

**STATEMENT OF JUDGE SCOTT R. COOPER  
CROOK COUNTY COURT, (OREGON)**

*before the*

**U.S. HOUSE OF REPRESENTATIVES NATURAL RESOURCES COMMITTEE,  
SUBCOMMITTEE ON NATIONAL PARKS, RECREATION AND PUBLIC LANDS  
HON. GEORGE RADANOVICH OF CALIFORNIA, CHAIR**

**H.R. 4953, GRANTING TO DESCHUTES AND CROOK COUNTIES  
IN THE STATE OF OREGON A RIGHT-OF-WAY TO WEST BUTTE ROAD  
JULY 16, 2002**

Mr. Chairman, Members of the Committee:

I am Judge Scott Cooper, and I am the elected chair and county administrator for Crook County, Oregon. Crook County comprises 2,982 square miles and is home to 19,182 citizens. I am appearing before you today in support of H.R.4953.

I especially appreciate my congressman, Rep. Greg Walden, and his willingness to sponsor this legislation and his assistance in securing my presence here today.

H.R.4953 is a simple bill to trade a right of way to West Butte Road in Crook and Deschutes Counties, Oregon, to the respective counties for right-of way to an unimproved county road passing through the same 11-mile segment of BLM land. A companion bill, S.2482, is pending in the Senate under the sponsorship of Oregon Senator Ron Wyden and co-sponsorship of Oregon Senator Gordon Smith.

This bill is supported by my entire delegation because my representative and my senators have heard from local leadership that this legislation is of vital importance to my constituents. The importance of this road is that it provides a north-south link between U.S. highways 26 and 20 through the center of Oregon. These highways are the two major arterials which carry east-west traffic through the middle of the state. There are at present four potential connections between these two highways in Crook and Deschutes Counties.

The first road is the designated state highway—highway 27—which roughly follows the Crooked River. This road is the only unpaved, designated highway in the state of Oregon. It crosses numerous riparian areas. It passes through sensitive habitat for threatened and endangered species. It follows a Wild and Scenic River corridor. Several archeologically significant sites can be found along the roadside, and the terrain through which it passes is geologically significant and challenging. For all these reasons, this option is unsuitable for unsuitable for upgrade as a north-south connector.

The second road is Millican Road. This is the road the county proposes to trade BLM for the West Butte right of way. The present road was constructed in 1915 to link Lakeview and Prineville, Oregon. It is unimproved and seldom used. In sections, it is completely impassable. It follows a somewhat circuitous route and was largely abandoned after the BLM constructed the West Butte Road as a replacement road in 1968.

The third option is an existing all-weather, all-vehicle connection between highways 20 and 26 to the east of

Prineville. U.S. Highway 97 highway runs from the border of Washington to the border of California, through the center of Oregon. It passes through Bend and Redmond in Deschutes County where it has become the most congested segment of that highway in the state of Oregon. For a decade, traffic on this portion of the highway has grown steadily worse as Deschutes County has experienced double-digit growth rates. Numerous efforts to construct bypasses and reroutes have cost state and local taxpayers tens of millions of dollars, but growth has outstripped all solutions. In addition, the location of the road is inconvenient for traffic traveling from the southeast portion to the northwest portion of the state, because it requires a 35 mile backtrack in order to access the alternative route through Prineville—a back track which due to congestion adds approximately 60 minutes to a five hour trip. Construction of the West Butte alternative would resolve problems associated with both congestion and travel time.

The final alternative, and the one envisioned by H.R.4953, is the West Butte Road itself. This is a BLM road which has been maintained by Crook County for the BLM for many years. The road is gravel and as a candidate for upgrade has only a few minor engineering problems which are easily addressed. I drove it two weeks ago, and found that a sports utility vehicle can easily traverse the road maintaining an average speed of about 45 miles per hour. The road is unsuitable at this time for commercial truck traffic. It is the most likely candidate for construction of an additional north-south linkage connecting the two U.S. highways.

In February 2000 over a period of 10 hours, the Oregon Dept. of Transportation conducted a study of westbound truck traffic on U.S. highway 20 in an attempt to determine whether construction of the West Butte Road would be helpful in rerouting truck traffic off highway 97 and onto an alternative route. As a result of this survey, the department concluded that approximately 25 percent of the trucks that would otherwise backtrack through Bend and Prineville would utilize the West Butte Road, if constructed.

Keep in mind that this survey only looked at trucks, not passenger cars, traveling on *one* highway, headed in *one* direction during a month when travel volume on the highway is low, due to eastern Oregon's sometimes harsh winter climate. Even with these limitations, however, the survey results were sufficient to convince the state highway department that this alternative would be warranted.

Over 30 year ago, the Oregon State Legislature reached this same conclusion. In 1965, the legislature authorized construction of a north-south connection between highways 20 and 26 passing through Crook County to replace the existing dirt highway. That authorization remains in Oregon statute today.

Since passage of authorization to trade jurisdictions for the existing state highway, sporadic efforts to push through a road project have been made. Both my predecessors in office were interested in constructing an alternative route using the West Butte alignment. These efforts have not come to fruition because each time the issue has been raised, significant legislative and administrative barriers have been raised to frustrate the efforts of county, state and federal partners to work cooperatively toward this goal.

The source of these problems has been three-fold.

The first problem state and county have faced is compliance with the requirements of the National Environmental Protection Act. In principle, the state and counties have no objection to complying with NEPA. As residents of a wonderful part of the world, we are strongly interested in preserving the public lands and heritage areas that surround us. The problem arises because BLM has advised the counties that it does not have manpower or financial resources to conduct the necessary analysis. Nor does it appear that the agency will have such resources any time soon. Thus, all prior discussions about potential for extending this

road have come to an end.

Passage of H.R.4953 will transfer the obligation to complete necessary NEPA analysis prior to transferring jurisdiction to the Oregon Dept. of Transportation and relieve the BLM of that burden.

A second problem that has stymied cooperation between the county and BLM is the current controversy surrounding BLM's ability to grant rights of way for roads that pre-date passage of the Federal Lands Policy and Management Act. Crook County originally raised with BLM the possibility of requesting a right-of-way designation under provisions of that law. However, the agency response was that pursuant to the direction of Secretary of Interior Babbitt, no grants of right of way were currently being processed. In addition, a backlog of unresolved requests for right of way grants currently being challenged in the courts further preclude action by the agency under this venue. At this time BLM is unable to estimate when it might begin processing FLPMA claims, and the counties have no assurance that such claims would be recognized in any case.

Having seen this avenue foreclosed, the counties for the past 18 months have attempted to work with BLM through an on-going resource management planning process to obtain right-of-way for a West Butte Road extension. While this process has had some success, it now appears likely that may not be a viable long-term solution as it suffers from that affliction of land-management agencies commonly known in the West as "analysis paralysis" or "process gridlock." At this time, BLM officials can only say that the agency may be able to issue a record of decision in "winter 2004," adding that any challenge to the record of decision will likely result in further delays in even considering the counties' request for right of way.

In the meantime, Crook County has seen its unemployment rate soar to double-digit levels as a result of continued reductions in timber harvest on federal lands. Mills and timber have been the mainstay of the Crook County local economy for 100 years. As a result of the loss of this industry, Crook County currently enjoys the dubious distinction of being one of three counties in Oregon with the *least* desirable statistics related to both unemployment and per capita income. Furthermore, additional non-timber employers have indicated that they, too, may be forced to leave if something is not done to improve the county's position as an economically viable community.

Local leaders believe that one such enhancement would be the construction of West Butte Road, which would suddenly place Crook County at the crossroads of traffic traveling from the Portland metro area to southeastern parts of the state and nation. Such a road is also supported by other jurisdictions and transportation planning groups, including the cities of Bend, Redmond and Madras, Deschutes County, the Oregon Dept. of Transportation and the Central Oregon Area Transportation Commission. All these bodies see this road as a potential relief valve for over-congestion on highway 97. So confident are the communities of Central Oregon that this project is both necessary and likely that the counties have been cooperatively working to hard-surface the approximately 19 miles of road which passes through county jurisdiction, betting that eventually common sense must prevail and allow completion of the road through the remaining 11 miles which passes through BLM land.

The reason the counties have settled on the West Butte Road as the most obvious solution to their problem is that with the exception of a few short segments of roadway which need to be further engineered to avoid grade problems, the West Butte Road has few drawbacks as a potential transportation route. It is an existing road, so it will not require further disruption of the public lands through which it passes. It follows no waterways and therefore is not an historic travel corridor for ancient people posing associated archeological challenges. The roadbed is largely on flat terrain through sagebrush steppe and poses few engineering

problems. Finally, although it passes near the habitat of the threatened sage grouse, local BLM officials have advised the county that the only identified habitat for these birds is several miles to the east and west of the West Butte road itself.

In fact, in recent testimony before a Senate subcommittee, BLM identified only concerns about construction of the West Butte Road. One dealt with off-highway vehicle crossings and the other with the aforementioned sage grouse. Both of these concerns would be mitigated by state and county in the normal course of constructing any road.

In the end, this bill is, of course, an economic-development project for Central Oregon. Crook County government and business leaders believe that the construction of an artery of the state highway system that passes through Prineville, the county seat of Crook County, will lead inevitably to additional business development and tourism. The county makes no apologies for desiring additional jobs for its residents, for we have been severely impacted by the devastation of our timber industry over the course of the past 10 years. In just over a decade, we have lost a total of five operating lumber mills, resulting job losses measured in the thousands.

In response to this economic catastrophe, government officials and environmental groups have called on community leaders to diversify the local economy. But diversification cannot occur without providing additional tools needed to attract new industry. One such tool is an expansion of existing transportation routes to more squarely place this economically devastated community in the path of progress.

The concept of transportation linkages as economic development is not new. As far back as 1815, Henry Clay, Speaker of this very House, introduced the idea as an integral concept of his visionary "American System" and the Eisenhower-era of freeway building assured economic health and vitality for hundreds of American communities.

H.R.4953 is a modest recognition of the federal government's role as a partner in ensuring the health, strength and prosperity of local economies and thus the health, strength and prosperity of our nation. It does not compete with more glamorous legislation such as homeland security concerns or accounting oversight reform, but to my constituents it may be the most important bill pending before this Congress.

Too often, Washington is perceived outside the Beltway as simply the source of more rules, more restrictions and more problems. This legislation presents is an opportunity to show citizens in my part of the world that good things can and do come from government.

I appreciate the sensitivity of Congressman Walden to the seriousness of this issue to my community, and I request your favorable consideration of H.R.4953.

**Topical outline of comments and summary of recommendations contained in full statement of Scott R. Cooper, appearing before the National Parks, Recreation and Public Lands Subcommittee, July 16, 2002 regarding H.R. 4953**

**I. Background to Crook County and H.R. 4953**

- a. Size, population
- b. Purpose of legislation

c. Status of legislation

**II. Alternatives to U.S. 26-20 connection**

- a. Highway 27
  - i. State's only unpaved highway
  - ii. Ecological, environmental challenges
- b. Millican Rd.
  - i. Existing county road
  - ii. Unimproved status
- c. Highway 97
  - i. Existing route
  - ii. Existing and increasing congestion
  - iii. Need to backtrack 35 miles to utilize
- d. West Butte Rd.
  - i. Maintained, passable
  - ii. Most acceptable alternative

**III. ODOT study, identifying road as viable**

**IV. History of efforts to obtain right of way, barriers to success**

- a. Legislative authority for jurisdiction swap
- b. County efforts at negotiation with BLM
  - i. NEPA as barrier, due to BLM's lack of resources
  - ii. FLPMA as barrier, due to Babbitt moratorium, court backlog
  - iii. RMP as barrier, due to uncertainty as to conclusion date

**V. Impact of inability to proceed**

- a. Statistics, unemployment, per-capita income
- b. Threats due to declining timber industry

**VI. Potential of road project**

- a. Crossroads-status brings tourists, jobs to Crook County
- b. Relieves congestion in Deschutes County
- c. Springboard for further economic-development
  - i. Transportation as an historical economic development engine
- d. Project as federal/local partnership

**DISCLOSURE REQUIREMENT**  
**Required by House Rule XI, clause 2(g)**  
**And Rules of the Committee on Resources**

**Part A: To be completed by all witnesses**

**Name:** Judge Scott R. Cooper

**Address:** Crook County Courthouse, Room 10, 300 NE Third St., Prineville, OR 97754

**Phone:** 541-447-6555

**Representing:** Crook County, Oregon

**Training, or educational certificates, diplomas or degrees or other educational experiences which add to your qualifications to testify on or knowledge of the subject matter of the hearing.**

None.

**Professional licenses, certifications or affiliations held which are relevant to your qualifications to testify on or knowledge of the subject matter of the hearing**

None.

**Any offices, elected positions or representational capacity held in the organization on whose behalf you are testifying:**

Judge (*elected chair/county administrator*), Crook County Court (*board of commissioners*)

Central Oregon Area Transportation Commission, chair-elect

Central Oregon Regional Investment Board, (*Economic Development Planning Agency*), chair

**Part B: To be completed by non-governmental witnesses only**

N/A. The above referenced individual is a representative of local government