

FORESTRY LEGISLATION
IN THE HISTORY OF THE
FOREST RESERVES IN OREGON

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FORESTRY LEGISLATION IN THE HISTORY
OF THE
FOREST RESERVES IN OREGON

by

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I EARLY LEGISLATION AND NATIONAL POLICY

No definite policy regarding the conservation of public timber lands was carried out by the federal government until the late nineteenth century. Several acts were passed bearing on forest lands, but their possible significance in the formulation of a forest policy was secondary to their primary object. For example, the live-oak legislation of 1799 is given as the earliest act of Congress for the preservation of timber. However, the main feature of this act was the provision for "the purchase of growing or other timber, or of lands on which timber is growing, suitable for the Navy, and for its preservation and future use."¹ The special object of this legislation was to secure a supply of live-oak timber which grew in a limited area in the southeastern section of the country and which was considered particularly valuable for shipbuilding. Two small islands on the Georgia coast containing 2,000 acres were purchased under the act of 1799.

1. Fernow, B.E. Forestry Investigations of the Department of Agriculture 1877-98, p.193

The same object was pursued by the renewal of the act of 1799 under date of 1817 when provision for additional reservations of live-oak lands was made. About 19,000 acres in Louisiana were reserved. Enactments of 1820 and 1827 placed the selection of lands to be reserved in the hands of the surveyor of public lands instead of agents appointed by the Secretary of the Navy. In 1828 some lands were purchased on Santa Rosa Sound in Florida and an attempt made at cultivation by authority of the act of 1827 which authorized the President to take measures to preserve the live-oak timber growing on the lands of the United States. The live-oak legislation resulted in setting aside over 264,000 acres of live-oak land in Alabama, Florida, Louisiana and Mississippi between the beginning of the nineteenth century and the Civil War.¹ These early attempts at forest reservation were not the result of a broad forest policy, but were for the specific purpose of securing material for a special purpose. This material was considered necessary for the building of warships.

Protection of the naval reservations naturally entailed action against trespassers. In 1821 the Anti-Trespass Act of March 3, 1807, was interpreted to apply to forests. Timber stealers could be removed from public lands by military force. In 1822 the President was authorized to employ the land and naval forces to prevent the felling or other destruction of timber in Florida. In 1831 an act "To provide for the punishment of offenses committed in cutting, destroying or removing live-oak and other timber or trees reserved for naval purposes"² was passed.

1. Smith, Darrell Haverer The Forest Service Service Monographs of the United States Government No. 58 The Brookings Institution p. 4
2. Ibid p. 3

This act made it a felony, with a penalty of fine and imprisonment, to cut or remove timber from any of the public lands, whether reserved or not, except for the use of the Navy, and subjected any vessel, transporting such timber without proper authority and for any other purpose than for the use of the Navy, to confiscation and the master of the vessel to a fine.

This act is the one under which, up to the present time, all the protection they have had has been secured to the public forests, since the act has been construed to authorize the protection of all timber on the public lands and to provide punishment for trespass upon the same. "....this law of 1831 still lives in full force and effect, and it is today the basic law upon the subject of public timber depredation in the United States."¹

Under the act of 1831 the Treasury Department undertook a partial oversight and protection of timber on the public lands through its ordinary agents. "In 1854 this responsibility was transferred to the Interior Department, which acted through the General Land Office. Registers and receivers were made responsible for the protection of public timber within their districts."² Where trespass was wilfully committed, payment of stumpage was demanded or the timber was seized and sold and the proceeds paid into the Treasury. Where the trespass was committed ignorantly, actual entry of the land only was required, with payment of the usual entry charges.

"The first appropriation for the payment of agents specially employed

1. Cameron, Jenks Development of Government Forest Control in the United States p. 59
2. Smith, Darrell Haverhor Cp.Cit. p. 4

for the protection of timber on the public lands was made in 1872, when \$5,000 was appropriated. "This was the first direct appropriation for the protection of public timber in general, and included timber of all types." ¹ A like sum was appropriated annually thereafter for five years. In 1878 the sum of \$25,000 was appropriated and subsequently these appropriations were increased until in 1893 they reached the limit of \$120,000 and then were reduced to \$40,000, \$60,000, and \$90,000 for 1894, 1895 and 1896 respectively.

The passage of the anti-trespass acts is an indication of the need for protection of the government reservations from timber-stealers. The general attitude was unfavorable to government control. The popular opinion considered forest resources of the nation inexhaustible and resented outside interference. "To the average American the forests were still inexhaustiblethe legend of inexhaustibility at the close of its third century as an article of popular faith was little less strong than it had been in 1600.the average American of the nineties still took wood for granted—for a thing that always had been and always would be." ² Besides, it was impossible for the small number of Treasury agents to enforce the trespass acts. The net result of the laws against trespass under the circumstances of the time was a failure. No measures taken by the national government during the period of wooden war ship construction effectively lessened the looting of the public live-oak both on and off the reservations. The open stealing of live-oak was an open and lucrative business affording employment to great numbers.

1. Smith, D.H. Op. cit. p. 4

2. Cameron, Jenks Op.cit. p.8

Land settlement laws, designed to divide the public domain into small holdings occupied by settlers, fell short of their objective in the case of timbered lands. Fraudulent entries were made both under the Homestead Law (1862) and the Preemption Law (1841) whereby entrymen sold their claims to timber syndicates. "Under the provisions of the preemption and homestead laws it (the government) is granting a license to destroy millions of acres of pine forest of almost incalculable value, which should be preserved as a nation's heritage."¹ The result of manipulation of land laws in the case of timbered areas was a shift in ownership so that the condition of 1850 when practically all of the American forest was publicly owned changed to that of 1886 when eighty per cent of the nation's timber was privately owned. About one-half of the privately owned timber was further concentrated in the hands of 250 owners.²

In 1873 the Timber Culture Act was passed by Congress. It provided that the planting of timber on forty acres of land, or a proportionate area in the tree-less territory conferred title to 160 acres or a proportionate amount of the public domain. The results of the Act in promoting tree planting were negligible. However, it lent itself admirably to the abuse of appropriating public land for private uses.³ Repeal of the law was finally secured in 1891 owing to its abuse.

1. General Land Office Annual Report 1876 p.9

2. Cameron, Jenks Op. Cit. p. 109

3. Fernow, B. E. Op. Cit. p. 169

The passage of the national timber culture act was part of an increased interest in tree-planting. Between 1868 and 1873 nine states¹ passed laws encouraging tree planting.

The next legislation affecting timber lands was the Timber and Stone Act of 1878. This act provided for "Sale of Timberlands in the States of California, Oregon, Nevada, and in Washington Territory".² In 1892 the act was extended to all public lands states. This act allowed the sale of timber lands at \$2.50 per acre. No one person or association was allowed to enter more than 160 acres.

Misuse of the Timber and Stone Act in Oregon is described as follows:

"Upon my arrival in the new field (Oregon 1888) I found the land business booming, every hotel in the timbered sections of the state being crowded with timber land speculators, cruisers and locators. I went into the locating business the first thing and continued to do a land office business for two years. This was in 1889 and 1890; and during all this time, the woods were fairly alive with timber men.

"My earlier experiences in California enabled me to grasp conditions quite readily, and become acquainted with the most desirable tracts in short order; consequently I soon got into the swim. Moneyed men were here from Michigan, Wisconsin, Minnesota and other Middle West States, eager to make investments and grasp the unlimited opportunities offered of reaping big returns, and as a result, thousands of men were sent into the forests of Tillamook and Clatsop Counties, Oregon, as well as throughout various sections of Washington, to file on timber claims, and in nearly every instance, the entrymen had contracted in advance to transfer their titles to some lumber company or syndicate of Eastern capitalists.

1. Cameron, Jenks Op. Cit. p. 193.
2. Ibid. p. 115

"The Timber and Stone Act of June 3, 1878 was the favorite method of acquiring title at that time, as the Forest Reserve Lieu Land Act of June 4, 1897 (commonly known as the "scripper law") had not then gone into effect, and titles could be rushed through much quicker than by pre-emption or homestead laws....

"....Thousands upon thousands of acres, which included the very cream of the timber claims in Oregon and Washington were secured by Eastern lumbermen and capitalists, and nearly all of these claims, to my certain knowledge, were fraudulently obtained."¹

Several factors account for the increased interest in forest protection in the seventies. Increased lumber production and new methods, together with the shrinking of the frontier, altered the idea of inexhaustibility. The change in methods is illustrated by comparing the census of 1840 and 1870. In 1840 there were "31,560 lumber mills, with a total product valued at \$12,943,507, or a little over \$400 per mill. By 1870 a change had already become apparent, when the product per mill was \$6,500, which in 1890 had become \$19,000, or about three times the value for 1870, with only 21,011 mills reported."²

The rapid decimation of forest supplies and the incredible wastefulness together with fire losses showed the need of a forest policy. Therefore, when in 1873 the committee on forestry of the American Association for the Advancement of Science presented its memorial to Congress for the establishment of a Forestry Agency in the Department of Agriculture, there was a considerable body of favorable opinion. In 1876 Congress established the agency which became the Division of Forestry.

1. Puter, S.A. Looters of the Public Domain p. 20-21
2. Fernow, B.E. Op.Cit. p. 167

The question of forest protection was reviewed in 1897 when a study of the entire public land question was made by a special commission. Its report recommended the "withdrawal of all timber lands from sale or other disposal, the sale of public land timber for commercial purposes and its free use under certain conditions, and the administration of the public timber lands by the Commissioner of the General Land Office."¹ However, none of the recommendations were enacted except the provision which condoned trespasses committed prior to March 1, 1870 by payment of the government price on the land involved, namely, \$1.25 per acre.

The American Forestry Association continued to campaign for the revision of the land laws. It presented a bill in 1888 for withdrawal from entry or sale of all public timber lands not fit for agricultural use and their administration under technical advice. In 1891 through the insistence of the Secretary of the Interior, John B. Noble, the following section, inserted in the act repealing the timber-culture laws, was enacted on March 3, 1891:

"Sec. 24. That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations; and the President shall, by public proclamation, declare the establishment of such reservation and the limits thereof."²

1. Smith, D.E. Op. Cit. p. 16

2. General Land Office Public Land Laws and Regulations p. 206

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2. General Land Office Public Land Laws and Regulations p. 206

Under this authority an estimated area of 17,500,000 acres was reserved by Presidents Cleveland and Harrison previous to 1894. Of this area the following table shows the reserves made in Oregon:¹

<u>Forest Reservations</u>	<u>Established</u>	<u>Area (in acres)</u>
Bull Run timber-land reserve	June 17, 1892	142,080
Ashland forest reserve	Sept. 28, 1893	18,560
Cascade Range forest reserve	do	4,492,800
		<u>4,653,440</u>

About one-fourth of the reserve area was in Oregon.

The act of March 3, 1891, in addition to authorizing the creation of reserves, repealed the Timber Culture Law and the Preemption Law, amended the Homestead and Desert Land laws with a view to making them less susceptible to fraud and manipulation and abolished public sales of government lands. It was the most important development in establishing a forest policy in the United States. "Here was the foundation upon which were to be built up the first true national forests in America, and the act of which it formed a part was one of two laws without which no national forests in America would have been possible".²

However, there was no provision for the protection and administration of the reserves under the law of 1891. Therefore, the reserves were subject to thievery, fire, and unrestricted grazing. From 1891 to 1897 several bills were introduced to provide for government protection of the reserved areas. Among these were the McRae Bill which failed

1. Fernow, B.E. Op. Cit. p. 191

2. Smith, D.H. Op. Cit. p. 19

to become law. However, its main features were incorporated in the provisions to the sundry civil appropriation bill of June 4, 1897. The enactment of these provisions constituted the most important forestry legislation thus far passed by Congress. The power of the President to create reserves under the act of 1891 was reaffirmed; regulated utilization of the resources of the reserves was introduced; and provision was made for the administration of reserve areas by forest superintendents, rangers, etc. This marked the beginning of a settled policy of the Federal government for care of forest lands. The main features of the act of 1897 follow:

"All public lands heretofore designated and reserved by the President of the United States under the provisions of the Act approved March third, eighteen hundred and ninety-one, the orders for which shall be and remain in full force and effect, unsuspended and unrevoked, and all public lands that may hereafter be set aside and reserved as public forest reserves under said Act, shall be as far as practicable controlled and administered in accordance with the following provisions:

"No public forest reservation shall be established except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions, or of the Act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes than for forest purposes.

"For the purpose of preserving the living and growing timber and promoting the younger growth on forest reservations, the Secretary of the Interior, under such rules and regulations as he shall prescribe, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found on such forest reservations as may be compatible with the proper utilization of the forests thereon, and may sell the same for not less than the appraised value in such quantities to each purchaser as he shall prescribe, to be used in the State or Territory in which such timber reservation may be situated, respectively, but not for export therefrom. Before such sale shall take place, notice thereof shall be given by the Commissioner

of the General Land Office for not less than sixty days, by publication in a newspaper of general circulation, published in the county in which the timber is situated, if any therein is published, and if not, then in a newspaper of general circulation published nearest to the reservation, and also in a newspaper of general circulation published at the capital of the State or Territory where such reservation exists; payments for such timber to be made to the receiver of the local land office of the district wherein said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe; and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office in a separate account, and shall be covered into the Treasury. Such timber, before being sold, shall be marked and designated, and shall be cut and removed under the supervision of some person appointed for that purpose by the Secretary of the Interior, not interested in the purchase or removal of such timber nor in the employment of the purchaser thereof. Such supervisor shall make a report in writing to the Commissioner of the General Land Office and to the receiver in the Land Office in which such reservation shall be located of his doings in the premises.

"That in cases in which a tract covered by an unperfected bona fide claim or by a patent is included within the limits of a public forest reservation, the settler or owner thereof may, if he desires to do so, relinquish the tract to the Government, and may select in lieu thereof a tract of vacant land open to settlement not exceeding in area the tract covered by his claim or patent; and no charge shall be made in such cases for making the entry of record or issuing the patent to cover the tract selected: Provided further, That in cases of unperfected claims the requirements of the laws respecting settlement, residence, improvements, and so forth, are complied with on the new claims, credit being allowed for the time spent on the relinquished claims.

"Upon the recommendation of the Secretary of the Interior, with the approval of the President, after sixty days' notice thereof, published in two papers of general circulation in the State or Territory wherein any forest reservation is situated and near the said reservation, any public lands embraced within the limits of any forest reservation which, after due examination by personal inspection of a competent person appointed for that purpose by the Secretary of the Interior, shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain. And any mineral lands in any forest reservation which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provisions herein contained."

provision had important effects in the disposal of Oregon timber lands and was the basis for the "notorious Oregon timber land frauds," which resulted in the rather severe impairment of the reputations of a number of persons occupying positions of public trust.¹

The third undesirable feature of the law was the "non-export" clause, which prohibited shipment of lumber from the reserves out of the state of origin.

II ADMINISTRATIVE AGENCIES AND NATIONAL FOREST POLICY

Enforcement of the law against timber trespass on the public domain was first placed under the Treasury Department, which acted through "timber agents." In 1854 this responsibility was transferred to the Interior Department, which acted through the General Land Office. In 1855 the Commissioner of the General Land Office issued a circular making registrars and receivers of land offices responsible for the protection of public timber within their districts. These officers appointed special deputies for the prevention of timber trespass. The local officers were instructed to refer matters to the Washington office. This resulted in the centralization of authority, and a firm stand against compromising with timber offenders was maintained. However, firmness did not prove feasible in view of the continued violations and the inability of officers to police their territory adequately. By 1876 the policy of compromise on the basis of a reasonable stumpage was well established.

In 1872 reaction against the practice of compromise was reflected in an attempt to add an amendment to the sundry civil appropriation bill for 1873 providing for two special agents to act under the Commissioner of the General Land Office to assist registers and receivers¹ in preventing depredations and prosecuting trespassers. At the same time the Commissioner of the General Land Office urged complete removal of timber lands from the operation of the pre-emption and homestead laws and the wholesale disposal of such lands by sale,² after careful survey and appraisal. Although the amendment mentioned above was not included in the law of June 10, 1872 as finally passed, an appropriation of \$10,000 was made for the protection of timber lands. This was the first direct appropriation for the protection³ of public timber in general.

In 1874 the Commissioner of the General Land Office again suggested revision of the land laws for timbered areas in view of the continued spoliations which the existing laws were powerless to prevent and seemingly powerless to punish. He stated: "I fail to find, from the beginning of the Government to the present time, a single enactment of Congress providing any distinctive method for the disposal of that vastly extensive and proverbially valuable class of lands known as pine lands. These lands are notoriously unsuited to general agricultural uses, but have been held subject only to pre-emption⁴ and homestead entry."

1. Smith, D.M. Op. Cit. p.24
2. Smith, D.H. Loc. Cit.
3. Smith, D.H. Loc. Cit.
4. Cameron, Jenks Op. Cit. p. 187

In 1877 the registers were relieved of the responsibility of protecting the public timber within their districts and this work was taken over by a force of special deputies who were paid from the appropriations instituted in 1872. Timber protective work was thus in the hands of specially delegated employees who were forbidden to compromise with trespassers. Vigorous enforcement was tried again; but, like former efforts, did not prevail.

The Timber and Stone Act affected trespass prosecution and made certain cutting possible. The timber protection administration continued in the General Land Office until 1898. Although the creation of reserves was permitted by the 1891 law, there was no change in the methods of administration or protection. The act of June 4, 1897, caused certain organization changes, which did not go into effect until an appropriation of \$75,000 became available in July, 1898. The reserves were divided among eleven districts, each under a superintendent. Each district in turn was divided into reservations in charge of supervisors. For some time this work was directed through the Special Service Division of the General Land Office; but in 1901 the Forestry Division of the General Land Office was created. This continued until the major changes of 1905.

The establishment of the Division of Forestry in the Department of Agriculture has been noted. The situation was curious. Forest research was being carried out by one bureau without forests; whereas the forest lands were in charge of the General Land Office without

foresters. In its first decade the work of the Division of Forestry was centered on statistical research. Dr. Fernow wished to prove the usefulness of the Division by assembling data upon the properties and working qualities of various woods and help the large consumers of timber. When Gifford Pinchot became head of the Division in 1898 there was a change in policy. He proposed:

"To introduce, in practice, better methods of handling forest lands of private owners, including both wood lots and large areas chiefly held for lumber, and afterwards to spread a knowledge of what had been accomplished.

"To assist the Western farmer to plant better trees in better ways.

"To reduce the loss from forest fires.

"To inform....citizens regarding opportunities for forest enterprises in Alaska, Cuba and Porto Rico."¹

His policy was designed to increase interest in conservation among private lumbermen and to train his personnel in practical forest administration.

The Division received bureau status in 1901 due to recognition of the increased popular interest in forestry. The program of cultivating public interest in conservation had been effective.

Public interest in forest policy was aroused by the acts of June 6, 1900, and March 3, 1901. These acts restricted selections under the "forest-lieu" clause of the 1897 law to vacant, non-mineral, surveyed public lands which were subject to homestead entry. However, lieu selectors were given an extra period of grace, until

1. Smith, D.H. Op. Cit. p. 27

October 1, 1900, when they were allowed to select unsurveyed as well as surveyed lands. This resulted in land frauds in Oregon and California and the ensuing investigations focussed attention on the timber land question and gave impetus to the conservation movement.¹

The privilege of selection of lands in lieu of entries in reserves was abolished when the lieu land act was repealed in 1905. Meanwhile, President Roosevelt had appointed a Public Lands Commission in 1903 to examine into the public land laws. Although no laws resulted from this investigation, it was a step in the direction of fostering sentiment for conservation.

1. Smith, U.S. Op. Cit. p.30

III CENTRALIZATION OF FORESTRY WORK

The peculiar situation of having forest affairs divided among three bureaus in two departments now claimed the attention of the President and his annual message of December 9, 1904, advocated centralization of the work under the Bureau of Forestry in the Department of Agriculture. At the same time the American Forest Congress called by the American Forestry Association convened in Washington, where it was attended not only by exponents of forestry, but also by lumbermen and large consumers of forest products. At this meeting the unification of all government forest work in the Bureau of Forestry was advocated. This sponsorship by the congress of pending legislation was very effective and the bill for centralization of forest work was passed on February 1, 1905 and took effect July 1, 1905.

The change from the Department of Interior to the Department of Agriculture was partly influenced by the close connection between agricultural interests and the tree planting movement and the active interest taken in all phases of the forest and timber question by

1

granges and farmers' clubs.

The orders issued, when the law went into effect, by the Secretary of Agriculture to the Forester regarding the general principles to be followed in administering the forests are noteworthy since they constitute the basic principles upon which the forest work has continued to the present.

"In the administration of the forest reserves it must be clearly borne in mind that all land is to be devoted to its most productive use for the permanent good of the whole people and not for the temporary benefit of individuals or companies. All the resources of forest reserves are for use, and this use must be brought about in a thoroughly prompt and business-like manner, under such restrictions only as will insure the permanence of these resources. The vital importance of forest reserves to the great industries of the Western States will be largely increased in the near future by the continued steady advance in settlement and development. The permanence of the resources of the reserves is therefore indispensable to continued prosperity, and the policy of this Department for their protection and use will invariably be guided by this fact, always bearing in mind that the conservative use of these resources in no way conflicts with their permanent value. You will see to it that the water, wood, and forage of the reserves are conserved and wisely used for the benefit of the homebuilder first of all; upon whom depends the best permanent use of lands and resources alike. The continued prosperity of the agricultural, lumbering, mining, and live-stock interests is directly dependent upon a permanent and accessible supply of water, wood, and forage, as well as upon the present and future use of these resources under business-like regulations, enforced with promptness, effectiveness, and common-sense. In the management of each reserve local questions will be decided upon local grounds; the dominant industry will be considered first, but with as little restriction to minor industries as may be possible; sudden changes in industrial conditions will be avoided by gradual adjustment after due notice; and where conflicting interests must be reconciled, the question will always be decided from the standpoint of the greatest good of the greatest number in the long run.

These general principles will govern in the protection and use of the water supply, in the disposal of timber and wood, in the use of the range, and in all other matters connected with the management of the reserves. They can be successfully applied only when the administration of each reserve is left very largely in the hands of the local officers, under the eye of thoroughly trained and competent inspectors."¹

In 1906 forest reserves were increased from 63,000,000 to 106,999,138 acres. There were more timber sales and free use permits and revenue rose from \$73,276.15 in 1905 to \$757,813.01.

Over \$500,000 of this increase represented grazing fee charges.

The increase of revenue led Congress to limit the expenditures of revenues in the forest reserve special fund by the Act of June 30, 1906. This limitation went into effect on July 1, 1908. It was also provided that ten per cent of forest reserve revenue should be distributed for the benefit of public schools and public roads in the states in which the income-producing forest reserves were located.²

This latter provision was due to the complaints of western states that the reserve policy of preventing acquisition of forest lands by private owners deprived them of an adequate basis of taxation. In 1908 the local share was increased to twenty-five per cent and made a permanent provision. The Forest Homestead Act of 1906 permitted agricultural use of lands within forest boundaries which were suited for agriculture than timber. This act indicates the western sentiment in favor of development and against "locking up" resources.

1. Smith, D. H. Op. Cit. p.33-34

2. Smith, D.H. Loc. Cit.

The passage of the Act of March 4, 1907, also illustrates the opposition of the western states to the reserve policy. This act provided that no more new national forests might be created or old ones enlarged in Oregon, Washington, Idaho, Montana, Colorado and Wyoming. However, the effect of this restriction was lessened by the action of the President in setting aside twenty-one new reserves with an area of over forty million acres in the states affected just before the act went into effect. This act also abolished the forest reserve special fund, already limited by the law of 1906; after July 1, 1907, all forest receipts were to be deposited in the Treasury as miscellaneous revenue. The designation "national forest" was to replace the term "forest reserves".¹

An important administrative change was inaugurated in December, 1908 when national forest administration was localized and six district offices were established in Missoula, Denver, Albuquerque, Ogden, San Francisco, and Portland, Oregon. With this plan the main features of forest administration as conducted today were established.

The development of federal forest policy has been outlined from the time timber lands were undistinguished from the "public domain" to the time it was recognized that special consideration was needed and the reserve policy and national forest organization were introduced. The attitude of the people in the States in the development of national policy was important. State sentiment was

felt not only in the reaction towards legislation, but also in the success of new methods. National forest policy also influenced State politics. The situation in Oregon before and after the reserve policy was introduced is therefore interesting as an example of various conflicting interests in the development of forest policy in general. It presents the problems which had to be considered and the opposition which had to be overcome.

IV. EARLY RESERVES AND WITHDRAWALS

Although the orders for withdrawal of areas wherein it was contemplated to create reserves have been confused with the proclamations creating actual reserves and the term "reserves" has been used to include both the original withdrawals and the finally established reserve areas, it is helpful to distinguish between the original withdrawals and the reserves. In most cases, the withdrawals were much greater in area than the reserves, so that, after final survey, the desired lands could be comprised in the reserve after those deemed unsuitable were restored to entry. This policy was due to the fact that need for action was urgent and the lands were not carefully surveyed before withdrawal. The withdrawals rested on Presidential order and were easily revoked; whereas the reserves were regarded as permanent. The confusion of terms led to erroneous ideas regarding the purpose of withdrawals. Some regarded them as permanent lines for future reserves. Therefore, the reserve policy was criticized on the basis that lands unsuitable for reserve purposes were included.

The Early Reserves

The early reserves, Bull Run (1892), Ashland and Cascade (1893) were distinguished from the later ones by the fact that withdrawal and reserve were practically the same in area and little time elapsed between the order for the former and the creation of the latter. The Bull Run and Ashland Reserves were created chiefly to protect the water supply and were not large. However, the Cascade Reserve took in the entire Cascade range lying in Oregon, a distance of 254 miles north and south and thirty miles east and west, with an approximate area of 4,492,800 acres.

The Blue Mountain Withdrawal

Between the creation of these first reserves and the next withdrawals quite a period elapsed. The Blue Mountain withdrawal was made in 1902. Illustrative of the difference between reserves and withdrawals, the Blue Mountain withdrawal was not turned into a reserve until 1906. The recommendations upon which the withdrawal was made are interesting since they illustrate the procedure which was followed.

The proposal originated at Baker City with a request of citizens of Baker City and Sumpter for creation of the Elk Creek Forest Reserve lying between the two cities and embracing four to five townships with a view to protect the headwaters of streams from which the cities got their water supply. With withdrawal of these lands the citizens of Malheur and Harney Counties petitioned for extension of the reserve

to include practically the entire Strawberry Mountain range. This petition forwarded to the Interior Department on January 21, 1902 by Senator Mitchell set forth that the lands proposed for reservation were forested; and, owing to the arid nature of the country, it was necessary to preserve and protect the timber to conserve¹ the water supply.

Forest Superintendent, Salmon B. Ormsby, submitted a report on June 21, 1902 to the Department of Interior stating that he had examined the area and recommending the withdrawal. On July 3, 1902 Ormsby recommended withdrawal of additional lands stating they were better adapted to forest uses than for other purposes and would aid in conservation of the water supply. The reserve recommended by him, although a part of the Blue Mountain Reserve, was confined to the Strawberry Mountains and took in less land than the Blue² Mountain Reserve proper.

On June 21, 1902, H. C. Riser, the acting director of the Geological Survey, also recommended establishment of the Blue Mountain Reserve. The Geological Survey also proposed that the Elk Creek reserve be included in the Blue Mountain Reserve, since the³ lands were adjacent and there was no need for separate reserves.

Upon the basis of the above recommendations temporary withdrawal from settlement or entry of public lands in a tract of about six thousand square miles was ordered by Acting Secretary Ryan of

1. Oregonian 10/5/03 p. 11 c. 1

2. Ibid.

3. Ibid.

1

the Department of the Interior on July 26, 1902. The fact that withdrawal was temporary gave interested parties opportunity to suggest changes and submit reasons for inclusion of adjacent lands or restoration of withdrawn lands. In the period between the temporary withdrawal and final establishment of the Blue Mountain Reserve there occurred the greatest development of the reserve policy and it met and overcame its strongest opposition.

The Wallowa Withdrawal

As in the case of the Blue Mountain withdrawal, the Wallowa withdrawal followed the recommendation made by the Geological Survey on June 21, 1902. This recommendation gave no detailed description of the lands but suggested the advisability of withdrawal. On October 24, 1902, the temporary withdrawal of the area was ordered by the Secretary of the Interior. On July 23, 1903, the Bureau of Forestry recommended the addition of thirty-six townships to the Wallowa withdrawal which was directed on July 31. In August still further additions were recommended and made.

The Maury Mountain Withdrawal

Withdrawal of ninety sections in Crook County for the purpose of the proposed Maury Mountain Reserve was made on the recommendation of Forest Inspector, H. D. Langille, who reported to the Secretary of the Interior, (Hitchcock), under date of April 20, 1903, that the region held valuable timber lands which would likely be

1. Oregonian 10/6/03 p. 7 c. 3

2. Loc. Cit.

taken up by timber land speculators shortly unless withdrawn.

He wrote: "Several sections of the timber land have already been covered with lieu scrip secured by base within the proposed Blue Mountain forest reserve, but this base cannot be valid at this time, hence it is my desire to secure these lands for forest purposes before it is too late."¹

The Warner Mountain Withdrawal

The creation of the Warner Mountain Reserve was first suggested by B. F. Allen, Forest Superintendent of California, who made an examination of the Warner Mountains in northern California. At first the project, originated in California, was confined to that state. Later investigations extended north by Superintendent G. I. Taggart under authority granted by Commissioner Hermann with the result that on May 27, 1900, the withdrawal of a large tract in northern California and the adjoining section in Oregon around Goose Lake was recommended. Taggart reported that there was unlawful cutting of timber in the Warner Mountains, that the land embraced in the withdrawal was not suited for agriculture, and that the preservation of water that came from the mountains was the "only hope of settlers of Lake County".² Since very little of the land had been taken up for cultivation no injury would be done by reserving the lands.

Taggart's report was submitted to the Geological Survey for

1. Oregonian 10/6/03 p. 7 c. 5
2. Ibid. 10/8/03 p. 14 c. 1

recommendation and on August 11, 1902 was returned with the comment:
 "proposal for creation of a forest reserve in northern California
 and southern Oregon under the name of Warner Mountains.... is dis-
¹
 approved."

On May 9, 1903, the Bureau of Forestry recommended the creation
 of a forest reserve in the Warner Mountain country in Oregon; and,
 on July 15, recommended the withdrawal of a larger tract. Their
 recommendation carried the explanation that the lands were non-agri-
 cultural forest lands, that it was important to preserve the forest
 and timber supply and to insure the water supply, and that this moun-
²
 tainous district was still vacant public land.

On July 27, 1903 on the showing made by the Bureau of Forestry
 and the report of Superintendent Taggart withdrawal was ordered by
 the Secretary of the Interior.

The La Grande Withdrawal

Suggestion for a reserve in this area was first made by For-
 est Superintendent, James Glendinning of Idaho on July 17, 1900, when
 he filed with the General Land Office a letter from E. H. Libby, the
 President of the Lewiston Water and Power Commission requesting an
 examination of the headwaters of Asotin Creek and other streams ris-
 ing in the Blue Mountains with a view to reservation in order to per-
 petuate the water supply. This letter was referred to the Geological
 Survey, and returned by them with the recommendation that the reserve

1. Oregonian 10/8/03 p. 14 c. 1
2. Ibid.

be created to embrace not only the northern arm of the Blue Mountains in Oregon, but also be extended into Washington. On this recommendation the withdrawal was made on November 5, 1902.

The Joseph River Withdrawal

Special Agent, H. D. Langille, of the Bureau of Forestry reported in favor of withdrawal of lands in northeastern Oregon in the vicinity of Joseph River. He advised that immediate action was necessary on account of wholesale occupation of lands in the locality by speculators. Upon this report the Bureau of Forestry under date of May 21, 1903 requested withdrawal; and, on this sole recommendation, withdrawal was made. The Morrow withdrawal in Eastern Oregon and withdrawal of lands for a proposed addition to the Cascade Reserve on the west were likewise made² on the sole recommendation of the Bureau of Forestry.

The Rogue River Withdrawal

Commissioner Richards of the General Land Office recommended creation of a reservation in southern Oregon, and the Geological Survey also favored such action. Accordingly, withdrawal was made in April, 1903. In 1898, Edward Bender, Special Agent of the General Land Office, examined the lands and recommended reservation of about twelve townships where Josephine, Coos, Curry and Douglas Counties converge.³ He also reported that the Southern Pacific railroad had grants in the region. In 1901 Director Walcott of the Geological Survey recommended a larger reserve to include

1. Oregonian 10/8/03 p. 14 c. 1
2. Loc. Cit.
3. Oregonian 10/6/03 p. 7 c. 3

the lands designated by Bender and to extend southward to the California line. On October 24, 1901 the Secretary of the Interior called for the papers in the Egus River case and for a recommendation from Commissioner Hermann as to the advisability of creating this reserve. Hermann transmitted the papers, but ignored the request for his recommendation. The papers were turned over to the Geological Survey which reported on October 30 that withdrawal of all unsurveyed townships in southwestern Oregon was recommended. The Geological Survey also suggested that negotiations be carried on with the Oregon and California Railroad Company for the exchange of their lands within this area.

The Secretary of the Interior asked Hermann for his opinion as to the advisability of the plan for exchange and, on January 11, 1902, Hermann reported adversely. He stated that the lands proposed to be withdrawn contained settlements and valuable agricultural lands suitable for homes; also that a large part of the lands were valuable for mining. He regarded the proposed exchanges with the railroad companies as impracticable since there were numerous homesteaders and mining claims in the sections it was proposed to exchange with the railroads. It would be difficult to draw the lines of the reserve so as to eliminate lien land opportunities. Hermann proposed that if a reserve were created in southwestern Oregon it should be confined to the extreme summit of the Coast range where it would not interfere with agricultural development or mining.

1. Oregonian 10/8/03 p. 7 c. 3

2. Ibid. 12/13/03 p. 14

This adverse report held up the withdrawal of lands for the Rogue River Reserve.

However, the question of the Rogue River withdrawal was reopened upon the report of H. D. Langille, Forest Inspector, who wrote Acting Secretary Ryan of the Department of the Interior and recommended withdrawal to conserve the timber from destructive fires and from the manipulations of syndicates, "the history of whose operations in the West is a deplorable record of wanton and irreparable waste."¹ He added: "From all reports at hand it is obvious that the lands in question will be occupied by hirelings of large Eastern syndicates who would locate upon them solely for the timber."² On April 29, 1903 Acting Secretary Ryan wrote Richards about the Langille report and directed temporary withdrawal of the lands pending examination of their suitability for forest reserve purposes.³

1. Oregonian 10/13/03 p. 14

2. Loc. Cit.

3. Ibid.

V THE REACTION TO THE WITHDRAWALS

Criticism of the Reserve Policy

Back of much opposition to the reserve policy was the idea of inexhaustibility which played such an important part in the opposition to federal laws on timber trespass. This popular opinion is shown in the following quotation:

"The Continuous Woods- The Great Pacific Northwest Covered with Inexhaustible Forests....

"In visible worth the Pacific Northwest has nothing to equal the vast forests of timber that cover many thousands of square miles of its area with a perennial mantle of green....

"The fir forests cover the mountains of western Oregon and Washington so thickly as to almost defy penetration.... The stumpage yields from 50,000 to 200,000 feet to the acre, counting only the largest trees."¹

The fact that no accurate survey had been made of the amount of standing timber in Oregon and Washington lent semblance to the theory of inexhaustibility.

The reserves were opposed on the basis of "State rights".

1. Oregonian 1/1/96 p 4 c 1

Since middle-western states had been able to avail themselves of the public domain without interference from "reserves", it was the free and equal right of citizens of Oregon to benefit from the land laws of Congress without hindrance. When Oregon had been admitted to the Union she came under the same laws for disposal of public lands as any of the other states, and her privilege to develop the public domain should not be curtailed.¹

However, the chief objections were naturally raised by those who had interests at stake. For example, the stockowners maintained that deprivations of the free range hitherto available in lands included in the reserves and withdrawals would cause severe financial hardship and would necessitate reduction in herds due to lack of grazing facilities. It was felt that the city of Portland favored the Cascade Reserve on account of the protection of its water supply. Stock interests pointed out that for this purpose it was hardly necessary to reserve the entire Cascade range from the Columbia river to the state line.

At first the stockowners were united in their opposition to reserves. However, cattle and sheepmen had conflicting interests and in the course of their controversy accused each other of being responsible for the conditions that depleted the range. For example, cattlemen maintained that sheepmen were destroying the range. Their attitude is illustrated in

1. Oregonian 8/28/96 p.7 c. 2

the following excerpt:

"People who do not know can form no idea of the destructive power of sheep on a range. At one grazing a band of sheep will almost totally destroy a range of thousands of acres. I saw miles and miles of land as bare as a fireswept prairie....Such land is utterly useless for grazing purposes as the sheep's sharp hoofs kill the roots of the grass, and it takes several years for it to grow again. The cattlemen, therefore, must hunt new ranges, which is not an easy matter, even in central Oregon. They are being gradually driven out of business. They say they would not object if the grass were only cropped, but it makes them bitter to see fine ranges entirely destroyed."¹

The feud between cattle and sheep interests was violent and sheepmen were ordered off the "free range". The following article illustrates the methods used in "range piracy".

Range Piracy

"The Prineville Journal reports many sheep-owners in Crook County have received anonymous letters as follows:

June 1, 1899

To Mr. _____

Dear Sir: The people of the southwest part of Grant County, Oregon are a going to allow no sheep to summer on the head of the south fork of Beaver Creek, Clear & Warm Spring Creek.

This is intended to give you due notice in time; as the old saying goes a hint to the wise is sufficient.

Yours Most Resp.

Committee

Letters are typewritten and have no identification but authorship is understood. The signature "Committee" stands for a conspiracy of range or pasture grabbers—an organized gang of ruffians—who assume the rights of ownership of a large part of the public land, which, under the rules of the land department, are open to all comers

1. Oregonian 7/17/99 p. 4 c. 1

for purposes of stock range--undertake by force and terrorism to keep all others off a large district and of late years have been fairly successful in doing it. Their method is that of the Ku-klux-klan. They ride over the "reserved" territory armed to the teeth and woe to the poor herder whom they may find "trespassing". They prefer to terrorize rather than to murder, as the letter above printed shows; but they are suspected of having killed at least two sheepherders, while it is a well known fact that they have poisoned flocks of sheep and burned the camps of their shepherds.

For the past two years the Prineville Journal states a deadline has been drawn around the headwaters of the south fork of John Day river....Sheep are denied the range and are not permitted to be driven across the reserved territory to market."¹

This constant warfare between cattle and sheepmen and the rapid disappearance of good range had its effect on public opinion. Whereas the grazing interests complained of losing their right to the public domain for range, the public attitude was changing in regard to this privilege. Free range had been abused and the result was either depletion of good ranges or monopoly of the best lands by use of threats and force. The practice of allowing all comers to use the public domain was criticized.

"All the considerations relative to this war of stockmen in Eastern Oregon--for it is no less than a war--emphasize the importance of a radical change of policy on the part of the Government in the matter of the range lands of the country. Under the present policy they are rapidly going to ruin, and with their decline a great national industry is falling into decay. Left to the greed of stockmen in competition with each other, the ranges will soon be little better than worthless barrens. And so long as the system is what it is, nothing can be done in the way of resting and recuperating the lands. There is an easy way to stop this waste....It is to lease the ranges, subject to a careful system of rules for their use, under the direction of Government inspectors...."²

1. Oregonian 7/10/99 p. 4 c. 1.

2. Ibid.

Cattlemen argued that sheep were necessarily destructive of the range and this led to their attempts to keep them off. In answer to this it was pointed out that although the policy of the government was wrong "it is not the duty or the privilege of the cattlemen to correct it".¹ At the same time, both cattlemen and sheepmen were accused of being wasteful of the range resource and of overstocking for transient advantage until the range steadily lost its productiveness and value. "The stockmen--cattlemen as well as sheepmen--feel no responsibility for preserving the ranges. Every season, they think may be their last chance, and so, when they get temporary possession of a range, they skin it bare, getting the very last dollar they can take from it. If the land were their own, either by ownership or lease, and if they were responsibly charged with its preservation, they could easily employ a more careful policy, looking to the preservation and even to the development of its protective quality."²

The policy of leasing the range, as employed by private land owners and land companies, was advocated for the public range. "Let the lands be examined and classified and let them be leased under rules working to the end to give protection against destruction. In this way the great ranges can be preserved and with them a great industry be saved from annihilation. Under present practice we shall soon have neither ranges nor the industry which depends upon them."³

1. Oregonian 7/10/99 p. 4 c. 1
2. Ibid 7/17/99 p. 4 c. 1
3. Ibid. Loc. Cit.

The opposition of the stock owners to the reserves was met by a change in reserve policy. By the Act of June 4, 1897 the Secretary of the Interior was authorized to "make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupance and use and to preserve the forests thereon from destruction...."¹ Under this authority regulations were issued regarding leasing of grazing lands within reserves and the grazing lands of the Cascade Reserve were leased in accordance with the regulations.

With the introduction of the leasing policy on the Cascade Reserve there began a cleavage in the opposition of stock interests to the reserve. Sheepmen began to favor the reserve policy, since they felt they would have some chance at allotment of the range under a system of leasing, which they preferred to trying to use "free range" under violent threats. This difference is exemplified in the following remarks from an article against the Blue Mountain Reserve by a "resident of Grant County".

"Why did the Woolgrowers Association favor the reserve? Was it not that they could get government protection to come into Grant County and eat the grass away from the resident stockmen of our county to the irreparable injury of our county and its citizens....the grass upon the ranges of Grant County is more the rightful property of the taxpayers of Grant County than it is of the Woolgrowers Association of the State of Oregon;....the waters of the streams of our county are held more for the use of our miners and stockmen than for the use of the large land corporation of Harney Valley....we demand from the Government a careful investigation of facts and that our Government give due consideration to the rights of the citizens of Grant County and to its business interests.... (Signed by A. D. Leedy)"²

1. Smith, D. H. Op. Cit. p. 68

2. Oregonian 10/6/02 p. 2 c. 3

Railroad interests opposed the withdrawals. It was argued that creation of reserves would retard railroad development since the timber tonnage would not be available for immediate revenue; also that the reserve interfered with the right-of-way. In this connection the Sumpter Valley railroad petitioned Secretary Hitchcock for release of certain sections of land from the proposed Blue Mountain Reserve in order to secure right-of-way for extension of the road to Burns. ¹ If land outside the right-of-way, but adjacent to it, were reserved, it would not draw a population; therefore, the railroad maintained it could not afford to build in that area.

Timber operators who throve through unlawful cutting of timber naturally opposed the reserves. In his survey of the situation in Southern Oregon Superintendent G. I. Taggart noted the objections of these interests. He reported unlawful cutting of timber and noted "....the only objectors to the Rogue River Reserve were sheepmen, sawmill men and shake makers....Millmen are against the reserve because it would prevent them from trespassing on Government land and cutting timber illegally, which I believe many of them were doing."²

Others who opposed reserves were homeseekers who claimed valuable agricultural lands had been reserved. For example, the Grant County court protested against the proposed Blue Mountain Reserve and claimed that many homesteads would have been entered and added

1. Oregonian 3/25/04 p. 6 c. 5
2. Ibid. 10/8/03 p. 14 c. 1

to the tax roll of the county, if it were not for the proposed reserve.¹ Miners objected to the reserves because they wished to explore for minerals in reserved lands. Their opposition was met by the announcement of the Department of Interior that lands in reserves would be allowed the use best suited to their character. If they were better suited for mineral or agricultural purposes than for forest purposes, the same rights would be allowed to homesteaders and miners in reserves as on the public domain provided proof was furnished that the lands were agricultural or mineral in character.

Timber land speculators opposed the reserves on the ground that "development" of resources was hindered. What was meant was that valuable timber lands not already seized by land law abuses could not be entered fraudulently. On the other hand, some speculators found the reserve policy to their liking.

Other criticisms were made of the methods and agencies employed in recommending withdrawals. It was objected that the lands were not carefully surveyed or described by the Geological Survey. "There is a looseness in the manner in which the Geological Survey makes its recommendations that is not beyond censure. Nowhere would that Bureau describe, except by map, the lands which it believed should be reserved."¹ Then, too, the size of the withdrawals caused hostile comment. "There has been undue haste in withdrawal,

1. Oregonian 10/6/03 p. 7 c. 3

.... too scant knowledge of actual conditions of lands affected. Some instances justify temporary withdrawal, but there is no warrant for withdrawal of such large areas as are now segregated from the public domain.¹ The fact that about ten million acres were withheld from settlement on account of the withdrawals for forestry purposes was cited as an encroachment on the State's rights in the disposal of the public domain. "Western senators and representatives are a unit in protesting against the plastering of the country with withdrawals that include not only forest lands, but countless acres of grazing lands and lands that belong to the settler and agriculturist. The policy of withdrawals is not criticized; it is the manner of applying this policy; consistent abuse of the privilege that is complained against and it is an evil that cannot too soon be corrected."² It was explained that the temporary withdrawals were not carefully examined since action was required to head off speculators.

Criticism also directed itself at the overlapping of the bureaus which were interested in forestry. "No officer in the government can tell which of these withdrawals are ultimately of permanent reservations or what lands will be restored to entry. Therein is one of the gravest evils of the present withdrawal system.... Instead of being under control of one department there is a division of authority. There are conflicts in administration and duplication.... There is no man in supreme authority whose word is final...."³

1. Oregonian 9/7/03 p. 1 c. 3

2. Ibid.

3. Ibid.

... However, criticism was aimed not so much at reform in the administration of forestry problems as at the withdrawals. In spite of protestations that withdrawals to head off speculative entries were not condemned, critics refused to recognize the fact that an emergency was at hand, and, if action were delayed until the lands were carefully surveyed, it would be too late. If withdrawals were delayed until the creation of reserves, the lands would be taken up by "scrippers" who would work the lieu land privileges in their behalf.

VI SPECULATORS AND RESERVES

The influence of the American Forestry Association and what may be designated as "conservation enthusiasts" and the influence of technical advisers in the forestry bureau and in the Department of the Interior in bringing about legislation in making reserves possible has been noted. However, another factor in the creation of reserves, namely, speculative interests exploiting the reserve policy in order to obtain special benefits enters into the picture.

Almost from the first the reserve policy was exploited by speculators; but it is not until several years after the creation of the reserves that public opinion was aware of it. For instance, the Cascade Reserve furnished a fertile field for school land indemnity frauds; but there does not seem to have been any criticism of this reserve on account of fraud. In cases where any portion of a school section became lost to the State through inclusion in a reserve or being returned as mineral in character, the State obtained indemnity therefor which it satisfied by selecting other¹ vacant Government lands in lieu. Because the "base" was available for exchange it had an increased valuation. The school land frauds

1. Puter, S.A., Looters of the Public Domain p. 347

were based on the manipulations of speculators who were anxious to create "base". Their activities have been described as follows:

"The Schhol Land Ring", composed of McCormack, D'Arcy, Rader, Jones and myself, finally conceived the idea of establishing an immense forest reserve in the Cascade range of mountains upon the theory that the State would be entitled to indemnity for all the unsurveyed school sections within the limits of the proposed reserve. Acting upon this belief, a fund of about fourteen hundred dollars was subscribed by those interested, which was to be devoted to the expenses incident to the preliminary steps. We had an elaborate map made of the country that was proposed to be withdrawn, indicating that its boundaries extended along the Cascade range from one end of the State to the other, and embraced a strip about thirty or forty miles in width. This map indicated that there were fully 195,000 acres of unsurveyed school sections within the proposed reserve, for which the State would be entitled to indemnity.

"We then engaged the services of Will G. Steel, of Portland, giving him the map and all other data at our command, and started him back to Washington for the purpose of promoting the establishment of the reserve. He was successful in the undertaking, and we soon had the satisfaction of knowing that the now famous Cascade Forest Reserve was upon a firm basis. Our attorney in Washington kept us apprised of the situation, and we were notified fully ten days in advance that it was President Cleveland's intention to sign the proclamation creating the reserve. We took advantage of this information to procure enough "dummy" applications to cover every available school section within the reserve, and these were prepared to file with the Clerk of the Land Board as soon as we received word that the President had signed the proclamation. Upon receipt of this intelligence by wire, the Clerk of the Land Board submitted a selection list of a few hundred acres to Governor Penoyer as a "feeler", but he had been laying for us, and refused absolutely to sign the list, at the same time notifying Clerk Davis not to receive or file a single application for any tract based upon Cascade Forest Reserve indemnity, and stating further that it was his intention to have a bill introduced before the next Legislature raising the price of all school indemnity lands to ten dollars an acre.

"The vigorous stand taken by the executive was a body blow to the school land ring for we had figured upon making an enormous "killing" in connection with the sale of the 195,000 acres of base existing within the limits of the proposed reserve, there being a profit of from \$1.50 to \$2.50 an acre thereon. However, we did not lose all hope, but concluded to wait until the Legislature met, when we could resort to the same methods that had so often proven successful upon

former occasions—work the "third house" for all it was worth in the effort to prevent any change in the price of school indemnity lands.

"When the Legislature met....the ring succeeded in holding the price down to \$2.50 an acre...."¹

Not content with taking advantage of the school land indemnity by buying the school sections (sixteen and thirty-six) within the areas where reserves were to be created, speculative interests succeeded in bringing about the passage of the lieu land provision in the Act of 1897, later denounced as the most rotten law on the records of Congress. This allowed the exchange of lands in forest reserves for vacant lands of the public domain which were open to settlement. Thus all privately owned lands included in reserves had an enhanced value on account of the possibilities of exchange for valuable timber lands, etc. The agents of Hyde and Benson filed on the 44,000 acres of school lands remaining in the Cascade Reserve, and the base thus obtained was used in the selection of other tracts belonging to the Government as allowed in the lieu land Act of 1897.²

As in the case of the Cascade Reserve, "the idea of creating the Blue Mountain Forest Reserve originated in the shrewd minds of those who saw in President Roosevelt's well-defined policy of preserving the remaining timber of the country for the benefit of future generations a chance to further their own selfish interests".³

The fraudulent plan of these schemers anticipated obtaining title

1. Iuter, 3.A. Op. Cit. p. 322

2. Ibid. p. 329

3. Ibid. p. 347

to about 44,000 acres of State school lands in Crook, Grant, Harney, Malheur, Baker, Union, Umatilla and Tallowa counties in Oregon, by fraudulent affidavits and applications, and subsequent inclusion of these lands in the Blue Mountain Forest Reserve, thus making it possible to use these lands as base in exchange for valuable timber lands under the lieu land provision of the Act of June 4, 1897.¹ Since these lands could have been purchased from the State at that time for \$1.25 an acre by any qualified person making application for 320 acres and were worth from \$5.00 to \$7.00 an acre as lieu base, it is easy to understand the motives that controlled those² behind the plot to have the reserve created.

The fact that there actually existed necessity for protection of timber lands from speculators and for conserving the headwaters of streams gave the proposal legitimacy and aided in its adoption.

The part played by exploiters in the establishment of the Cascade Reserve did not come to public attention, but the interested motives for creation of the Blue Mountain Reserve were recognized. One of the reasons for this was the fact that there was so long an interval between withdrawal and permanent reservation. Another was the fact that under Secretary Hitchcock of the Interior Department investigations of frauds were carried out.

In his report on the public lands Secretary Hitchcock emphasized the timber frauds in Oregon in calling for revision of the Timber and Stone Act. The increased entries under this act called forth

1. Inter. S. A. Op. Cit. p. 347

2. Ibida p. 348

the following comments.

"Should this rate of entry continue....it would mean the acquisition of 600,000 acres of timber lands under the Timber and Stone Act, and, if the same activity took place in other public land states, before two years practically every acre of unappropriated public timber lands would have been absorbed and success of the Reclamation Act of June 17 rendered doubtful....for the reservation of public timber lands must of necessity be made to assist in conserving the waters to be impounded by irrigation systems....

"The reports of the special agents of this department in the field show that, at some of the local offices, carloads of entrymen arrive at a time, each one of whom makes entry under the Timber and Stone Act. The cost of 160 acres of land under that Act and accompanying commission is \$415 and as many as five members of a family, who it can readily be shown, never had \$2,075 in their lives, come up cheerfully and pay the price of the land and the commission. Under such circumstances there is only one conclusion--the unanimity of sentiment....must have originated in some other association than themselves."¹

On account of the suspicion of fraud entries were suspended by Secretary Hitchcock pending investigation, and he indicated his intention to hold up the establishment of the Blue Mountain Reserve until every acre to be included in the reserve was carefully inspected and lands held or occupied by large holders were eliminated. His action was aimed especially at holders of lands which were entered for speculative purposes just prior to withdrawal by "parties who are believed to have received tips as to the intention of the creating of the "Blue Mountain forest reserve".²

There was varied reception of the fraud charges made by the Secretary of the Interior. Representative Moody stated that "no wonder suspicions were aroused when returns from The Dalles district

1. Oregonian 11/24/02 p. 1 c. 3
2. Ibid 11/16/02 p. 1 c. 7

alone showed an increase from 200 to 1500 entries in the past twelve months.¹ In other words, only 250 sworn timber entries were made at that office in the twenty-seven years prior to January 1, 1902; whereas, in the past twelve months 1250 entries were made.² This increase was especially remarkable in view of the fact that each applicant under the Timber and Stone Act made the following oath:

"....; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself;...."³

Senator Tongue dismissed the fraud charges as unfounded and claimed that an increase in the number of entries was natural on account of the increased value of timber lands in Oregon. "Oregon has more splendid timber than any state in the Union. Why should not its citizens avail themselves of the laws of the United States and secure tracts of this class of lands...."

Senator Mitchell's comment is interesting since he later became the central figure in the fraud trials. "The connection of my name in any shape, manner or form with any alleged land frauds in Oregon is....without any grounds whatever on which to base it. Furthermore, while no doubt some land frauds have been perpetrated in Oregon.... I do not believe that Oregon as a State is any more open to imputation upon this ground or to be held up before the country in an

1. Oregonian 12/5/02 p. 6 c. 1

2. Ibid. Loc. Cit.

3. Ibid. Loc. Cit.

improper light than any other northwestern state....The truth is, the great fault is in the present land laws of the country, some of which should be radically modified, and others repealed. The opportunities given by those laws to those who desire to take advantage of them...naturally suggests that there must be some fraud; undoubtedly there is some fraud, but as one representative of the State of Oregon....I resent the charge....that the people of Oregon more than the people of any other Western state, should be held up before the country as they now are, as being engaged in a saturnalia of fraud in connection with the public lands.¹

This appeal to state pride by Senator Mitchell could not hide the fact that many land entries had not been made by actual settlers. The Oregonian sounded the common opinion of the suspensions when it headlined "Secretary Hitchcock's arraignment of Oregon public land abuses is just".²

In the case of the Blue Mountain frauds the speculators overreached themselves. Shortly after the order for withdrawal of lands for the proposed Blue Mountain reserve, Congressman Williamson, (later indicted in connection with land fraud), wrote to Commissioner Hermann recommending "small additions that should be made to the present withdrawal". These additions covered covered nine townships in Crook County and five in Baker and Malheur Counties. This letter

1. Oregonian 12/5/02 p. 6 c. 1
2. Ibid. 11/29/02 p. 8 c. 1

aroused Hermann's suspicions and they were confirmed when he found that "to reserve the townships mentioned by Mr. Williamson would be to create one acre of lieu base for about every three acres reserved." ¹ His reply to Williamson stated that he could not recommend withdrawal of the lands because of the extensive private holdings thereon. ²

Commissioner Hermann wrote Secretary Hitchcock regarding the private holdings within the proposed reserves:

"Careful examination of the records of this office, made when first you ordered the temporary withdrawal directed in your letter of October 24, 1902, discloses the existence of a large number of adverse holdings within the boundaries of the proposed withdrawal....I immediately consulted you and as a result you directed that the north line of the boundary proposed by the Geological Survey be rectified to conform with the amendment proposed by me on the diagram which I submitted for your examination.

"By this modification of the boundary a great number of entries and settlers will be excluded which would otherwise have been included had the recommendation of the Geological Survey been closely followed, which holdings, in the event of their being included within a forest reserve, would constitute a basis for lieu land selections in the forest area in other portions of the country." ³

On this recommendation, the Secretary on November 6, 1902 directed that the north boundary of the withdrawal be amended to exclude lands which were thickly settled.

Williamson had also written in the interests of additions to the Willow Reserve to which Hermann made the same diplomatic reply as in the case of the suggested additions to the Blue Mountain Reserve. Secretary Hitchcock did not know of the correspondence between

1. Oregonian 10/6/03 p. 7 c. 3
2. Ibid.
3. Ibid.

Williamson and Hermann at the time he ordered the withdrawal of lands
I
for the Wallowa Reserve.

The records of the State Land Office revealed that prior to Williamson's recommendation for extension of the Blue Mountain Reserve there had been a rush to acquire state lands in the townships affected. Williamson also had an interest in the purchases and his associate, J. A. Boggs, of ^Prineville, Oregon, had gotten entrymen to file over forty applications "for the purchase of practically all of the vacant school lands in the townships which were recommended for inclusion in a reserve either as addition to the Blue Mountain or as a separate reserve in Wallowa County".² Upon the refusal of Hermann to recommend the withdrawal of these townships, Williamson disposed of his holdings in these lands.

1. Oregonian 10/8/03 p. 7 c. 3
2. Ibid. 10/12/03 p. 12

VII LIEU LAND ABUSES--THEIR EFFECT ON PUBLIC OPINION ON RESERVES

Considerable criticism was made of the forest reserve policy because it was exploited by speculators. Public opinion became aware of the "scripper evil" as the manipulation of the lieu land law was called. It was seen that creation of a reserve following the Blue Mountain withdrawal would create a profitable field for prospective lieu land owners. "Important officials in a position to know what the Land Department does bought every vacant school land section within the boundary of the proposed reserve. Let them tell the people of Grant County why they bought this land and why they are now favoring the permanent creation of the proposed reserve." ¹ Before the Eastern Oregon forest reserve is created rumors that some "were given the tip so they could secure what benefits might accrue from the knowledge" ² should be investigated. "It is well known that certain syndicates have secured control of nearly all the valuable timber lands of the Blue Mountain range ³ in Baker and Grant counties."

1. Oregonian 10/6/02 p. 2 c. 3
2. Journal 8/12/02 p. 4 c. 2-3
3. Oregonian 10/29/05 p. 4 c. 5

Opposition was aroused by the discoveries of tricky dealing and the reserve policy was criticized. "That there has been strong opposition to the forest reserve idea is due in part to the abuses which were permitted to grow up in it, chief among them the scripping evil, which enabled large corporations to exchange their worthless lands for good and still retain their good lands within a reserve."¹ There was strong protest from the people of Oregon when the reserves were proposed on grounds that the reserves would include land not valuable for its timber and would place in the hands of corporations scrip with which valuable public lands might be taken in exchange for worthless lands inside reserves.²

Part of this opposition was dissipated with the announcement that the withdrawals included more land than desired for reservation and large tracts would be eliminated and restored to entry after field examinations showed they were not valuable for forest purposes. It was also explained that withdrawals had been made in order to "beat the ring"; and no proclamation would be issued until the Interior Department had inspected every acre and eliminated such lands as had no timber or were occupied by large holders. All towns or settlements and all school lands would be excluded; especial effort would be made to exclude lands entered for speculative purposes just prior to withdrawal by parties who received advance information.³ In this connection, it was revealed that there had been leaks in

1. Oregonian 6/21/07 p. 8 c. 3
2. Ibid. 5/23/04 p. 6 c. 3
3. Ibid. 11/16/02 p. 1 c. 7

the General Land Office under Commissioner Hermann in regard to the
¹
 Blue Mountain withdrawal.

Withdrawals had been made in order to take the land out of the reach of land grabbers and the Interior Department was trying to "secure remedial legislation through Congress--repeal of the timber and stone act, desert land law, and the commutation clause of the homestead law and repeal of the forest reserve lieu land law" in order to accomplish the same purpose. Likewise, withdrawals had been made in the Rogue River region "solely to stop operations of the land ring, for the lands embraced in that withdrawal contain some of the most valuable timber in Oregon...."³

The lieu land abuses in the proposed reserve were recognized by the Interior Department but its repeated recommendations for repeal of the act were unheeded by Congress. Therefore, no reserves were created by the Interior Department "because it is afraid in doing so it would open up endless opportunities for lieu land". This action of the Department was described as an "attempt to make the best of a bad situation".²

However, the withdrawals served as virtual reserves because they prevented any further entries of the lands. As long as the land remained withdrawn from entry no basis for lieu selections was created.

1. Oregonian 10/23/03 p. 1 c.3

2. Ibid.

3. Ibid. 2/17/04 p. 8 c.3

VIII CRITICISM OF THE SIZE OF WITHDRAWALS

DEMAND FOR SETTLEMENT OF RESERVE BOUNDARIES AND RESTORATION OF LANDS

In spite of the explanation that the withdrawals had been made in excess of lands needed for forest purposes in order to have a selection of lands and to avoid questions of entries and relinquishments, the State Land Board, on account of its part in the sale of school lands in the Blue Mountain Reserve, desired immediate action. Since the State owned some 50,000 acres of school land within the limits of reserves, it could use the land, upon creation of reserves, as base for selection of lieu land and realize five dollars per acre for it. This was regarded as a great advantage since it would add \$250,000 to the irreducible school fund. The Board was also in an embarrassing position because of difficulties in mineral base transactions.

"Upon mineral base furnished by private operators, the State selected 70,000 acres or more of lieu land, and sold it to persons who had applied therefor and who furnished the base at the same time. The price received for the lieu land was \$2.50 an acre. It has developed that practically all the mineral base was invalid or at least the Department of Interior has so held it and the state's title to the lieu base becomes void.

"Therefore purchasers from the state found themselves without title....Some have secured relinquishment of the state's lieu selections and have taken the land under homestead or timber laws by means of scrip; others cannot because of adverse claims attached....If the proposed reserve is created, the state can use the school sections within the reserve as base to set up these fallen titles, thus not only protecting the purchasers, but also securing the money the base will bring. The lieu land was sold in the first place at \$2.50 per acre and this price the state must return until the titles can be made good. Under act of the Legislature of 1903, the price of lieu land was raised from \$2.50 to \$5.00 per acre, and the State Land Board will not use valid base now to set up fallen titles unless the purchasers pay the additional \$2.50 per acre as required by present laws. If the titles are not made good, the state must pay back \$2.50 per acre. If they are made good, the state will net an additional \$2.50 per acre, so that, if these school sections can be used as base, the state will be ahead...."¹

The State Land Board therefore wished early settlement of the boundaries of reserves in order to decide the status of its mineral base lands. The Clerk of the Land Board wrote the General Land Office, but received no satisfactory reply. Whereupon Governor Chamberlain wrote to President Roosevelt under date of August 3, 1904:

"The State Land Board has written to the Commissioner of the General Land Office to ascertain the official boundaries of the Blue Mountain Forest Reserve and the Wallowa Forest Reserve, and the only reply it is able to elicit from that department is 'no decision has been reached as to what lands now in a state of temporary withdrawal for the proposed Blue Mountain and Wallowa Forest Reserve should be permanently reserved'.

"I am requested by the Board to write to you and ascertain, if possible, how soon the State may expect to have these reservations finally acted upon. As the matter now stands, many thousand acres of land are withheld from settlement and cultivation, which in all probability will not be included in any permanent reservation, and the State Land Board is deeply interested in having the matter of the permanent boundaries settled and determined as soon as can possibly be done."²

1. Oregonian 8/15/04 p. 1 c. 5
2. Ibid.

The President replied that the matter would be taken under consideration. Shortly, the Interior Department announced that immediate action would be taken in excluding from the temporary withdrawals all lands not suited to forest reserve purposes, re-leasing for settlement lands more valuable for agricultural than timber purposes. There followed the elimination of lands in the Blue Mountain and Fallowa withdrawals which were found to be unsuitable for forest reserve purposes or which had been entered for speculative purposes.

On October 22 there were restored to entry a part of the withdrawals made with the view of creating the Joseph River, Rogue River, La Grande and Maury Mountain forest reserves in Oregon¹. The restorations were in accordance with the new rule of the Department permitting immediate settlement in the land, but not allowing entry or filing to be made until after a period of ninety days of advertising by local land offices. About 65,000 acres were eliminated from the Rogue River withdrawal, leaving 1,271,000 acres; 26,000 acres were eliminated from the La Grande withdrawal, leaving 265,580 acres; while 144,640 acres were taken out of the Joseph River withdrawal, leaving 177,920 remaining. The Maury Mountain withdrawal had 10,000 acres restored to entry, leaving 58,520 acres.²

1. Oregonian 10/23/04 p. 2 c.1

2. Ibid.

Elimination of these lands did not mean that the remaining areas would be reserved, merely that the Forestry Bureau had reported they should not be included in reserves. Further examination¹ would be made before the permanent reserves were created. Also, eliminations were to be made in Washington and Idaho. In² all 5,107,500 acres were thrown open to entry in various states.

In November a total of 153,000 acres was restored to entry from the Cheshinnuma or Joseph River withdrawal in Wallawa county.³ Lands in the Cascade Reserve were restored by the Department in December because they were intermingled with private holdings and not sufficiently timbered for forestry purposes. These lands comprised about 224,000 acres on the West side of the Reserve and had been withdrawn August 3, 1903 with the view of enlarging the Cascade Reserve.⁴

1. Gregorian 10/23/04 p. 2 c. 1
2. Ibid 10/20/04 p. 2 c. 3
3. Ibid 11/7/04 p. 12 c. 3
4. Ibid 12/29/04 p. 4 c. 5

IX REPEAL OF THE LIEU LAND ACT AND CREATION OF RESERVES

It is seen the Department of Interior had long advocated revision of land laws. The revelations regarding timber land frauds and the publicity in connection with the speculation in the proposed reserves speeded the reform agitation. The report of the Public Land Commission, composed of W. A. Richards, Commissioner of the General Land Office, Gifford Pinchot, Chief Forester, and F. H. Newell, Chief Engineer of the Reclamation Service, issued early in 1905 described the lieu land act as a "scandalous act....¹ Its immediate repeal is recommended". The Commission also reported that speculators of various classes found ways to get around the safeguards on the public domain for the homeseekers benefit. It was recommended that the homestead law, desert land law and the timber and stone act be revised. However, it was realized that "so many interests combine in holding these laws on the statute books that a heavy task is ahead of the reformers."² The recommendations of the Commission were backed by the President who forwarded

1. Oregonian 3/1/05 p. 8 c. 2

2. Ibid

the report to Congress with a strong message favoring changes in the land laws.

Congress followed the recommendations of the report in repealing the lieu land law on March 4, 1905, but other necessary revisions were disregarded. Repeal prevented the speculators who had bought land in the proposed Blue Mountain reserve from profiting.

"Men who bought state school lands in the proposed Blue Mountain reserve will not get a chance to use the land as base for the selection of lieu land. About 185,000 acres of land was bought within the boundaries of the proposed reserve and approximately \$100,000 was paid thereon. The price at the time of purchase was \$1.25 per acre and the purchasers have paid fifty to seventy-five cents an acre already. There is quite a possibility that many of these purchasers will discontinue making payments to the state, since there is no probability of the land's being used as base. In that case the state will retain the money already paid and the purchasers will forfeit the certificates of sale they hold. Some of the school lands within the proposed reserve are worth this price for the timber they bear, but most sections were bought for the purpose of using them as base. The State of Oregon as owner of the land will not be benefited or injured by passage of this act. The state has no forest reserve base and has no prospect of securing any unless it be in the Wallowa reserve if that reserve should be created." ¹

Creation of Reserves

Repeal of the lieu land law removed the obstacle to Presidential proclamation for the establishment of reserves. The Cheesniminus Reserve, embracing about 300,000 acres of land in Wallowa County was established May 13, 1905. "This reserve lies north and east of Wallowa Valley and for the most part is mountainous and fairly well covered with timber. Rising within its

1. Oregonian 5/13/05 p. 2 c. 1

limits are Joseph River, Chesniminus Creek, Elk Creek, Crow Creek and numerous tributaries of the Willowa and Grand Ronde rivers. The reserve is established not only to protect timber, but to prevent the destruction of the water supply which may later be found essential for irrigation within a short time."¹

Maury Mountain Reserve

There followed the establishment of the Maury Mountain Reserve in June. This reserve, located in Crook County between the Great Sandy Desert and the western extension of the proposed Blue Mountain withdrawal, had originally contained 62,480 acres; but the area was reduced to 51,360 acres on the recommendation of the Forestry Bureau.

Additions to the Cascade Reserve

About 22,400 acres on the headwaters of the Clackamas river were withdrawn from all save mineral entry as proposed additions to the Cascade Reserve. The area was about fifteen miles southeast of Portland and contained valuable timber.

Blue Mountain Forest Reserve

On March 17, 1906, the Blue Mountain Reserve, embracing about 2,627,270 acres, was proclaimed by the President. The boundaries were drawn so as to exclude land lying on the border which had passed into private ownership.²

1. Oregonian 5/13/05 p. 2 c. 1
2. Ibid. 3/18/06 p. 2 c. 1

The reaction to the creation of this reserve is noteworthy. Criticism, which had been strong at the time withdrawal was first made, had died down. Residents in areas affected became satisfied that protection of the timber and water supply was to their interest. The miners had strongly protested since they thought they would be handicapped if their claims were included in a reserve; but they came to realize they would have the same rights in a reserve as on the public domain. Sheepmen, who had opposed the reserve because of fear they would lose summer range in the mountains, were reconciled when they were assured that grazing would be allowed. Criticism on account of speculation and frauds was dissipated with repeal of the lieu land provision and the policy of excluding private holdings from reserves as far as possible.

The Ashland Reserve was enlarged, April, 1906; and in May two new reserves to be known as the Fremont and Goose Lake were under consideration. These embraced the lands in the Warner Mountain withdrawal.

Esperanza, Fremont and Siskiyou Reserves

The Esperanza Forest Reserve was created in July to protect the water supply for the Umatilla irrigation project under the Reclamation Service. This reserve took in approximately 292,176 acres.¹ In October the proclamations for the Siskiyou Forest Reserve and the Fremont Forest Reserve (formerly the Rogue River withdrawal)² were made. The Siskiyou Reserve, as originally planned, was to

1. Oregonian 7/5/06 p. 9 c.5

2. Ibid 10/18/06

have included about three-fifths of Curry County, but protests were so strong that the withdrawal was changed and no lands in Curry County were included. This reserve covered over 700,000 acres, about thirty-one townships reaching from the California line to the southern part of Douglas County. There had been considerable criticism of the lands withdrawn under the Rogue River withdrawal and now included in the Siskiyou and Fremont Reserves because of the problem of railroad grants involved. It was necessary to consider a policy of exchange of lands outside the reserves for railroad grants falling within the reserve. At the time the proclamations issued this question was not settled. "The Oregon and California railroad has a large amount of grant lands inside the reserve, but the impression is general that the repeal of the lieu land act put a stop¹ to the creation of new scrip." The Fremont Reserve covered the greater part of seventy-two townships in Crook and Klamath Counties.

Meanwhile, speculative interests attacked the forest policy, which, by withdrawal of timber lands in reserves, reduced opportunities for gain. The viewpoint of the opposition to the reserves is expressed by the following comment made by Senator Fulton of Oregon in the course of debate on repeal of the Timber and Stone Act.

"I am opposed to repeal of the Timber and Stone Act unless some provision shall be substituted whereby timber may become private property. Oregon is to be developed by men, not trees. What we want are industries, and revenue producing properties. Land owned by the government and withdrawn from entry or settlement furnishes neither revenues nor opportunity for industrial

1. Oregonian 10/18/06 p. 6 c. 1

development. I am frank to say that I do not want the government to retain a foot of land in Oregon outside of what is necessary for its public buildings, forts, military reserves and offices. When land passes into private ownership, it begins contributing to the public treasury. I am opposed to retention in the public domain of land that is suitable for any character of private enterprise. A reasonable share of receipts from the sale of timber on public land should be returned to the counties...."¹

Senator Fulton proposed that twenty-five per cent of revenues derived from the forest reserves be returned to the counties in which the reserves were situated.

The power of the President to create reserves was attacked by Senator Heyburn, who introduced a measure to transfer this authority to Congress. The opposition to the President's reserve policy finally culminated in passage of the Act of March 4, 1907 whereby the forest reserve special fund was abolished and provision was made that ten per cent of the money received from reserves during any fiscal year should be returned by the Secretary of the Treasury to the State or territory in which the reserves were situated to be expended as the state or territorial legislature might prescribe for benefit of the public schools and public roads of the county or counties in which the reserve was located. The act also provided that: "no more new national forests might be created or old ones enlarged in Oregon, Washington, Idaho, Montana, Colorado, and Wyoming except by act of Congress."² but the effect of this restriction was lessened by the action of President Roosevelt who, on March 2, two

1. Oregonian 2/1/06 p. 4 c. 1

2. Smith, D. H. Op. Cit. p. 35

days before the act went into effect, set aside twenty-one new reserves with an area of over 40,000,000 acres in the states affected.¹

The President explained: "If I did not act, the reserves.... would be dissipated before Congress has opportunity to consider the matter".² In Oregon, 4,052,000 acres were placed in reserves as a result of this action, making the total area reserved in the state 16,552,728 acres out of a total state area of 59,520,000 acres,² or about one-fourth of the state was reserved. The following table shows the distribution of the newly reserved lands:

Additions to Reserves

<u>Reserves</u>	<u>No. of Acres</u>	
Blue Mountain	977,000	
Siskiyou	446,000	
Wenaha	71,000	
Cascade	514,000	
Ashland	154,000	
Imnaha*	783,000	
Total		2,945,000

Reserves Created

Tillamook	165,000	
Coquille	140,000	
Umpqua	802,000	
Total		1,107,000

Aggregate area of reserves on 2/1/07	12,500,728
Grand Total	16,552,728

* Hallowa and Cheanininus Reserves were combined under the name of Imnaha.

The President's action aroused the criticism of the same forces which had opposed the early reserves. The inclusion of range lands

1. Smith, D. H. Op. Cit. P. 36

2. Data taken from Oregonian 3/6/07 p. 1 c. 3

in reserves and the charging of fees for leasing them was described as a "hardship on the poor pioneer", and stockmen objected that inclusion of public lands in additional reserves cut down the open range. The State of Oregon had 60,000 acres of base upon which it hoped to realize \$450,000 by the sale of indemnity lands thereon. By preventing the selection of timber lands, the value of the base was decreased; therefore, there was opposition to the inclusion¹ of most of the public unappropriated lands in Oregon in reserves.

Opposition finally culminated in an attempt to force through a set of resolutions "calculated to create the impression that the whole country was up in arms against the President's forestry policy"² at the Public Lands Convention, which was held in Denver, Colorado in June, 1907. This convention was attended by delegates from every public land state in the Union. However, "the schemers failed lamentably in this undertaking....the President had a sufficient number of adherents in attendance to thwart all attempts to cast discredit upon his policies...."³

The fact that public opinion supported the President illustrates the change in attitude. The article entitled "The People and the Forests" furnishes an interesting summary of the forestry question up to the close of the history of the early forest reserves. With the favorable support shown at the Denver convention, the history of the reserves comes to a close and that of the national forests begins.

1. Oregonian 2/3/07 p. 6 c. 2
2. Inter. S.A. Op. Cit. p. 460
3. Ibid.

The People and the Forests

"Control and disposition of the public lands is one of the most important problems now before the American Government, for we have reached a period in our development when control of natural products vitally affects the personal and business interests of all the people. That the public land should be given free to the people has long been one of our most cherished principles. This principle was based upon the theory that free land meant cheap homes and consequently many homebuilders. To the extent that free land, or even cheap land, increases the number of home-owners who get their living from the land they have thus acquired, the policy of giving away the public domain is a wise one and has never been seriously questioned or attacked. But there are different kinds of public land and different purposes for which ownership is desired. The public land policy was framed at a time when the Great West meant the prairie region east of the Rocky Mountains, where the settler could build his cabin, plow the sod, sow the grain and raise a crop the second season, if not the first, after settlement. The expression "public land" conveyed a mental picture of land that could be tilled or that was suitable for home-building. While it was then known in a general way that much of the public domain was timbered or contained deposits of coal, the ultimate value of these natural products was not appreciated. Heavily timbered land was scarcely considered in forming the policy which contemplated the giving away of the public domain to home-builders.

"In recent years, however, we have come to realize the value of timber and coal lands, and understand that purchasers of either do not seek the land with a view to building homes thereon. We now perceive that the public land policy, as it applies to tillable land should be different from the policy that determines the disposition of timber and coal lands. The man who acquires tillable land usually expects to go upon it and make it productive. The man who acquires timber land hopes to sell it to some large corporation. The corporation, founded by men who foresee a scarcity of timber, expects to hold the timber land until it has greatly enhanced in value. The wait may be ten, twenty-five or fifty years, but the certainty of advancing value makes the purchase a safe speculative investment. Much of the timber land goes into the possession of corporations that do not desire it for milling purposes, but expect to make a profit by reason of the future conditions of supply and demand. Tillable land goes to the people—timber land to the capitalistic few who expect to levy tribute upon the people who eventually must buy the timber in the form of lumber.

"Out of this difference in the character and the purposes for which it is acquired has grown the forest reserve policy, which contemplates the reservation of lands not suited to home-building but which are either valuable for present growth of timber or may become valuable when trees now young reach maturity. To prevent wanton destruction of timber, young and old, and to retain ownership in the Government, is the end to be accomplished by the forest reserve policy. At no time has the reserve policy contemplated the withholding of lands suited to settlement or the withholding of timber needed for the manufacture of lumber. The forest reserve policy therefore includes neither the retarding of settlement nor the hampering of the lumber industry. Incidentally, the forest reserve policy extends to the regulation of grazing on a reservation, the building of roads, cutting of timber, etc.

"It would be easy to foresee that the forest reserve idea would meet strong opposition from those persons who wish to acquire timber lands and those who wish to graze their cattle upon the public domain unrestricted. The capitalist with money to invest can see no good in a forest reserve. The cattle owner who feels confident of getting his share of the range, if left to his own devices entirely, has no word of commendation for a system of regulation which guarantees to a weaker cattleman a just share of the public range. One would expect, too, that the great majority of people, who have no interest except that possessed by every citizen, would favor the forest reserve system, for it proposes to retain for them the vast wealth that is theirs.

"That there has been strong opposition to the forest reserve idea is due in part to the abuses which were permitted to grow up in it, chief among them the scripping evil, which enabled large corporations to exchange their worthless lands for good and still retain their good lands within a reserve. In a few instances some lands may have been included in a forest reserve which should have been omitted. This, with some inconvenience in securing grazing permits, may have caused some opposition to the reserves. But, in the main, the fight now being waged in the public lands convention at Denver against the policy of conserving the public lands has its origin in the selfish desires of men who want free timber or free range. The forest system undoubtedly has its faults, but its defects are not serious enough to justify throwing down the lines of the reservations and permitting all who wish to rush upon the last of the timber lands, seizing them in sections and townships to hold until the needs of the people and the concentration of control shall enable the holders to dictate the price of lumber.

There are some indications of an effort on the part of the timber interests to control the convention and determine its expressions upon public land questions. If such a movement has been undertaken and should succeed, the opinions voiced by the convention would have but little weight with the people. On the contrary, it would tend to make them more than ever supporters of the policy which is designed to retain for the people the land that belongs to them.

"The argument offered that the creation of a forest reserve withholds land from taxation is a shallow one. If a timber syndicate can afford to buy a township of timber and pay taxes on it for ten years in order to make a profit on the advance in value, cannot the people afford to retain that same land and go without the taxes in order to realize the profit on the advance in value? Wherein are the people gainers if they lose the large profit represented by growing value, and gain the small amount of money paid in the form of taxes? And more—wherein have the people profited if they sell the standing timber to a speculator today and buy it back from him ten or twenty years hence at many times the price he paid? If a sawmill proprietor needs logs for his mill, let him buy from the people's supply of timber at prices that prevail today; but let him not buy the timber in large tracts at present prices to hold until he can exact from the people a much larger price because he controls the supply...."

BIBLIOGRAPHY

- Cameron, J. Development of Governmental Forest Control in the United States, Baltimore: Johns Hopkins Press, 1928.
- Donaldson, T. The Public Domain, Washington: Government Printing Office, 1884.
- Fernow, B.E. Report upon the Forestry Investigations of the United States Department of Agriculture, Washington: Government Printing Office, 1899.
- General Land Office Public Land Laws and Regulations 1882-1907, Washington: Government Printing Office (Bound volume of the Forest Service Library, Portland, Oregon)
- Instructions to Special Agents of the General Land Office Relative to Timber on Public Lands, Washington: Government Printing Office, 1898.
- Puter, S.A. and Stevens, Horace, Looters of the Public Domain, Portland: 1908
- Smith, E.H. The Forest Service, Washington: The Brookings Institution, 1930.
- Regulations under Timber and Stone Law, Washington: Government Printing Office, 1914 (Circular No. 289 of the General Land Office)
- Consolidation of National Forests, Washington: Government Printing Office, 1926 (Circular No. 863 of the Department of Interior).
- The Morning Oregonian Portland, Oregon Articles from January, 1893 to July, 1908.
- The Oregon Journal Portland, Oregon Articles from July, 1902 to July, 1907.

Typed by: Freida F. Glickman.

order
single sheet

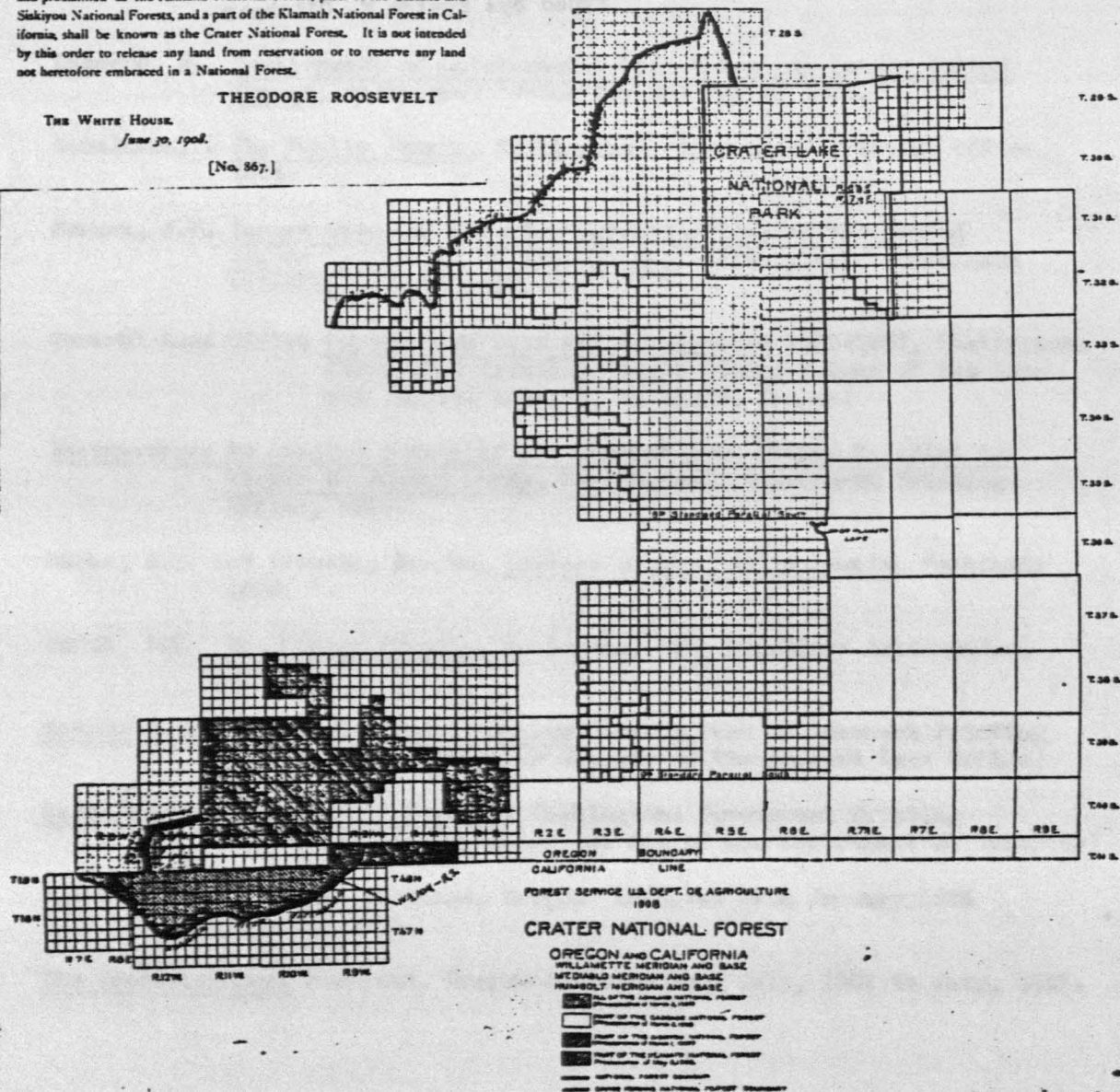
Rogue River

It is hereby ordered that on and after July 1, 1908, the land within the boundaries shown on the attached diagram, heretofore set apart, reserved, and proclaimed as the Ashland National Forest, parts of the Cascade and Siskiyou National Forests, and a part of the Klamath National Forest in California, shall be known as the Crater National Forest. It is not intended by this order to release any land from reservation or to reserve any land not heretofore embraced in a National Forest.

THE WHITE HOUSE.

June 30, 1908.

[No. 367.]



(DIAGRAM FORMING A PART OF EXECUTIVE ORDER
EFFECTIVE JULY 1, 1908)

Area to 1075	172,800 Acres
Cascadia Park	872,100 "
Klamath	38,614 "
Siskiyou	76,320 "
Total Grater Col. & Ore	1,119,834 "
Area in Cal.	38,614 Acres
Oregon	1,061,220 "
	1,119,834 "

Executive Order

FREMONT NATIONAL FOREST

OREGON

It is hereby ordered that the boundaries of the Fremont National Forest as established by Executive Order effective July 1, 1908, be changed, and that they are now as indicated on the attached diagram. It is not intended by this order to release any land from reservation or to reserve any land not heretofore embraced in a National Forest.

THEODORE ROOSEVELT

THE WHITE HOUSE

July 14, 1908.

[No. 613.]

Fremont Part 630,320 Acres
Goose Lake " 630,000 "
Total 1,260,320 "





FOREST SERVICE U.S. DEPT. OF AGRICULTURE

1908

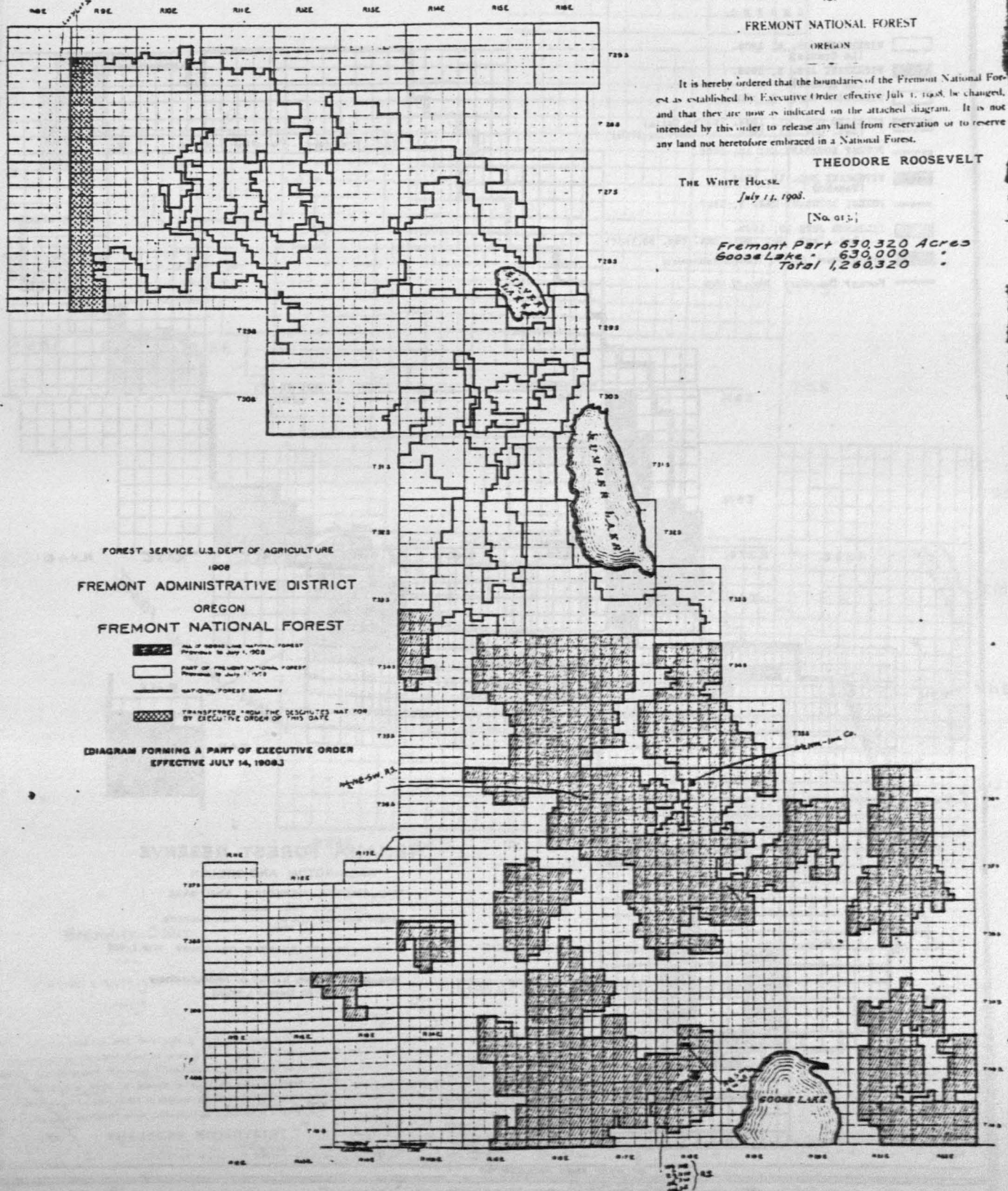
FREMONT ADMINISTRATIVE DISTRICT

OREGON











FREMONT NATIONAL FOREST

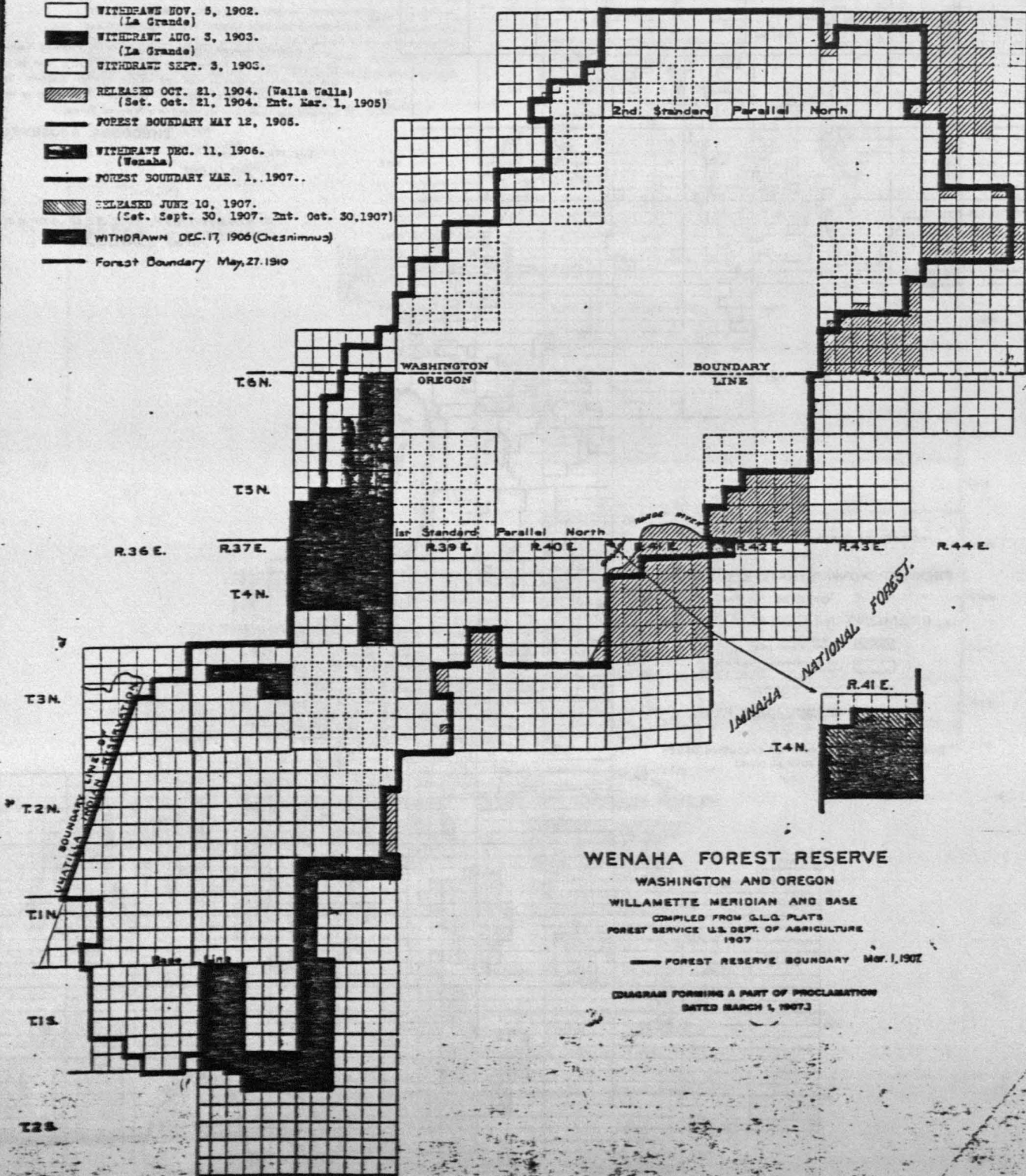
-  ALL OF HERE LINE NATIONAL FOREST PREVIOUS TO JULY 1, 1908
-  PART OF HERE LINE NATIONAL FOREST PREVIOUS TO JULY 1, 1908
-  NATIONAL FOREST BOUNDARY
-  TRANSFERRED FROM THE DESIGNATED NAT FOR BY EXECUTIVE ORDER OF THIS DATE

[DIAGRAM FORMING A PART OF EXECUTIVE ORDER EFFECTIVE JULY 14, 1908.]



LEGEND.

-  WITHDRAWN NOV. 5, 1902.
(La Grande)
-  WITHDRAWN AUG. 3, 1903.
(La Grande)
-  WITHDRAWN SEPT. 3, 1905.
-  RELEASED OCT. 21, 1904. (Walla Walla)
(Set. Oct. 21, 1904. Ent. Mar. 1, 1905)
-  FOREST BOUNDARY MAY 12, 1905.
-  WITHDRAWN DEC. 11, 1906.
(Wenaha)
-  FOREST BOUNDARY MAR. 1, 1907..
-  RELEASED JUNE 10, 1907.
(Set. Sept. 30, 1907. Ent. Oct. 30, 1907)
-  WITHDRAWN DEC. 17, 1906 (Chesnimus)
-  Forest Boundary May 27, 1910



WENAHU FOREST RESERVE

WASHINGTON AND OREGON

WILLAMETTE MERIDIAN AND BASE

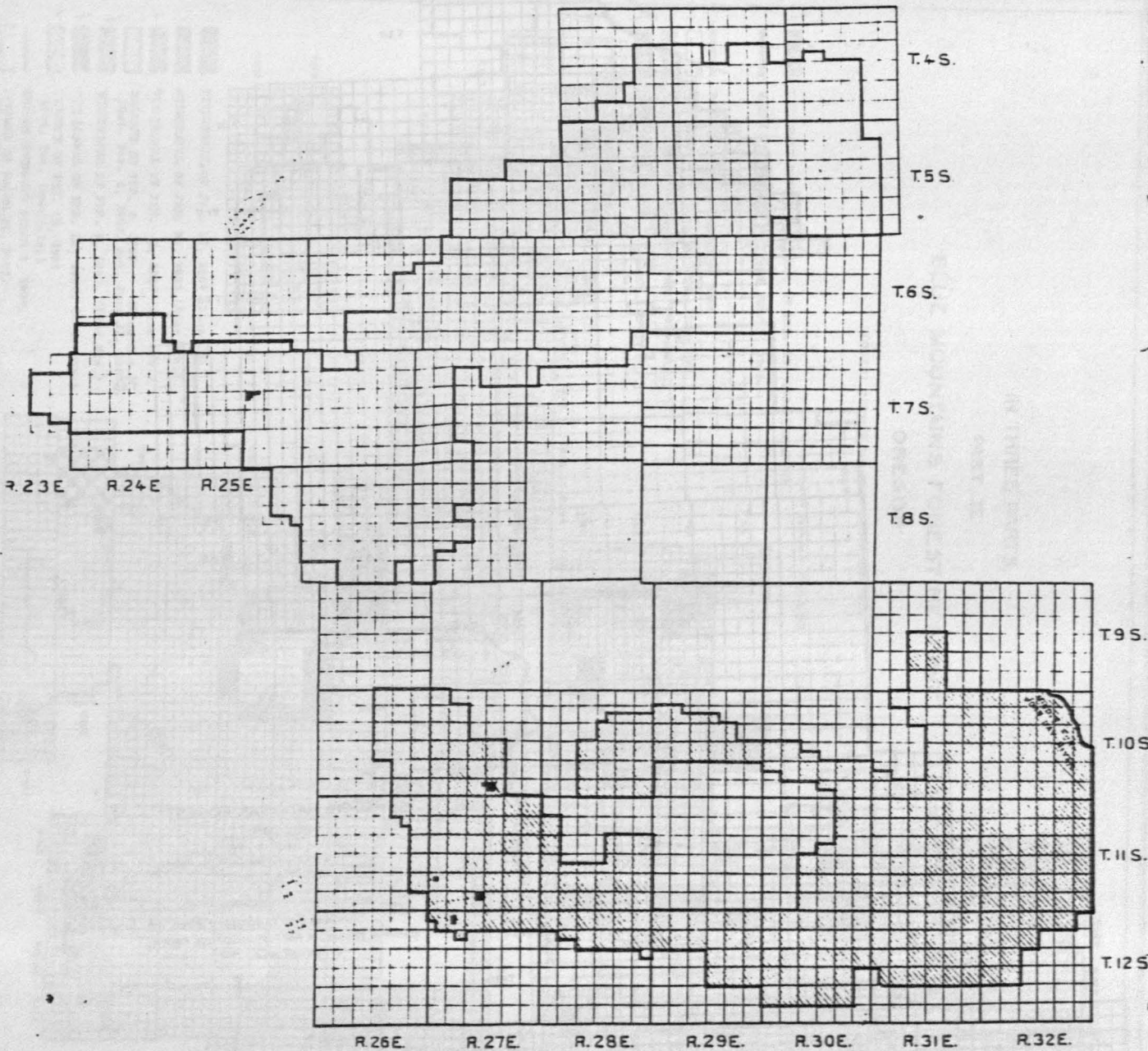
COMPILED FROM G.L.O. PLATS

FOREST SERVICE U.S. DEPT. OF AGRICULTURE
1907

FOREST RESERVE BOUNDARY MAY 1, 1907

DIAGRAM FORMING A PART OF PROCLAMATION
DATED MARCH 1, 1907

4" WEST FROM WASHINGTON



Heppner 292,176 Acres
 Blue Mts (P) 248,320 "
 Total 540,496 "

Executive Order

UMATILLA NATIONAL FOREST
 OREGON





It is ordered that on and after July 1, 1908, the land within the boundaries shown on the attached diagram heretofore set apart, reserved, and known as the Heppner National Forest and a part of the Blue Mountains National Forest, shall be known as the Umatilla National Forest. It is not intended by this order to release any land from reservation or to release any land not heretofore embraced in a National Forest.

THEODORE ROOSEVELT

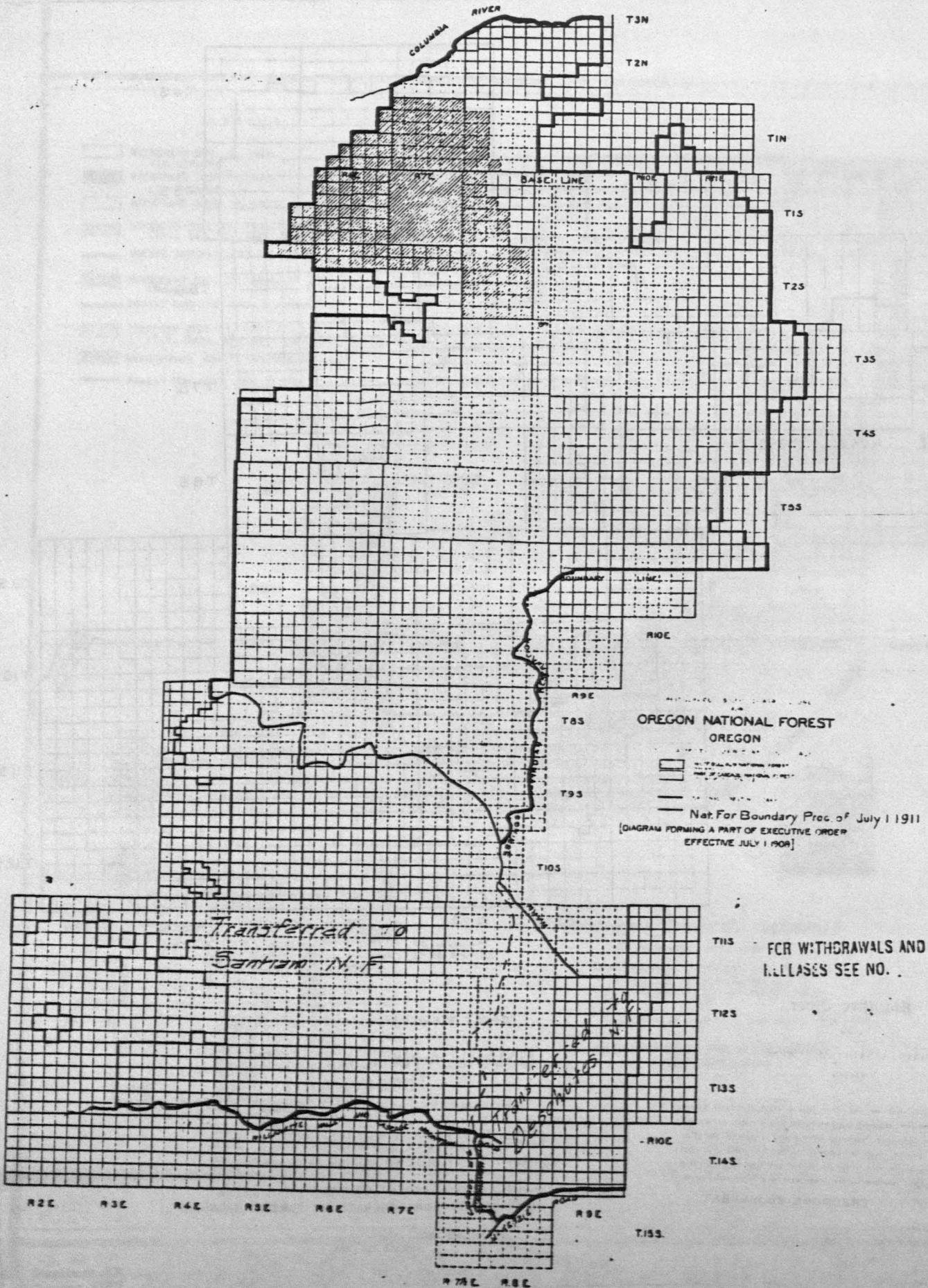
FOREST SERVICE, U.S. DEPT. OF AGRICULTURE
 1908

UMATILLA NATIONAL FOREST OREGON

WILLAMETTE MERIDIAN AND BASE

-  HEPPNER NATIONAL FOREST
Proclamation of July 18, 1906
-  PART OF BLUE MOUNTAINS NATIONAL FOREST
Proclamation of Jan. 9, 1908
-  NATIONAL FOREST BOUNDARY
-  DIVIDE FORMING NATIONAL FOREST BOUNDARY

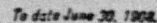
(DIAGRAM FORMING A PART OF EXECUTIVE ORDER
 EFFECTIVE JULY 1, 1908)



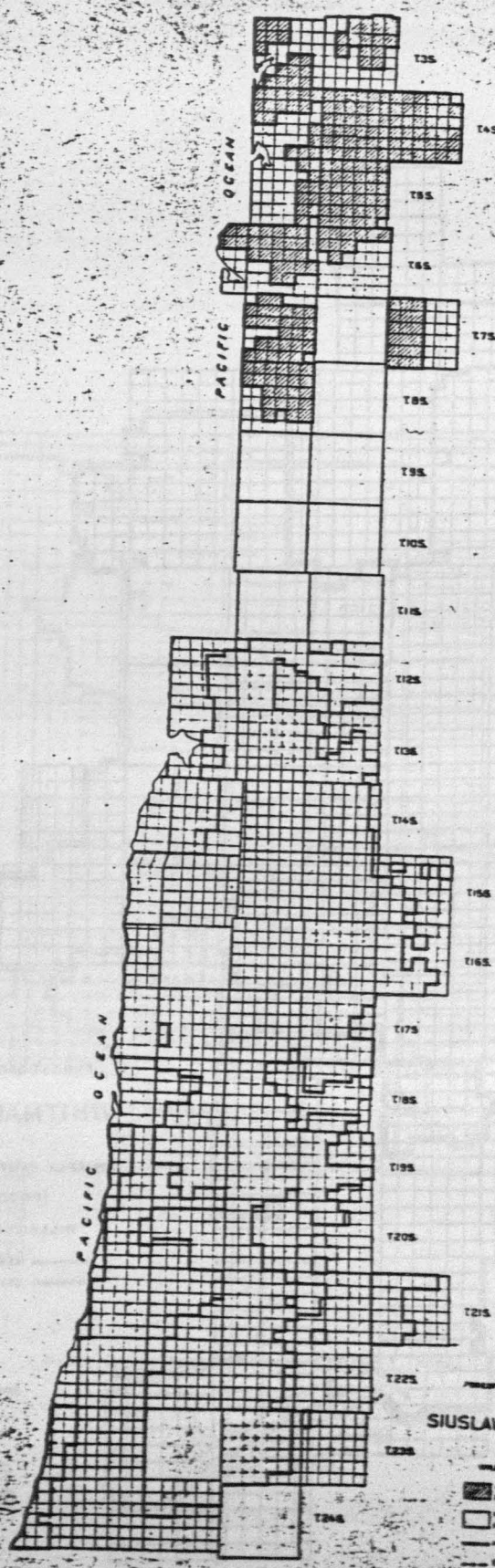
FOR WITHDRAWALS AND
RELEASES SEE NO.

BLUE MOUNTAINS FOREST RESERVE

FOREST SERVICE US DEPT OF AGRICULTURE
1907



To date June 30, 1908.



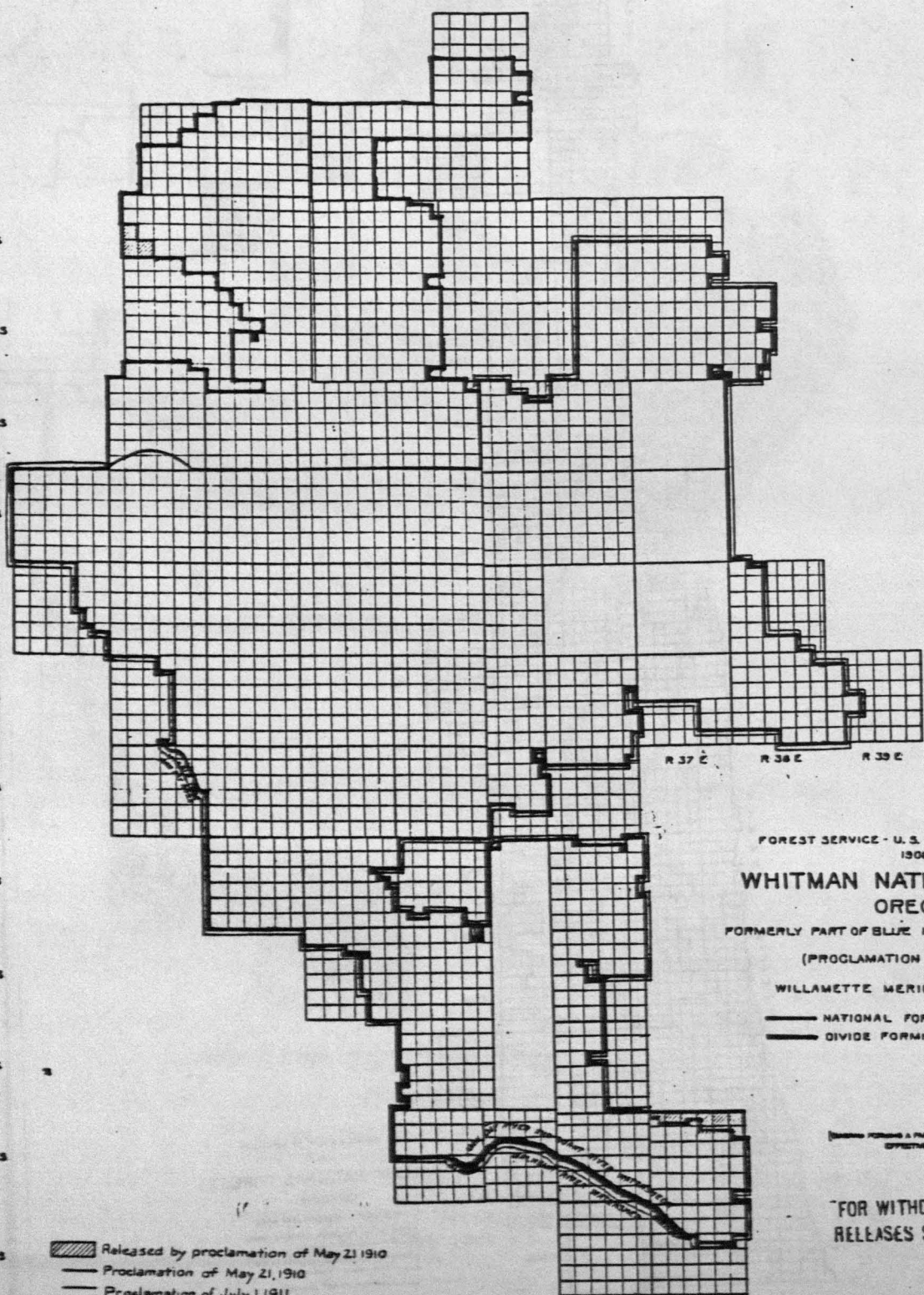
FOR WITHDRAWALS AND
RELEASES SEE NO.

FOREST SERVICE U.S. DEPT. OF AGRICULTURE
1908
SIOUSLAW NATIONAL FOREST
OREGON

- WILLAMETTE MERIDIAN AND BASE
- ALL OF WILLAMETTE NATIONAL FOREST
Preservation of Natural Area
 - PART OF SIOUSLAW NATIONAL FOREST
Preservation of Forest Land
 - NATIONAL FOREST BOUNDARY
 - CLAIM LINES

(DIAGRAM FORMING A PART OF EXECUTIVE ORDER
EFFECTIVE JULY 1, 1908)

2.5
3.5
4.5
5.5
6.5
7.5
8.5
9.5
10.5
11.5
12.5
13.5
14.5
15.5



FOREST SERVICE - U.S. DEPT OF AGRICULTURE
1908

WHITMAN NATIONAL FOREST OREGON

FORMERLY PART OF BLUE MOUNTAINS NATIONAL FOREST

(PROCLAMATION OF JAN. 9th 1908)

WILLAMETTE MERIDIAN AND BASE

— NATIONAL FOREST BOUNDARY
— DIVIDE FORMING NATIONAL FOREST BOUNDARY.

(BOUNDARY FORMING A PART OF EXISTING ORDER
EFFECTIVE JULY 1, 1908)

FOR WITHDRAWALS AND
RELEASES SEE NO.

Released by proclamation of May 21, 1910
Proclamation of May 21, 1910
Proclamation of July 1, 1911
R 31 E R 32 E R 33 E R 34 E R 35 E R 36 E R 37 E

