

**STATEMENT OF MR. JAY WARD, CONSERVATION DIRECTOR OF THE OREGON
NATURAL RESOURCES COUNCIL BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
ON SENATE BILL 868, THE COOS, LOWER UMPQUA, AND SIUSLAW RESTORATION
AMENDMENTS ACT OF 2003.**

Oregon Natural Resources Council's 6000 members are dedicated to preserving Oregon's wildlife, wildlands and waters as an enduring legacy. With my presence here today, Oregon Natural Resources Council is also representing the Oregon Coalition for Public Lands, a multi-party citizens alliance that has come together to maintain public access and title to federal lands including but not limited to Bureau of Land Management Lands, National Forest and National Park lands. The Oregon Coalition for Public Lands is also interested in developing alternative solutions to the numerous injustices suffered by the people of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw.

March 30, 2004

Mr. Chairman, members of the committee, esteemed members of the Grand Ronde, Coos, Lower Umpqua and Siuslaw tribes. I wish to thank you for the opportunity to address you today on Senate Bill 868, the Coos, Lower Umpqua, and Siuslaw Restoration Amendments Act of 2003. We are grateful for the opportunity to present our concerns with the bill and to answer any questions you may have.

While my gratitude to you Mr. Chairman is genuine, I will admit to having ambiguous feelings about testifying in opposition to S. 868. As you yourself pointed out on the floor of the Senate last year, our government's treatment of the people of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw is nothing any of us should be proud of. There can be no argument that due to the short-sighted and sometimes racist attitudes of many of Oregon's early immigrants, the Coos, Lower Umpqua and Siuslaw peoples were forced from their ancestral lands, confined in abysmal conditions and subjected to numerous wrongs in the ensuing 150 years. We agree with you Senator Smith that these wrongs are deserving of redress. However, we must disagree with the proposed solution and oppose S. 868.

Background

The forests of the Oregon Coast Range are largely under private industrial forest ownership. Because these private lands are so aggressively managed, the survival of several threatened and endangered species including coho salmon, spotted owls and marbled murrelets depends on strong conservation of the Siuslaw National Forest lands.

The forests the Confederated Tribes seek to acquire constitute most of the federal lands in the Coast Range between the Umpqua River and Siuslaw Rivers. This is some of the most productive forestland in the western United States and represents vital habitat for Pacific salmon, spotted owls, marbled murrelets and hundreds of other species associated with mature and old-growth forests. Ten roadless areas suitable for wilderness designation are located within these public forests. Approximately 25,000 acres of old growth grace the

landscape. Waterfalls abound. Pure water supports winter steelhead, chum, fall chinook and coho here.

As a National Forest, the Siuslaw is also recovering from over 50 years of well-meaning but misguided forestry practices. Plagued by hundreds of miles of substandard roads, and thousands of acres of single-aged, single species tree plantations, the Siuslaw is in need of proven recovery methodologies. These could include road removal, stream restoration to benefit threatened and endangered salmon and steelhead, careful application of variable-density thinning in previously logged plantations to recreate multi-storied forests and careful management of invasive species to restore the biodiversity of a coastal temperate rainforest. Many of these activities are promised by the Tribes, but unfortunately citizens' ability to influence these activities will be greatly diminished.

Fortunately many of these actions are already taking place. Since the application of the landmark 1994 Northwest Forest Plan, the employees and partners of the Siuslaw National Forest have been working toward just that vision. Under the able leadership of Forest Supervisors Jim Furnish and Gloria Brown, the Siuslaw has become a national leader in meeting a multitude of management goals. In fact, last June, Chief Bosworth honored the Siuslaw National Forest with the "triple crown" of forest management awards. These awards, the "Breaking Gridlock", "Natural Resource Stewardship" and "Rise to the Future" awards highlight the excellent work that current staff are doing to recreate a healthier Siuslaw National Forest for the next millennia. In fact, ONRC staff has been working with Siuslaw National Forest personnel to plan and implement restorative projects. We've been able to establish and maintain this productive relationship because both we and the Forest Service know that crucial federal environmental laws such as the National Forest Management Act and Federal Land Policy and Management Act are backstops to any deviation from the restorative vision currently being articulated by the Siuslaw National Forest personnel.

Removing Public Land from Public Ownership

America's Siuslaw National Forest belongs to all Americans. Whether by Native Americans, native-born Americans or naturalized citizens, these public lands are appreciated for their scenic beauty, recreational opportunities and their invaluable ecological role in conserving wildlife. Currently all Americans have the right to visit, traverse, hunt and fish in and enjoy their National Forests except under very specific circumstances related to fire, safety, or other life threatening conditions .

Once lands pass out of the National Forest system, there will be no unalterable rights of access to these forests. A change in tribal leadership could suspend or abrogate access to particular forests and citizens would be compelled to enter into mediation and then may or may not have legal standing to challenge that suspension. Indeed, it is because of this potential loss of access and possible changes to existing game management policies that the Oregon Hunters Association joined the coalition.

Senate Bill 868 would transfer huge acreage of the Siuslaw National Forest lands to the Confederated Tribes. Over 62,000 acres of timber, worth billions of dollars, would be transferred to and held in trust by the Bureau of Indian Affairs (BIA) for the use and benefit of approximately 700 tribal members. The only previous transfer in Oregon's recent history

was the transfer of 5,400 acres of federal forests to the 695 members of the Coquille Tribe in 1996. Should S. 868 become law, what will be the response of the Coquille, Cow Creek and Siletz tribes, who have considerably less acreage? It is our opinion that this transfer would open a Pandora's Box of claims and counter claims which this committee could take decades to settle. In fact, it is arguable that the Confederated Tribes of the Siletz, whose homelands stretched from Tillamook to Northern California have conflicting ancestral claims to these lands.

Loss of Federal Environmental Laws and Policies

Giving public lands to Native American Tribes is consistent with the wishes of some officials and industry groups to divest public resources and dismantle landmark environmental laws and policies. As citizen-owners of the National Forests, all Americans can now participate in the management of their forests, comment on National Forest operations and utilize all branches of government to ensure that the National Forests are managed in accordance with longstanding environmental safeguards. These rights would be undermined by this transfer of lands.

While the Forest Service is an agency with an imperfect history, it is charged by Congress to manage public lands with conservation values as part of its mandate. The Bureau of Indian Affairs has no such mandate. It is the responsibility of the Forest Service to "sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations." Under the National Indian Forest Resources Management Act, is the responsibility of the BIA to "develop forest land and lease assets on this land" for the economic benefit of American Indians and Alaska Natives.

Application of landmark environmental laws like the National Forest Management Act and Federal Land Policy and Management Act will be limited or lost if these public forests are no longer managed by the Forest Service and Bureau of Land Management on behalf of all Americans.

Conservationists' recent experience with other tribal forest land acquisitions shows that the public can lose a lot in these transfers. For example, in 1997 Congress granted the 817 members of Oregon's Coquille Tribe the "Coquille Forest". It consisted of public land that had previously been managed by Coos-Bay BLM. The "Coquille Forest Act" (P.L. 104-208) established the "Coquille Forest" and provided that it would be managed under applicable State and Federal forestry and environmental protection laws, and subject to the Northwest Forest Plan. In November of 1998, the Coquille Tribe released the Resource Management Plan (RMP) for the Coquille Forest. The Coquille Forest RMP states the forest will be harvested sustainably, and with sophisticated methodology and estimated a sustainable harvest would be 2 million board feet (mmbf) annually. But the first timber sale proposed in the Coquille Forest, called the Chu-aw Clau-she Timber Sale proposed to award 16.6 mmbf over a two year period. While this timber sale was enjoined over its likely harm to threatened coho salmon, the Coquille tribe continued clearcutting old growth trees in violation of the Endangered Species Act and a standing court order. Only after the sale had been partially logged and the court issued a temporary restraining order did the BIA and the Coquille tribes halt the illegal logging. As of last week, the Coquille tribe has again submitted court documents to renew the logging in the Chu-aw Clau-she Timber Sale.

(see attachment: Illegal logging in Coquille Tribal Forest)

While the Coos, Lower Umpqua and Siuslaw Tribes assert that they intend to maintain existing environmental laws and policies, at my last reading, legislative text does not appear to guarantee this assertion. Indeed, the timber industry and certain local leaders appear to support this proposal only because loopholes could remove land from management under the Northwest Forest Plan and facilitate the cutting of old growth trees, while prohibiting Tribes from building their own mill or exporting logs.

In S. 868, the Tribes have not even established through legislative language that they would manage the forest in accordance with standards and guidelines of the Northwest Forest Plan. Given that these protections are being systematically removed by the administration and may not be in place at the time of transfer, it is likely that management practices will be controversial. Since the BIA holds these lands in trust for sovereign governments, citizen attempts to modify management decisions will be much more difficult than attempts to modify decisions about public lands. This is one reason that public lands should remain in public hands and should be managed under existing environmental laws.

Destabilizing Current Forest Management Plans on Public, Private and State Lands

This legislation will undercut the 1994 Northwest Forest Plan (NWFP). The Siuslaw National Forest is one of the National Forests covered by this plan. The NWFP is the federal government's attempt to provide a framework of sustainable forest management. Because of the clearcut state of surrounding private forests, most of the Siuslaw National Forest is sheltered in a system of Late Successional Reserves, Riparian Reserves and in Tier 1 Key Watersheds. Removal of these lands from the protections of the NWFP will jeopardize the reserve system as well as the viability of terrestrial and aquatic species.

While much of this National Forest is currently managed to protect endangered species like coho salmon, spotted owl, and marbled murrelet, adjacent state and private lands are granted exemptions from many constraints imposed by the NWFP. The transfer of over 62,000 acres to the Coos, Lower Umpqua and Siuslaw Tribes and the removal of these lands from the NWFP framework will seriously undermine the NWFP and several related efforts, including Habitat Conservation Plans for the Elliot State Forest and Weyerhaeuser's Millicoma Tree Farm, the Oregon Plan for Salmon and Watersheds, and future recovery plans for listed species. Habitat Conservation Plans (HCPs) that currently provide certainty and accountability to state and private land managers may be thrown out and millions of dollars of taxpayers' monies will have been wasted.

Mismanagement by the Bureau of Indian Affairs

The proposal would transfer Siuslaw National Forest lands from the Forest Service to the Bureau of Indian Affairs. As I'm certain you are aware Senator Smith, the BIA is an agency currently embroiled in a massive mismanagement scandal resulting from its failure to track the royalty receipts for trustees. The agency's malfeasance is so egregious that the Department of Interior websites are currently under court order and the Secretary of Interior was declared in contempt of court for her agency's lack of fiscal responsibility. As the BIA has been such a poor steward of both native peoples' money and land, giving this agency responsibility for over 62,000 acres of National Forest land is an untenable gamble with precious resources.

Worsening Economic Dependency

One of the first rules of business is to avoid investing in a declining market. While the Coos, Lower Umpqua and Siuslaw people state an interest in managing the forest for ecological restoration, they also seek to become economically self-sufficient through these activities. It is unlikely that they can achieve both goals given current market conditions. Timber prices in the Northwest are at historical lows and competition from foreign suppliers is at an all time high.

Other Solutions Available

Through decades of overcutting, our forest "accounts" are already tragically overdrawn. We support economic self-sufficiency for native peoples but we strongly oppose using publicly owned forests as a blank check in an attempt to right past wrongs.

In conclusion Senator Smith, the American people deserve an open, public discussion of alternate means to right these historical wrongs. Creating a tribal homeland for the 700 members of the Confederated Tribes may be a part of a just and equitable solution. We would suggest that Congress appoint a commission to determine the extent to which the Coos Lower Umpqua and Siuslaw people have been wronged, quantify that harm and provide those funds to the Tribes to purchase private forest lands, large tracts of which were also of their ancestral lands. (See attachment: Siuslaw ownships map)

It may be that the land base needed to maintain cultural identity and the best economic future for the Confederated Tribes are separate issues. Indeed, the future prosperity of most Oregonians is based in a move away from extractive uses of our lands and toward technological creativity and service and recreational economies. Federal appropriations could support tribal investment in stable and profitable business enterprises.

We support the efforts of the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw to become economically self-sufficient. At the same time, we strongly oppose legislation which would turn over Siuslaw National Forest lands to the Bureau of Indian affairs and limit or remove landmark environmental laws that currently benefit all Americans. As citizens interested in the condition of public lands, we urge you to abandon this legislation and ask that you work to identify and fund good alternatives that maintain the national forest lands in public hands.

Given the egregious treatment of the tribes by both government and non-governmental bodies, we are eager to work together to arrive at an equitable solution.

Thank you for the opportunity to present our views. I would be pleased to answer any questions you may have.

Sincerely,

Jay Ward

On behalf of Oregon Natural Resources Council and the Oregon Coalition for Public Lands.

Oregon Coalition for Public Lands

Purpose Statement

The Oregon Coalition for Public Lands is a diverse group of conservation, recreational, and other organizations which are dedicated to the protection and preservation of Oregon's public forests, wilderness, refuges, parks, deserts, and grasslands, as well as the rights of all citizens to sustainably use and enjoy these lands and have a significant voice in their proper management.

The Oregon Coalition for Public Lands will work to ensure that all the state's public lands shall be retained for responsible recreational uses such as hunting, hiking, fishing, birding, backpacking, boating, horseback-riding, sight-seeing, nature-appreciation, skiing, photography, and camping, and also for the long-term benefit and enjoyment of present and future generations.

Oregon's public lands should be managed to maintain recreational resources, abundant fish and wildlife populations, functioning ecosystems, biological diversity, and watershed integrity.

The Oregon Coalition of Public Lands will work with other institutions and individuals committed to promoting alternatives that will obviate any perceived need to forfeit, sell, or diminish Oregon's public lands legacy for any reason.

Members of the Oregon Coalition of Public Lands

Coast Range Association
Oregon Natural Resources Council
Oregon Hunters Association
Oregon State Public Interest Research Group
McKenzie Guardians
Salem Audubon Society
Soda Mountain Wilderness Council
Umpqua Watersheds