to transfer management of the National Forest System Lands to the Secretary of the Interior, and to adjust the boundary of the Rogue River-Siskiyou National Forest accordingly. The 1998 Oregon Caves National Monument General Management Plan by the Department

of the Interior (DOI), developed through the public National Environmental Policy Act (NEPA) process, recommended a similar boundary expansion. However, no coordinated study or formal dialogue between the Departments (beyond that provided under NEPA during development of the 1998 plan) has taken place on the issue of expansion.

The U.S. Forest Service is committed to cooperative management across our respective jurisdictions.

The land managers of the Rogue River-Siskiyou National Forest have three priorities:

*Maintaining and protecting cave resources, hydrologic resources, watersheds, and view sheds.* Critical landscapes, including cave resources and watersheds, are managed by interagency collaboration. These resources, and the need to manage them in a cooperative manner, extend well beyond the proposed Monument boundary.

*Improving forest health by addressing hazardous fuels.* Most of the proposed expansion area is designated in the Land and Resource Management Plan as “Late-Successional Reserve” (LSR) as defined under the Northwest Forest Plan. These areas are intended to serve as habitat for late-successional and old-growth related species. A majority of the LSR landscape within this watershed, and the larger surrounding landscape managed by the Forest Service, is in fire condition class 3—high risk of damaging wild-fire. Currently the Rogue River-Siskiyou National Forest is removing hazardous fuels using timber contracts to reduce fuels, both around the immediate vicinity of the Monument and across watersheds. The Forest plans to treat approximately 1550 acres to reduce hazardous fuels within the proposed expansion area. ARRA funds are helping increase the implementation rate of treatment in this area. Of the 1,550 acres, approximately 100 acres of hazardous fuels will be removed by timber contract with volume estimated at 560 thousand board feet and an appraised value of approximately \$168,000. The remaining acreage will be treated using other methods. These treatments are designed to restore the fire to this ecosystem and will help ensure that the forest attributes intended for the LSR, including bigger, older, more fire resistant trees, remain intact. To that end, we fully endorse the *intent* of section 7 of the proposed legislation to have forest restoration activities continue on the proposed expansion area. The hazardous fuel challenge in this region and the danger of catastrophic fire cross all jurisdictions and is one we all must work together to address.

*Managing for multiple uses while minimizing any potential impacts from harvest, grazing, mining, and road construction.* On National Forest lands surrounding the Monument, timber harvesting, grazing and special forest product harvesting (i.e. bear grass, firewood, mushrooms, etc.) are allowed only if they meet resource objectives, as described above. Road management is limited to maintenance and reconstruction activities; no new roads are

planned. Moreover, interagency collaboration provides additional oversight of these multiple-use activities.

#### RELINQUISHMENT AND RETIREMENT OF GRAZING PERMITS

Section 8 of the legislation would require the Secretary of the Interior to permit livestock grazing at a level not greater than the level at which grazing exists on the date of enactment. The legislation also would direct the Secretary of Agriculture to accept any donation of a grazing permit by the permit holder for grazing on the Forest Service managed Big Grayback grazing allotment and if such a donation is received, ensure an end to grazing on the entire allotment. Under this legislation, only a small portion of the Big Grayback allotment would become part of the proposed Preserve, but the legislation would end grazing on a large area of land outside the Preserve. We look forward to working with the Committee to address grazing management issues.

#### RECREATIONAL OPPORTUNITIES

Current recreation on the portion of the National Forest proposed to be transferred includes horseback riding, hunting and fishing, gathering, camping, backpacking, and hiking. We support the requirement in section 9 that fishing, hunting and trapping be permitted in the proposed National Preserve with some limitations.

#### WILD AND SCENIC RIVERS

Section 6 of the proposed legislation provides for the addition of six river segments to the National Wild and Scenic Rivers System (NWSRS). The Siskiyou National Forest analyzed all tributaries to the Illinois River on National Forest System lands for eligibility for inclusion in the National Wild and Scenic Rivers System as part of a 1989 settlement agreement to an appeal of the Land and Resource Management Plan. None of the four rivers included partly or entirely in the current Monument expansion proposal were found to meet the criteria for eligibility at that time. The segments within the proposed expansion area should be re-evaluated for their eligibility to be included in or added to the National Wild and Scenic Rivers System.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1270, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

**WILD AND SCENIC RIVERS ACT**

(Public Law 90-542; Approved October 2, 1968)

[16 U.S.C 1271 et seq.]

AN ACT To provide a National Wild and Scenic Rivers System, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) this Act may be cited as the "Wild and Scenic Rivers Act".

\* \* \* \* \*

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

\* \* \* \* \*

(208) RIVER STYX, OREGON.—*The subterranean segment of Cave Creek, known as the River Styx, to be administered by the Secretary of the Interior as a scenic river.*

\* \* \* \* \*

SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

\* \* \* \* \*

(141) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—

(A) CAVE CREEK, OREGON.—*The 2.6-mile segment of Cave Creek from the headwaters at the River Styx to the boundary of the Rogue River Siskiyou National Forest.*

(B) LAKE CREEK, OREGON.—*The 3.6-mile segment of Lake Creek from the headwaters at Bigelow Lakes to the confluence with Cave Creek.*

(C) NO NAME CREEK, OREGON.—*The 0.6-mile segment of No Name Creek from the headwaters to the confluence with Cave Creek.*

(D) PANTHER CREEK.—*The 0.8-mile segment of Panther Creek from the headwaters to the confluence with Lake Creek.*

(E) UPPER CAVE CREEK.—*The segment of Upper Cave creek from the headwaters to the confluence with River Styx.*

\* \* \* \* \*

(b)(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: Provided, That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until (i) the State legislature has acted with respect to such river or (ii) one year from the date of enactment of this Act, whichever is earlier. Studies of the river named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.

\* \* \* \* \*

(20) OREGON CAVES NATIONAL MONUMENT AND PRESERVE, OREGON.—Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary shall—

(A) complete the study of the Oregon Caves National Monument and Preserve segments described in subsection (a)(141); and

(B) submit to Congress a report containing the results of the study.

\* \* \* \* \*

