

Testimony of
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Before the
Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources
U.S. House of Representatives

Regarding

H. R. 554: Paleontological Resources Preservation Act and
H. R. 1285: Snoqualmie Pass Land Conveyance Act

April 17, 2007

Mr. Chairman and members of the Subcommittee, thank you for inviting me today to talk with you about two bills that pertain to the U.S. Forest Service, Department of Agriculture: H.R. 554: the “Paleontological Resources Preservation Act” and H.R. 1285: the “Snoqualmie Pass Land Conveyance Act”.

H.R. 554: Paleontological Resources Preservation Act

The Department of Agriculture (USDA) supports enactment of H.R. 554, the Paleontological Resources Preservation Act. This bill would provide the Forest Service with the tools needed to properly manage, protect, interpret, and care for fossils, the unique traces of past life. We would like to work with the committee in fashioning some minor changes to strengthen the bill.

Paleontological resources are a part of our natural heritage. Large or small, fossils fascinate people all over the world. They provide important scientific information about ancient life on Earth. They are also valued by collectors, some who enjoy casual collecting where legally permitted, while others desire rare specimens that can be high in commercial value.

These resources are also fragile and rare. Their loss has been documented in surveys such as one on the Oglala National Grassland in Nebraska, which found that one-third of all fossil sites inventoried between 1991 and 1996 had been vandalized. In 1996, a case involving fossil theft on National Forest System lands in California, which was prosecuted under civil authority by the Department of Justice and ultimately settled out of court, pointed out the need for more specific statutes and regulations related to theft of federal fossils.

The Forest Service currently manages paleontological resources under a patchwork of laws and policy that do not specifically address their unique characteristics not adequately provide for their management, protection, and availability for scientific research and discovery. In May of

2000, the Secretary of the Interior, in consultation with other federal agencies, including the Forest Service, completed a report at the request of Congress titled “Fossils on Federal and Indian Lands.” The report found that a coordinated approach to the appropriate protection and management of fossil resources would greatly enhance federal stewardship of these resources. The report contained seven principles and associated recommendations that were subsequently addressed by several bills introduced into the 107th, 108th, and 109th Congresses. The USDA has provided support, and has worked with committees to strengthen some provisions. In the 110th Congress, H.R. 554 and its companion legislation, S. 320, would provide the legal framework to manage and protect these important resources on National Forest System and other Federal lands. The bills, if enacted, would also encourage scientific discovery, public education, and allow, to the extent authorized, for the collection of common invertebrate and plant fossils for non-commercial personal use.

Section 3 of H.R. 554 would direct the Secretary of the Interior and the Secretary of Agriculture to manage and protect paleontological resources on certain Federal lands, as defined in the bill, using scientific principles and expertise. The bill recognizes the non-renewable nature of fossils and would define a paleontological resource as any fossilized remains, traces, or imprints of organisms, preserved in or on the Earth’s crust, that are of paleontological interest and that provide information about the history of life on earth. The definition of paleontological resources does not include materials associated with archeological resources under the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb(1)), or any cultural item under the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

Section 5 of the bill would establish permitting requirements, with uniform criteria for collecting fossils on certain Federal lands, including National Forest System lands. Section 5(a)(2) would also allow the Secretaries to authorize on certain Federal lands the casual collection of a reasonable amount of insignificant common invertebrate and plant fossils for non-commercial personal use without a permit.

Sections 7 and 8 of the bill would provide uniform criminal and civil penalties to be used for theft and damage of paleontological resources from Federal lands, as defined in the bill. This would be an important provision for the Forest Service and other agencies because it would provide the same specific statutory authority under which to issue a citation for theft or damage of paleontological resources.

Section 9(a) of the bill also would authorize the Secretaries to provide payment from proceeds arising from civil and criminal penalties established under the bill to those who furnish information that leads to the finding of a civil violation or to a criminal conviction for which the penalties are assessed. This reward provision could help further the protection of the resource.

Section 10 of the bill would require information concerning the nature and specific location of a paleontological resource that requires a permit for its collection to be exempt from disclosure under the Freedom of Information Act and any other law unless certain criteria were met. The confidentiality provision would be an important tool to manage information regarding resources that could be vulnerable to theft.

We have identified a few areas in the bill that could be strengthened with minor changes. In addition to the ones suggested by the Department of the Interior, these include clarifying the definition of “casual collecting” in section 2, providing for the use of appropriated funds for rewards in section 9, and clarifying the confidentiality provision in section 10. We would like to work with the Committee and the Departments of the Interior and Justice to provide additional comments about the bill’s law enforcement provisions. If the bill is enacted, the Forest Service would work with Department of the Interior agencies to develop implementing regulations, including the opportunity for public comment.

Important as the enforcement provisions are, the USDA is mindful of the tremendous interest the public has in learning about fossils and participating in their stewardship. H.R. 554 calls for developing plans to inventory, monitor, and study fossil resources, involving non-Federal partners, the scientific community, and the general public.

This kind of work is exemplified by investigations being carried out in the Picket Wire Canyonlands managed by the U.S. Forest Service on the Comanche National Grassland in southeastern Colorado. In 1990, Congress passed Public Law 101-510, transferring 16,700 acres of rugged canyon lands from the Department of Defense to the Department of Agriculture, with legislative language calling for inventory, protection, and conservation of fossil resources within the canyon. In partnership with the scientific community and volunteers, one-third of the canyon has been explored, and an abundance of significant fossil resources has been located.

The “Last Chance” Dinosaur Quarry, discovered in the canyon by a volunteer enthusiast in 2004, is one of the most important dinosaur quarries in Colorado. It contains parts of skeletons from at least three dinosaurs, which will be curated at the Denver Museum of Nature and Science. Volunteers enrolled in the Forest Service “Passport in Time” program assist Forest Service paleontologists in the excavation and preservation of these amazing remains. Information from the excavations will inform both the public and the scientific community. The establishment of a comprehensive legal framework that encourages the integration of public and private resources, skills, and enthusiasm would facilitate undertaking more of these projects.

Mr. Chairman and members of the Committee, paleontological resources are remarkable evidence of the Earth’s history. The Paleontological Resources Preservation Act would provide the Forest Service and other Federal agencies with the framework needed for their stewardship and protection while providing opportunities for scientific research, education, and recreation. By passing this bill, Congress would make the important statement that the American people will benefit from uniform Federal law and policies governing the discovery, research, interpretation, and stewardship of fragile and rare paleontological resources.

H.R. 1285: Snoqualmie Pass Land Conveyance Act

This bill would require the Secretary of Agriculture to convey, without consideration, approximately three acres of land on the Wenatchee National Forest to the King and Kittitas Counties Fire District #51 for use as a site for a new Snoqualmie Pass fire and rescue station. The bill includes a clause for reversion of the property to the United States if it is determined, after a hearing, that the land is not being used for the purpose stated in the bill.

The Department does not support the bill in its present form. We do not object to conveying the lands included in H.R. 1285, but we oppose this bill because it does not require market value compensation. The taxpayers of the United States should receive market value for the sale, exchange, or use of their National Forest System lands.

We also believe that this legislation is unnecessary because the Forest Service can meet the bill's objectives through current statutes that allow the Forest Service to convey this parcel to the Fire District for land or cash value. For example, under the Townsite Act, the Secretary of Agriculture may convey, for market value, up to 640 acres of land to established communities located adjacent to National Forests. Under the General Exchange Act and Weeks Act, the Secretary of Agriculture can exchange National Forest System lands with non-Federal entities, including State and Local governments. These laws require the Secretary of Agriculture to obtain market value for exchanges or sales of National Forest lands.

The fire district currently has a fire station located on Forest Service lands under special use permit, several miles away from the property covered by this legislation. We understand the fire district's need for an updated facility, and the desired property is situated at an interchange on Interstate 90, which would improve response times to the many emergency situations that occur in that area. However, there is a question as to whether three acres is excessive to their actual physical needs for the facility. In addition, the legal description used in the bill is incorrect and a land survey will be needed to properly locate and describe the property. Under the Townsite Act and exchange authorities, the fire station would be required or expected to pay administrative costs of making the conveyance, such as the survey.

Although we do not support the bill as written, we are eager to continue discussions with the bill's sponsors, the fire district, and the committee, in the hopes of assisting the District in achieving its desire to improve its abilities to provide necessary fire and rescue services.

I am happy to answer any questions you may have on my testimony today.