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August 31, 2021

Paul Anderes
President, Eastern Oregon Counties Association
1106 K Avenue
La Grande, OR 97805

Dear Mr. Anderes:

I am responding to the letter dated Friday, August 27, 2021, sent by the Eastern Oregon Counties Association (EOCA) on behalf of 14 Eastern Oregon county commissioners, with questions about the River Democracy Act (S. 192). I am pleased to know the EOCA is taking a keen interest in federal public lands matters, and particularly with respect to the new forest management, wildfire risk reduction and conservation tools provided by my proposed legislation.

As you know, S. 192 would add approximately 4 percent of Oregon's rivers and streams to the National Wild and Scenic Rivers system. In addition, S. 192 includes multiple amendments to the Wild and Scenic Rivers Act to help federal land managers tackle the challenges of reducing wildfire risks and protecting drinking water for millions of Oregonians.

I hope you find these answers to your questions useful, and I look forward to continuing productive conversations with elected officials and the citizens of Oregon.

EOCA Question 1: "... Given the restrictions of Section 12 of the Wild and Scenic Rivers Act related to 'any lands which include, border upon, or are adjacent to' any designated river, what amendments are necessary to ensure that the [property] rights you seek to protect will indeed be protected?"

Answer: I hope that I can put to rest your concerns on this matter by stating unequivocally that the Wild and Scenic Rivers Act, which S. 192 amends, does not affect management of private property.

The Wild and Scenic Rivers Act paragraph that you reference, when cited in its proper context, begins by clarifying the protection of private property, stating that federal land managers may only take management action on lands within their jurisdiction. Here is the full citation, when the language most relevant to your concerns has not been omitted (underlines added for emphasis):

"The Secretary of the Interior, the Secretary of Agriculture, and the head of any other federal department or agency having jurisdiction over any lands which include, border

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upon, or are adjacent to [any river] included in the National Wild and Scenic Rivers System shall take such action respecting management [policies] affecting such lands as may be necessary to protect such rivers in accordance with the purposes of this chapter”.

While that alone would be sufficient to address your concerns, I so strongly share your desire to ensure private property rights are protected that S. 192 would amend the Wild and Scenic Act with additional language clearly stating this intent. Page 16, Line 17 of S. 192 states in plain English that “nothing in this act or an amendment made by this act affects private property rights.”

Furthermore, Section (5)(f) protects valid water rights and the State of Oregon’s “ability to administer water rights pursuant to state law,” and Section (5)(e) protects “existing rights, privileges, and contracts [including permits and rights of way] affecting federal land held by a private party.”

S. 192 plainly states that the management plans shall not affect private property rights, and the Wild and Scenic Rivers Act of 1968 clarifies that River Management Plans ONLY apply to the federal lands around a federally designated river.

Just like a Federal Forest Management Plan established under the National Forest Management Act applies only to federal forests and NOT to private inholdings within the boundaries of a federal forest, a Federal Comprehensive River Management Plan established under the Wild and Scenic Rivers Act applies only to management of federal lands that border upon or are adjacent to any designated river.

I hope this adequately answers your question and is sufficient to put to rest the unsupported claims that this proposal would have any impact on private landowners within or adjacent to these river corridors outside of ensuring that nearby federal land is properly managed to reduce fire risks to adjacent private property.

EOCA Question 2: “... Section (5)(a)(6) of S. 192 only directs the agencies to assess areas having a high probable risk of high intensity wildfires and then merely consider “the appropriate use of prescribed fire to meet long-term resource management objectives.” Please provide a specific reference to where S. 192 directs federal land management agencies to treat these at-risk acres utilizing all legal land management tools, including mechanical thinning and grazing.”

Answer: The subparagraph immediately after the Section cited above requires federal land management agencies to implement a fire risk reduction plan in each river corridor. Section (5)(b) states, “On completion of a fire management plan developed for the applicable covered segment under (5)(a)(6)(C), the Secretary concerned shall implement the fire management plan as a part of the applicable comprehensive management plan to reduce assess risks...” This

subparagraph allows the agencies to utilize all legal land management tools to meet this Section's fire risk reduction objectives.

You are correct that S.192 Section (5)(a)(6) directs the agencies to assess areas having a high probable risk of high intensity wildfires, however, this Section does not limit the tools necessary to reduce those assessed risks. Rather, S. 192 simply suggests that the agencies consider whether prescribed fire -- a highly successful, time-tested and science-based management tool -- can be an appropriate tool to mitigate the assessed risks, as well as other tools.

For instance, many Comprehensive River Management Plans for river corridors currently include active management treatments to reduce fire risks, utilizing prescribed fire, mechanical thinning, the removal of dead trees, and commercial timber sales. The Metolius Wild and Scenic River Comprehensive River Management Plan even states that "the economic value of timber will be used as a means and not an end for vegetation management in the corridor." Based on assessed fire risks, S. 192 would make these treatments a priority in each river corridor.

Furthermore, in order to ensure there is no red tape when it comes to fighting wildfires in a Wild and Scenic River Corridor established under this bill, S. 192 Section (5)(i) states that, "Nothing in this Act or an amendment made by this Act alters the authority of the Secretary concerned (in cooperation with other Federal, State, and local agencies, as appropriate) to conduct wildland fire operations within a covered segment, including the construction of temporary roads if required for public safety."

EOCA Question 3: "... Why doesn't S. 192 utilize Section (5) of the Wild and Scenic Rivers Act to direct expert, career staff at the federal land management agencies to study and analyze these segments to determine if they are indeed appropriate? This would increase public participation, transparency, and could be tied to the Forest Service's upcoming forest plan revision process."

Answer: Section (5)(a) of the Wild and Scenic Rivers Act gives federal land managers the ability to recommend to Congress potential additions to the Wild and Scenic Rivers Act, and nothing in the S. 192 precludes agencies from making recommendations as part of their regular land management planning process.

It is my strong belief, consistent with the Oregon Way, that the people of Oregon should also have the ability to nominate directly to Congress rivers and streams that they believe should be considered under the Wild and Scenic Rivers Act.

As you know well, the public has strong opinions over how public lands are managed, and I strongly believe in bringing all voices to these complex conversations. That is why the entire years-long, public, transparent and open process I initiated to collect nominations for rivers and streams was led by the people of Oregon, and yielded over 15,000 nominations. And while

Oregonians nominated thousands of miles of potential river additions, this is an ongoing conversation and I am still taking feedback for how to move forward.

I am grateful for EOCA's participation in this constituent-driven process in order to ensure this proposal is as well-balanced as possible.

EOCA Question 4: "... Unfortunately, many Wild and Scenic river management plans include specific prohibitions on any vegetation management, including post-fire salvage of dead and dying trees. Why doesn't S. 192 specifically direct that public access and safety be maintained through recovery and restoration activities following a catastrophic event?"

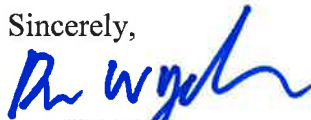
Answer: S. 192 Section (5)(d) authorizes a restoration grant program for recovery and restoration activities following a catastrophic fire event. Not only is this the first time a Wild and Scenic River bill makes preventing catastrophic wildfire the first priority, S. 192 explicitly authorized restoration funding to respond to catastrophic wildfire on public lands.

My bill would go a step further, and authorize funding for post-fire watershed restoration, replanting, invasive removal, and public infrastructure repairs. Additionally, contrary to some misconceptions, existing Wild and Scenic River designations can and often do include post-fire management -- look no further than the Clackamas Wild and Scenic River, where the State of Oregon and the Forest Service are removing millions of board feet of hazard trees on federal land to protect life, safety, and property, all while repairing infrastructure and stabilizing soils to prevent further harm to drinking water.

Based on your letter, I firmly believe S. 192 addresses each of the concerns you outlined. From its clear mandate to reduce fire risks and fund post-fire treatments, to its support for public engagement in land management and its ironclad protection of private property rights, S. 192 would give the Forest Service and Bureau of Land Management unprecedented new tools to manage and conserve public lands and rivers in the face of a changing climate.

My door is always open, so please do not hesitate to reach out to me or my staff to offer further input, consultation, or to nominate a river that is special to you.

Sincerely,



Ron Wyden
United States Senator