

Testimony of Congressman Les AuCoin  
Before the Subcommittee on Indian  
Affairs and Public Lands  
July 25, 1977

Mr. Chairman and members of the Committee, I appreciate this opportunity to appear before you on the issue of the Bull Run Reserve near Portland, Oregon.

Because time is short, I will not try to summarize the background of this issue. You will find it in your staff summaries and in much of the testimony to follow.

But I suggest that some facts do need to be fully understood. Among them are these:

- o Within the Reserve, there exists the Bull Run Watershed, a 68,000-acre area that supplies water to the City of Portland and surrounding metropolitan areas -- serving nearly one-third of Oregon's population.

- o The Reserve was specifically set aside by an Act of Congress in 1904, in which all other uses were to be subordinate to the maintenance of water quality.

- o The boundaries of the Reserve, itself, range well beyond the natural boundaries of the critical watershed. The non-watershed acreage totals some 74,000 acres.

- o In 1958, the Forest Service administratively allowed commercial logging operations within the watershed as well as the rest of the Reserve for what it claimed was the protection of the forest. While these operations may be somewhat conservative for a federal forest, the fact is that in 18 years the extent of the logging operations in the Bull Run -- including the watershed -- have grown far beyond forest protection levels and have become a major economic operation.

- o Finally, there occurred in 1976 a federal district court order that forced this issue to a head in the Congress. The order, based on the original 1904 Trespass Act, banned all recreational and commercial activity not only within the watershed -- but throughout the 142,000-acre reserve.

#### Need for Relief; Policy Options

Obviously, some action is needed from Congress now to overcome the extreme restrictions of the court order -- particularly in that portion of the reserve that is well outside the watershed and which is suitable to and used for commercial and recreational purposes.

You have two policy decisions to make.

The first is to do the obvious; to redefine the boundaries of the Reserve to conform with the natural boundaries of the critical watershed, allowing for an adequate buffer. With this, I do not believe there is any disagreement, except perhaps over a portion of land in the southwest corner of the area. The Duncan bill and the City bill exclude this land from the proposed new watershed boundaries; the bill supported by several environmental organizations puts this tract within those new boundaries. Frankly, I have no strong feelings on this particular matter.

The second decision you face is the difficult one. You are being asked to determine how the watershed itself should be managed. Today you will hear testimony that it should not be managed at all; that for all practical purposes, all activity should be banned. This is the approach taken in H.R. 8223, introduced at the request of several Oregon environmental organizations.

You will also be urged to create a joint management unit between the City of Portland and the U.S. Forest Service, in effect giving the municipality veto power of the Forest Service's management. This is the major direction taken in H.R. 7457, introduced at the request of the City of Portland.

Finally, you will be urged to open the watershed to full sustained yield, multiple-use management, subject to curtailment when the Secretary of Agriculture should make a finding that such activity adversely affects the quality or quantity of the water. This is the major thrust of H.R. 7074, introduced by Congressman Duncan, my colleague from Oregon whose district, along with mine, includes the City of Portland.

I agreed to co-sponsor all of the bills in an effort to get the major points of view on the table before this Committee.

Recommended Amendment

I have, however, reserved the right to propose amendments to any of the bills. Exercising that option, Mr. Chairman, I want to urge the adoption of a proposal of my own that differs from the others. I propose it as an amendment to the Duncan bill, H.R. 7074. I will give the specific language of this amendment to the Committee this week -- well before your mark-up session.

My recommendation addresses the two underlying thrusts which are in conflict between the Duncan bill and the City of Portland bill, and to a similar extent, the bill proposed by the environmental organizations.

That conflict boils down to deciding the primacy of two resources -- timber or water. What this Committee has to decide is which of these important resources must be predominant in the specific case of the Bull Run Watershed.

I believe the predominant resource to be protected and developed in the watershed must be water -- fresh, pure, mountain water. All other uses should be allowed to the maximum possible extent. But only to the extent that they do not degrade the water in a watershed which is so crucially important to so many water users. This, as stated before, is consistent with the intent of Congress in creating this special reserve.

To accomplish these things, I recommend amending Section 3(a) of H.R. 7074, the Duncan bill, to give more unmistakable meaning to the proposed language directing the curtailment of activities which "significantly affect adversely the quantity or quality of water..."

My proposal first says that it won't be the Secretary of Agriculture alone who makes that judgement. Instead, it introduces a second federal agency in a joint decision-making process involving the watershed. That agency would be the Environmental Protection Agency.

Under my proposal, three functions would be assigned to the EPA.

#### EPA Responsibilities

o First, EPA would be directed to carry out an independent water monitoring program in the watershed to maintain baseline water quality data and the present condition of the watershed with respect to turbidity, nutrients, temperature, streamflow and bacteriological invasion.

o Second, EPA would be required to establish standards to maintain water quality -- minimum standards that will obviate the need for filtration and do not pose a threat of gradual degradation of water quality through the cumulative effect of actions over time.

o Third, EPA would be directed to annually examine the Forest Service plan for this special watershed unit. EPA's responsibility would be to critique the plan with respect to the effects of the plan on water quality. If the agency determined that an activity poses a negative impact on water quality, that activity would not be allowed unless it were modified in such a way as to remove the risk.

#### Precedents for the Amendment

This "review, consult and approve" procedure has ample precedent.

In our Nation's estuaries, for instance, an application to dredge and fill goes to the U.S. Corps of Engineers -- a development agency -- to review and process. However, through a joint working relationship, the U.S. Fish and Wildlife Service also reviews the proposed activity and can disallow projects which that conservation agency finds detrimental from the vantage point of its assigned mission.

In a similar way, the Bonneville Power Administration in the Pacific Northwest, is a development agency which operates streamflow on the Columbia River in generating power for the region. However, the U.S. Fish and Wildlife Service has a voice here, too, because at certain critical times, too much impoundment of water for future power can result in streamflows so low that the survival of fishlife is threatened.

Coming back to Bull Run, when you remove the boundary readjustment question, it comes down to a case of another development agency -- the U.S. Forest Service -- managing an area where the principal purpose is not timber but rather optimum water quality. Dual management is clearly called for here because the Forest Service is not properly tooled for and does not have the experience or built-in expertise for this special task in an age when water quality management has grown increasingly sophisticated.

#### The Other Bills

The City of Portland, in its bill, addressed the issue by calling for the creation of a joint management unit between the City and the Forest Service.

I can clearly understand the City's position, because any degradation of water quality in the watershed could impose what some estimate to be a \$50 million burden on its taxpayers to construct a treatment facility.

But realistically, Congress cannot create the precedent of allowing a municipality to exercise veto power over the U.S. Forest Service.

The proposal I have outlined today, however, should allay the City's fears even though the procedure is different. The proposal would retain the consultation process with the City which the Duncan bill required of the Secretary of Agriculture. The difference is that the consulting would not just be done by the Secretary or the Forest Service, but also the EPA, in the area of monitoring systems, water quality, evaluation and, of course, in setting standards.

Even though H.R. 8223, the bill supported by many environmental organizations, also is based on the primacy of the water quality within the watershed, I think it falls short because it lacks flexibility.

It unnecessarily bans virtually all activity within the watershed, even when it is not necessary to do so. I have tried, instead, to create a mechanism in which the other legitimate resource within the watershed, timber, can be developed -- but only within the "carrying capacity" of the watershed. If that standard is met, what good reason is there for any further restriction?

An important consideration that went into my proposal is that there should be a process to evaluate negative water quality impacts before they occur, thus allowing preventive action. This would seem an obvious improvement over a system that stops harmful practice only after it has been shown to be harmful and the damage has been done.

Some may react to this proposal by saying it puts the EPA in the forest management business. This is untrue.

It's the Forest Service that is trained in forestry and it's the Forest Service that will develop plans for the watershed.

However, it is the EPA that is in the water quality business, not the Forest Service. The EPA, after all, administers the Federal Water Pollution Control Act, the Safe Drinking Water Act, and has specific research responsibilities in the enhancement of water quality -- not the Forest Service.

Looking at the situation from an agency standpoint, this dual management process will lift from the Forest Service a cloudy management directive -- that is to apply multiple-use

sustained-yield principles to an area of special interest where high-level water quality has been the primary management objective since the Bull Run Reserve was protected by the Trespass Act of 1904. The EPA will simply serve to insure that water quality expertise will be used to make sure all commercial timber activities avoid damaging the quality of this unique source of water.

Summary

In summary, Mr. Chairman, I believe that water quality can be maintained while some commercial and protective logging is carefully controlled in the watershed.

My record in Congress shows that I understand the magnitude of the problem in developing our timber resources. But the value of our water resources are only just beginning to be understood. In the decades ahead, as water resources become less and less abundant and pure, they will be seen as a resource that must not -- especially in some particular circumstances -- take a back seat to other resources.

This is one of those circumstances. I urge the Committee to pass the Duncan bill with the proposed amendment I have outlined for you this morning.

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