

A National Park for Oregon: the Crater Lake Reservation, 1886-1902

By Stephen R. Mark

Stories are often helpful in resolving what seems to be an enigma. The centennial celebration for Crater Lake National Park is predicated on President Theodore Roosevelt having signed the bill establishing the park on May 22, 1902. Nevertheless, anyone touring the Baldwin Hotel Museum in Klamath Falls might rightfully wonder about the celebration's timing if they examined one of the more prominent exhibits. An official surveyor's map of Klamath County produced in 1889 shows a large area surrounding Crater Lake in yellow, clearly distinguishable from adjoining lands with the words "National Park." This discrepancy forms the backdrop for the story that follows, one where a reservation created by President Grover Cleveland on February 1, 1886 began a layering process which eventually culminated in the passage of legislation more than 16 years later.

When Cleveland created the reservation around Crater Lake in 1886, the Executive Branch of the Federal Government (through its Department of the Interior) lacked the authority provided by Congress to expend funds for developing or administering the national park. The period from initial reservation to establishment is highlighted in this paper, with emphasis placed on the consistency of executive and legislative intent so as to resolve some differences between dates the *de facto* and designated national park. In conjunction with what it meant for permitted and prohibited use in the park, the continuity of federal intent forms the rationale for why the centennial of Crater Lake National Park might arguably be set back to 1986.

The 1886 withdrawal

On February 1, 1886, President Grover Cleveland signed an Executive Order submitted by the Secretary of the Interior, L.Q.C. Lamar, which temporarily withdrew ten townships of public land around Crater Lake from settlement or sale. He did this "*in view of pending legislation looking to the creation of a public park.*"¹ The pending legislation consisted of bills introduced in the Senate and House by members of Oregon's congressional delegation.² These ten townships were to be "*dedicated and set apart forever as a public park or pleasure ground and forest reserve for the benefit of the people of the United States.*" Control and custody of the reservation would be placed under the Secretary of the Interior, who was to "*cause adequate measures to be taken for the protection of timber from depredation, the punishment of trespassers, the removal of unlawful occupants and intruders, and the prevention and extinguishment of forest fires.*" Language in both bills prohibited "*mining, lumbering or other enterprise or occupation therein, or to enter thereon for any private purpose whatever.*" The House bill differed from its companion in the Senate by adding who was to have access to the park. Crater Lake was to be open to "*all excursionists, pleasure seekers, restaurant or hotel keepers for accommodation of visitors and those making scientific researches, who shall be*

privileged to fish in all lakes [the ten townships included both Crater Lake and Diamond Lake] and streams of water." These visitors could also have use of "*necessary timber for camping purposes on said grounds, subject to such limitations as the Secretary of the Interior may prescribe.*"

Even if a memorial from the Oregon Legislature petitioned Congress for reservation of the ten townships from "*individual proprietorship and speculation,*" the Oregon congressional delegation knew they could expect rough sledding from members in both houses to any bill creating any additional national parks.³ This opposition stemmed largely from the scandals and expense associated with maintaining Yellowstone National Park.⁴ The sponsor of the House bill, Binger Hermann, was well aware of the obstacles, but wrote to the President on January 22, 1886 and asked for the withdrawal of ten townships in the Crater Lake vicinity. He attached a petition signed by many of the leading citizens in Oregon.⁵ Hermann wanted to provide Cleveland with justification for a withdrawal until his or another bill establishing a national park could pass in Congress. He stated in his cover letter that "*Tourists of world wide travel, writers on literature and science, and the landscape painter and artist, have all been here [Crater Lake] and all unhesitatingly pronounce it equal, if not the superior in beauty and grandeur, of the Yellowstone and Yosemite.*" By withdrawing the lands around Crater Lake, Hermann assured the President that "*in the meanwhile speculators shall have no opportunity of acquiring any of these lands, or more especially any of the approaches leading to the wondrous lakes we earnestly ask for an Executive Order and proclamation for the reservation and withdrawal of said lands (which are fully described in the accompanying petition) from sale or other disposal and appropriation, and that they be set apart for public uses, to ask: for the use of a National Park for scientific as well as pleasure purposes for the benefit of the whole people of the United States.*" Hermann also reminded Cleveland that the Supreme Court recognized the President's power to withdraw land. In his words, the Judiciary "*announced from an early period in the history of the government, that it has been the practice of the President, and recognized by Congress, to order from time to time for reservation and to withhold from sale and set apart for public uses, bodies of land belonging to the United States.*"⁶

Try and try again, 1886-1893

The Crater Lake bills introduced in early 1886 needed publicity to shove them from committee to the floor of both the House and Senate. Proponents of park legislation thereby floated the idea of a government-sponsored expedition to sound the lake's depths. They prevailed upon John Wesley Powell, director of the U.S. Geological Survey, who then authorized an investigation of Crater Lake and its surroundings that summer. Its leader, Clarence Dutton, an army captain attached to the USGS Division of Volcanic Geology, journeyed to the lake with a renowned geologist from the University of California, Joseph Le Conte, in 1885. Dutton recognized the importance of sounding Crater Lake to pending legislation, but also wanted to begin mapping the area withdrawn by Cleveland since the State of Oregon was at work on a boundary survey of the adjacent Klamath Indian Reservation. His expedition made the first soundings (one was an astounding 1,996 feet, the deepest ever reported in the United States)

and succeeded in doing some topographic work in the area around Crater Lake.⁷ Despite the considerable publicity about the USGS efforts at Crater Lake in Oregon newspapers and elsewhere, however, both bills introduced that year died in committee.

Another bill, identical to the Senate version of 1886, was introduced the following year but the Senate Committee on Public Lands reported it adversely with an indefinite postponement.⁸ Since the reason for this was the Committee's opposition to the creation of additional national parks, the bill's sponsor (J.N. Dolph of Oregon) opted to introduce legislation that would grant the ten townships in the vicinity of Crater Lake to the state. Dolph's state park legislation was modeled after the grant made to the State of California in 1864, when Yosemite Valley and the Mariposa Big Tree Grove were conveyed for public use, resort, and recreation.⁹ He introduced bills to this effect in 1888, 1889, 1891, and 1893. All of them likewise stipulated that the ten townships should be "*held for public use as a public park and place of public resort and forest reserve and shall be inalienable by the State of Oregon for all time.*" These bills contained provisions aimed at preserving timber, while also prohibiting leases that prevented public access to Crater Lake or to any other "*conspicuous object of natural curiosity*".¹⁰

State park bills passed the Senate on all four occasions but died with the House Committee on Public Lands each time.¹¹ At one point he predicted the fate of this legislation and seems to have introduced it as a way of attracting attention to the "*general proposition of a public park and will tend to bring the matter into notoriety and prepare Congress for future legislation.*"¹² Binger Hermann, meanwhile, made his final attempt in 1892 at sponsoring legislation that would formally designate a national park. He reintroduced his House bill of 1886, but it never emerged from committee.¹³

The holding action, 1893-1896

With enabling legislation aimed at establishing a national park around Crater Lake seemingly stymied by early 1888, park proponents like William Gladstone Steel decided to pursue a reservation to be jointly managed by appointed state and federal commissioners. This idea's leading advocate, John B. Waldo, previously assisted with the effort to have the Crater Lake vicinity withdrawn. Inspired by attempts in California and Colorado to have forest reserves set aside, Waldo efforts followed the introduction of a bill in Congress aimed at authorizing these reservations whose size could potentially reach a million acres or more.

Upon being elected to the Oregon Legislature, Waldo introduced House Joint Memorial No. 8 in January 1889. The memorial asked Congress to reserve from the public domain an area 12 miles on each side of a line which ran from Mount McLoughlin to Mount Hood so as to include most of Oregon's Cascade Range. The proposed reservation was called a "*public reserve park and resort for the people of the State of Oregon and the United States.*"¹⁴ The purposes of this proposed park or forest reserve included protection of water supply (since it was thought that maintenance of its forests exerted a beneficial influence on the "*fountains of the streams*"), game, fish, timber, and "*natural curiosities and wonders.*" Mining and leases for hotels were

permitted, but livestock grazing (other than that associated with "*travelers, visitors, campers or tourists*") was not. The memorial passed the Oregon House of Representatives but died in the Oregon Senate.¹⁵

Although Waldo's memorial never reached Congress, it showed how the terms "national park" and "forest reserve" were used interchangeably during this period. For example, an American Forestry Association petition for the "Crater Lake Forest Reserve" in 1886 pleaded that "*settlers living in the valleys adjacent to the proposed park are uniformly anxious to have the area set apart as a **national park***". Such a reservation would prevent "*the destruction of the forests about the sources of the beautiful streams which water their fertile valleys,*" and could provide "*for our people an unsurpassed field for recreation.*"¹⁶

Passage of legislation in both houses of Congress establishing tracts of land in California as forest reservations on October 1, 1890, came with little or no distinction between public parks and forests at that time. These acts directed the Secretary of the Interior to make and publish regulations "*for the preservation from injury of timber, mineral deposits, natural curiosities, or wonders within said reservation, and their retention in their natural condition.*" One act created a large federal reservation subsequently known as Yosemite National Park that surrounded the existing grant to the State of California in Yosemite Valley, while other became known as Sequoia National Park. The only difference between the latter and Yosemite was that the forest reservation at Sequoia surrounded a public park under federal control established by Congress on September 25, 1890. It is worth noting that these forest reservations were called "national parks" in regulations promulgated by the Secretary of the Interior, but have never been formally designated as national parks by Congress.¹⁷

Further afield, a committee from the American Association for the Advancement of Science petitioned President Benjamin Harrison in 1890, recommending a commission be established to "*investigate the necessity of preserving certain parts of the present public forest as requisite for the maintenance of favorable water conditions.*" Until this commission could study the situation and determine how a permanent system of forest administration might operate, the committee wanted Harrison to withdraw all timbered lands in the Public Domain from sale.¹⁸ Since the President and the Secretary of the Interior endorsed the recommendation, a provision to this effect was attached to the Sundry Civil Appropriations Bill and became law on March 3, 1891.¹⁹ The rider did not ostensibly define the purposes of forest reservations. It simply enabled the President to "*set apart and reserve, in any state or territory having public land bearing forests...as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations, and the limits thereof.*"

Most of the subsequent proclamations depended on recommendations made by special agents of the General Land Office (GLO) which were conveyed to the President through the Secretary of the Interior. Circular instructions issued on May 15, 1891 supplied some direction, as did specific guidance from the commissioner of the GLO.²⁰ The 1891 Act was first used in the Pacific Northwest to protect Bull Run, a tract serving as the City of Portland's watershed. This

reserve was proclaimed on June 17, 1892 after the GLO conducted an investigation of its suitability a month or so earlier. The next proclamation took place on February 20, 1893, when the Pacific Forest Reserve was created to protect the scenic and recreational values around Mount Rainier. It resulted from GLO examinations beginning in 1891.²¹

A recommendation about a forest reserve in the Cascade Range was delayed until July 1892, at which point a GLO special agent endorsed the forest reserve boundaries proposed in a petition from the Oregon Alpine Club.²² The reserve's purpose, as stated in the petition, was watershed protection through maintenance of its forests, especially where the streams originated and to prevent the extinction of certain game animals. Controversy over the large size of this recommendation (it was to be the largest forest reserve in the nation at four million acres) ensued, so the agent forwarded another proposal for two smaller reservations centering on Mount Hood and Crater Lake.²³ The petitioners, especially Alpine Club vice president Steel, saw both of these proposed reserves as national parks.²⁴ Steel and other reserve supporters believed that presidential proclamation using legislative authority provided a more permanent reservation than a temporary withdrawal, (one that could be restored to entry by a future President) while they waited for Congress to create a national park. In this respect, the Crater Lake situation had parallels to Mount Rainier and Sequoia.²⁵

Discovery that the ten townships withdrawn in 1886 did not fully embrace Crater Lake constituted another reason for using the forest reservation as a holding action. The GLO agent and members of the Alpine Club recognized this, as did petitioners from Klamath County. Even though the Klamath County petition proposed a smaller reservation, its signatories still recognized a double purpose of protecting the scenery and timber with associated underbrush, such that the forests near Crater Lake "*may not become barren and the rainfall diminished.*"²⁶

In any case, Harrison left the proclamation of a forest reserve in the Cascade Range to his successor.²⁷ Grover Cleveland, who won a second term as President beginning in 1893, took action on September 28 of that year. He set aside an area matching that proposed in the Oregon Alpine Club's first petition. The proclamation did not include a stated purpose for the forest reserve. Instead, it reiterated the power given the President in the 1891 Act and stated that "*the public lands hereinafter described, are in part covered with timber, and it appears that the public good would be promoted by setting apart and reserving such lands as a public reservation.*"²⁸

Protecting, let alone administering, the Cascade Range Forest Reserve or any other such reservation proclaimed by the President was difficult because Congress had not yet enacted enabling legislation. Consequently, Cleveland said he would not establish another forest reserve until such provision was made. In the meantime, the Secretary of the Interior and GLO took moved to protect the forest reserves from encroachment. They took the position that "*the object in creating forest reserves [was] to preserve the lands and timber and undergrowth thereon in a state of nature, as near as possible, and as a conservation for the water supply.*"²⁹ Interior issued regulations on April 14, 1894, which prohibited settlement, mineral entry,

purposely set fires, and grazing.³⁰

Since Congress did not appropriate funds for enforcing the regulations around Crater Lake, the Oregon Legislature prepared yet another memorial in February 1895. This one asked the President to appoint a guardian because *"there has been no one in charge of [the Crater Lake] reserve,"* a situation leading to the *"destruction of timber by the ravages of fires, carelessly allowed to spread."* Meanwhile *"all game within such reserve is rapidly being exterminated by hunters, [and] the State of Oregon has no jurisdiction over said reserve."* The guardian would be vested with *"authority to prevent any person or persons from despoiling the reserve."*³¹ The memorial was renumbered early in 1896 and finally sent to Congress.³² The plea for a guardian undoubtedly was inspired by a protective measure for Yosemite Valley, where Galen Clark was voted official guardian by park commissioners who had been appointed to manage the 1864 grant to the State of California.³³

Although the House Committee on Public Lands did nothing with the memorial, it expressed the view that the source of the problem largely lay with sheepmen who burned the forests to create better pasture for their flocks. Shepherders were first identified as despoilers of the Crater Lake region by a news article that appeared in 1891.³⁴ The writer advocated the entire region around the lake be put under proper [federal] control, *"but the immediate approaches to it, at least, should be preserved from such vandalism."*

Grazing interests pressured Oregon's congressional delegation to agitate for reductions to the Cascade Range Forest Reserve once the GLO issued public notices about restrictions on the reserves in 1894. None of the congressmen, however, proposed eliminating the reserve around Crater Lake.³⁵ The CRFR remained intact and by 1896 the GLO encouraged the U.S. Attorney for Oregon to *"vigorously prosecute"* all cases of grazing trespass.³⁶ This stance was reinforced by proponents of the forest reserve, some of whom claimed that sheep owners who illegally grazed their flocks at Crater Lake were interfering with tourist use by destroying the forage near campgrounds.³⁷ A deputy U.S. marshal was sent to the Crater Lake region in early August 1896 to arrest trespassers, especially one who drove 2,000 sheep onto the reserve on July 26. As one news article put it, *"The Mazamas, and Crater Lake clubs of Ashland and Medford, start on an excursion to Crater Lake on August 16, and it is not pleasant to think that the park is full of sheep, and this is in defiance of law. A deputy U.S. marshal was dispatched at once to Crater Lake from the nearest adjoining town, with instructions to arrest the sheepmen and put them off the reserve, and to keep them off."*³⁸

Such pursuit seemed to have the desired effect since it put an end to sheep grazing around Crater Lake.³⁹ One news article supplied a few details about four sheep owners who subsequently had to appear in federal court. It asserted that *"the sheepmen, who were driving their sheep in the Crater Lake Park, and who were a short time since warned to desist, have turned their bands away from the park."*⁴⁰

Effects of the Forest Reserve "Organic" Act

Enforcement of the notices posted by GLO in 1894 represented only a stop gap measure, designed to demonstrate some type of protection for the reserves until Congress provided funding for their administration. Passage of the civil sundry (appropriations) bill in 1896 allowed the President to appoint a commission to study what should be done with the existing reserves and how to further the object of public forests. This group traveled throughout the western states during the summer of 1896 and at one point visited Crater Lake. Although the commission remained divided on several key issues, they supported proclamation of additional reserves. Cleveland acted on this recommendation just before leaving office on February 22, 1897, by creating 13 additional forest reserves containing more than 21 million acres.⁴¹ The so-called "Washington's Birthday Reserves" touched off a furor, especially in the western states, and forced a legislative remedy.⁴² It came in the form of an amendment to the Sundry Civil Appropriations Bill of 1897, legislation which provided for survey and administration of the reserves under the Secretary of the Interior's direction.⁴³

This legislation, signed by President William McKinley on June 4, 1897, supplied some guidance as to what lands should be in any new reserve: *"all public lands that may hereafter be set aside as public forest reserves under said act, shall 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 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 the Act providing for such reservations, to authorize the inclusion of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes."*

As to the purposes of all forest reserves (including those such as the Cascade Range Forest Reserve proclaimed prior to June 4, 1897), the Act was intentionally vague. It stated only that the Secretary of the Interior may make rules *"to regulate [Forest Reserve] occupancy and use and to preserve the forests from destruction."* Aside from this general guidance, the Act directed the Secretary of the Interior to make provisions for the protection *"against destruction by fire and depredations upon the public forests and forest reservations."* The Act also authorized timber sales, the use of timber and stone for domestic purposes, wagon roads or other improvements for the benefit of settlers, and entry onto the reserves for all lawful purposes. All of these uses, however, were subject to rules and regulations prescribed by the Secretary of the Interior who could exercise his discretion in granting such privileges.

Promulgation of the first set of rules and regulations followed on June 30, 1897.⁴⁴ They provided some clarification about how the forest reserves were to be administered, even though the section on "object of forest reservation" made no distinction between reserves created before and after June 4, 1897. The regulations did little, however, to compromise earlier withdrawals made for park purposes such as Crater Lake. Timber sales were optional *"and the Secretary may exercise his discretion at all times as to the necessity or desirability of*

any sale." Free use of timber and stone was "*limited to persons resident in forest reservations who have not sufficient supply of timber or stone on their own claims or lands*" and then only for domestic purposes. Permission to locate roads crossing the reserves was vested in the Secretary, as was the ability "*to grant such licenses and privileges, from time to time, as may seem to him proper and not inconsistent with the objects of the reservations nor incompatible with the public interests.*"

The only recorded instance where any of these provisions affected the Crater Lake region during this period related to improvement (rather than new construction) of the existing "Rogue River - Fort Klamath road" first constructed in 1865.⁴⁵ Some logging near the southern part of the Cascade Range Forest Reserve took place around 1900, but consisted merely of culling sugar pine for use by residents in the Fort Klamath area and did not involve timber from the Crater Lake reservation.⁴⁶ In general, the difficulties posed by mountainous terrain and lack of roads posed severe problems and there was little incentive to pay for government timber when private supplies were readily available. Lumber interests could not be bothered with logging in forest reserves since the regulations made it "*impractical.*" For example, one operator stated that if the regulations were followed, the "*lands logged off would have to be left in a condition suitable for a city park.*"⁴⁷

The Act of June 4, 1897 did not specifically mention grazing, but the regulations allowed the pasturing of livestock on public lands in forest reservations "*so long as it appears that injury is not being done to the forest growth.*" The pasturing of sheep, however, was prohibited in all forest reserves except those in Oregon and Washington. This exception was granted on condition that sheep owners were required to make application to the GLO, which could then regulate the numbers and location of sheep on the reserves. The subsequent regulations qualified the exception by expressly stating that "*permission [to graze] will be refused or revoked whenever it shall appear that sheep are pastured on parts of the reserves especially liable to injury.*" This meant within, or anywhere near "*the Bull Run reserve, Crater Lake, Mount Hood, Mount Rainier, or other well-known places of public resort or reservoir supply.*"⁴⁸

The areas excluded from sheep grazing in the Cascade Range Forest Reserve had support from members of Oregon's congressional delegation, since three of them contacted the Secretary of the Interior in May 1897. One senator and two congressmen asked the Secretary to revoke the trespass notices in the forest reserve, "*except as to such limited tracts of land adjacent to the principal camping place near Mount Hood occupied as a summer resort, the principal camping place so occupied near Mount Jefferson, and the principal camping place so occupied near Crater Lake, as may, in your judgment, be necessary for camping and pasturage uses of those who visit said localities as summer resorts.*" The delegation went on to suggest "*that the lands lying within a radius of six miles of the principal camping places near said localities would be sufficient for such purposes.*"⁴⁹

The Secretary refrained from furnishing boundary demarcations for closed areas until the reports on the forest reserves mandated by Congress had been submitted. This did not take

place until March 1898, but included a letter from the Department of Agriculture that transmitted a report by one of the department's botanists, Frederick Coville. In his recommendations for a system of regulating sheep grazing, Coville remarked that "*The first step toward a satisfactory system of sheep-grazing regulations in the Cascade Reserve is to provide absolute protection for those places which the people of the State require as public resorts or for reservoir purposes.*" Like his contemporaries, Coville emphasized Crater Lake's importance as a national park: "*Even before the forest reserve was created a movement was on foot to have the Mount Hood region and the Crater Lake region set aside as national parks, and since the reserve was created the eminent desirability and propriety of the earlier movement has been clearly recognized, both in the continued efforts of the people to keep sheep from grazing in those regions and in the concession in the petition of the sheep owners that if the Cascade Reserve as a whole be abolished, the Crater Lake and Mount Hood regions be maintained as smaller and separate reserves on which sheep be not allowed to graze...*"⁵⁰

In recommending which land around Crater Lake was off limits to grazing, Coville wrote "*After going twice carefully over the ground at Crater Lake and consulting with various men well informed on the subject, especially Capt. O.C. Applegate, of Klamath Falls, I question whether a better area can be adopted than that covered by the Special Crater Lake contour map, published by the United States Geological Survey...*"⁵¹ The USGS map boundaries were subsequently adopted by GLO.⁵²

Using the topography drawn during the expedition to sound Crater Lake in 1886, the map was published largely through the efforts of USGS geologist Joseph S. Diller, who added a description of the lake and vicinity in narrative form on back of the edition printed in 1896.⁵³ Diller and the USGS intended this map for the edification of visitors.⁵⁴ It was one of the few "special" sheets published by the Survey during this period, resembling maps produced for Yosemite and Yellowstone, while also being distinct from other USGS mapping projects in the Pacific Northwest.⁵⁵

Bills aimed at park establishment, 1898-1902

The Act of June 4, 1897 and its accompanying regulations set forth some general sideboards to guide administration of the forest reserves, but did not assure long-term protection. This legislation allowed the President to "*at any time modify any Executive Order that has or may hereafter be made establishing any forest reserve, and by such modification may reduce the area or change boundary lines of such reserve, or may vacate altogether any order creating such reserve.*"

Protection from forest fires posed another concern for proponents of establishing a national park around Crater Lake, even though visitors to the reservation (or other places of "public resort") were subject to strict compliance with rules and regulations governing the forest reserves when "*entering, crossing and occupying*" them. Despite the obligation of visitors to observe both state and federal fire laws (enacted in 1893 and 1897, respectively), Coville noted

in his report that no convictions *"have yet been made under these acts."*⁵⁶ With the impact of large fires already evident over a portion of the Crater Lake reservation, it is little wonder why fire protection featured so prominently in the report written to accompany another bill aimed at establishing a national park in 1898.⁵⁷

The bill's boundaries matched those on the Crater Lake Special map, since Diller prepared the legislation *"almost wholly [by] myself"* after consulting *"a number of the members of the [U.S. Geological] Survey."*⁵⁸ Despite a favorable report on the legislation by the House Committee on Public Lands, the bill died because Speaker Thomas B. Reed refused to call a floor vote. The same thing happened to an identical bill, HR 2976, introduced in 1899. As one newspaper correspondent explained, the Speaker objected to *"expenditures of more or less money in the way of improvements; if not at present at least in the near future; and it is well known that Mr. Reed is opposed to making any more appropriations than can be helped."*⁵⁹

Although the article stated that the bill did not *"call for an appropriation of any amount whatever, nor is it desired to improve the park beyond what is already done,"* Interior's report on this legislation indicated otherwise. Diller's testimonial called for facilities, largely because Crater Lake was already a well-recognized resort for summer campers. He stated that as many as 500 persons were known to have visited the lake in one season, a figure supported by Coville's testimony. Regular use (meaning at least once per year over consecutive seasons) of Crater Lake as a public park or resort was established by 1873.⁶⁰

The first written reference to "tourist" in regard to Crater Lake appeared in an 1874 account about a party who camped at Annie Spring.⁶¹ That group arrived just days after Peter Britt of Jacksonville took the first photographs of the lake from his camp at what later became Rim Village.⁶² Some of these views were subsequently used as promotional devices by Steel in 1885, at the beginning of his campaign to establish a national park. By the time Steel initiated efforts to enact legislation, uses such as sightseeing, camping, and boating were firmly linked with Crater Lake. During this period nearby residents gathered "in large numbers" at the lake, usually in conjunction with visiting large berry patches on and around Huckleberry Mountain some ten miles southwest of campsites at the rim.⁶³

The gathering of Mazamas (a mountaineering organization founded by Steel as a successor to the Oregon Alpine Club) at Crater Lake in 1896 probably generated more publicity than any other excursion to the lake prior to 1902. It also furnished the impetus for publishing the 1897 volume of Mazama, organization's annual publication, which served as the first guidebook to Crater Lake. One of the authors stated that congressional designation of a national park as the first step in making *"Crater Lake more popular as a resort for tourists and other visitors."* Other steps included improving approach roads, building a hotel, and placement of a steam launch on the lake.⁶⁴

The Crater Lake issue of Mazama appeared to have little effect in swaying the congressional gatekeepers. An identical bill to the House legislation of 1898 came before the Senate in 1900

as S. 3938. It subsequently died in committee, but was introduced again in the House late the following year. Once again the possibility of a floor vote rested with the Speaker.⁶⁵

The bill's proponents led a petition drive to demonstrate popular support for establishing a national park and sought additional testimony from prominent people familiar with Crater Lake. One of the officials who supplied a testimonial was Gifford Pinchot, then chief of the Bureau of Forestry in the Department of Agriculture. He had the ear of President Theodore Roosevelt, who assumed office after McKinley's assassination in 1901, and interceded on behalf of the bill. As a result, Pinchot had Roosevelt convince the Speaker to allow a floor vote.⁶⁶ After some amendments, HR 4393 passed the House on April 19, 1902, and then went to the Senate. The upper chamber approved the bill on May 9, thereby allowing for President Roosevelt to sign the legislation establishing Crater Lake National Park on May 22, 1902.⁶⁷ This "organic act" allowed the Secretary of the Interior to establish specific rules and regulations aimed at protecting park resources, while also allowing for the accommodation of visitors. These were issued on August 27, 1902, after the Secretary appointed William F. Arant of Klamath Falls as the first park superintendent on June 7, 1902.⁶⁸

Conclusion

Legislation establishing national parks continues to become law without statutory definitions as to what separates this designation from other types of reserved federal land. This is not surprising, given the various forms parks have assumed over the past century and how this particular construct evolved in law since the Middle Ages. As a social and legal institution, parks have expanded from being solely private to allowing public access and ownership since 1850. The term "pleasure ground" (generally equated with "public park" in bills relating to Crater Lake from 1886 to 1902) is a reminder of how garden and game park were integrated during the 18th century into something known as the *landscape garden* or *landscaped park*.⁶⁹ The consciously naturalistic landscaped park served as a model for the first public parks, which were first created in cities during the mid-19th century as a response to population increases brought by industrialization.

Extension of public parks to include natural features thought "sublime" furnished another evolutionary step and involved the reservation of areas such as Crater Lake.⁷⁰ Americans pioneered the idea that some parks should be carved from the public domain and then supported by the national government, doing so without a legal tradition that could convey the idea with much precision.⁷¹ In any event, a U.S. Supreme Court decision in 1877 upheld the right of the federal government to "*designate the unsold, unsurveyed public domain for any purpose other than settlement, including for the establishment of national public parks.*"⁷²

As a legal term, "forest reserve" is even more difficult to define than "national park." Parks and forests in England were (and still are) areas of the countryside set apart from common use for the keeping and hunting of game, with the only differentiation between the two being that the former were enclosed. Despite following English precedents in creating public parks,

Americans have not made this distinction--so it is understandable to see "national park" and "forest reserve" used somewhat interchangeably during the late 19th century in Oregon. Indeed, the only record of someone making such a distinction with respect to Crater Lake comes when Pinchot sent his testimonial to Steel in February 1902. Pinchot believed the area around Crater Lake had as its chief value "*recreation and scenery and not for the production of timber, [so] its use is distinctly that of a national park and not a forest reserve.*"⁷³

These thoughts, however, reflect Pinchot's views about where the emphasis of federal forestry efforts should lie and which government department should direct those efforts.⁷⁴ He and others eventually prodded Congress to transfer the forest reserves from Interior to Agriculture in 1905 and became chief of a new bureau, the U.S. Forest Service, created that year.⁷⁵ In 1907 the forest reserves were renamed "national forests" because Pinchot thought the former appellation carried an overly preservationist connotation.⁷⁶

Coming when it did, the Act establishing Crater Lake National Park conveys executive and legislative intent more through permitted and prohibited use than by definitions. Uses, as stated in law, regulation, and policy, continue to develop the designation of "national park" and give it meaning. The record pertaining to intent and use between 1886 and 1902 is consistent with that of a national park and not some conflicting designation for this portion of the public domain.

Cleveland started the process by effectively zoning ten townships, and the intent behind withdrawing the area around Crater Lake as a public park never wavered. The layering continued with proclamation of the Cascade Range Forest Reserve, a subsequent "organic act" for the reserves in 1897, but did not change the fact that a national park already existed around Crater Lake. When finally established in 1902, Crater Lake National Park simply had a greater degree of permanence than in 1886 as well as a congressional authorization to expend funds for administration and the development of visitor facilities. Even if the boundaries of Cleveland's reservation did not quite coincide with those signed into law by Roosevelt (Diller redrafted the park bill in 1898 to better convey the geological significance of the Crater Lake area), the intent as a public park was identical. Both reservations embraced the same areas where park visitors from 1873 onward congregated to sightsee, camp, and use water. Their reasons for coming varied to some degree, but experiencing the lake and its sublime setting served as the chief draw--just as it does at the present time.

Notes

¹ Lamar to Cleveland, 1/30/86; Cleveland order 2/1/86; W.J. Sparks, GLO Commissioner to Lamar 2/3/86; all RG 49, Division R, Box 125 "Rogue River," National Archives, Washington DC.

² S 111, introduced 1/18/86, and HR 5075, introduced 2/1/86, in Cathleen Frank (comp.) "Legislative History for Crater Lake National Park, 49th Congress through 96th Congress," vol. 1, April 1986, Pacific Northwest Regional Library, National Park Service, Seattle, pp. 33-37.

³ *Senate Joint Memorial No. 5* [November 1885], Steel Papers, Crater Lake National Park Museum and Archives Collections [hereafter SP]; also in Gerald W. Williams and Stephen R. Mark, *Establishment and Defense of the Cascade Range Forest Reserve* (Portland: USDA-Forest Service, 1995), p. 3 [hereafter W/M].

⁴ H.H. Gilfoy to W.G. Steel, 2/27/86, SP; W/M, p. 16; see also John Ise, *Our National Park Policy* (baltimore: Resources for the Future, 1963), pp. 48-49.

⁵ Petition to the President [text drafted by Steel], forwarded by Hermann 12/21/85, SP; W/M, p. 4.

⁶ Hermann to Cleveland, 1/22/86, RG 48, Entry 550, General Records, Box 26, NA Washington; W/M, pp. 9-10. For background about Executive withdrawals, see David A. Adams, *Renewable Resource Policy: The Legal Institutional Foundations* (Washington, DC: Island Press, 1993), pp. 68-70, and Charles Winter, *Four Hundred Million Acres* (New York, Arno Press, 1979), pp. 70-72.

⁷ Dutton to Steel, 2/26/86, and Mark Kerr to Steel, 9/6/86, SP; W/M, p. 15; "Report of Captain C.E. Dutton," in USGS 8th *Annual Report 1886-87, Part 1* (Washington, DC: Government Printing Office, 1887), p. 158. Details about the expedition are in "William Gladstone Steel 188[6]," typescript at Crater Lake National Park, p. 1, as well as in Steel's letters and scrapbooks, also held at the park.

⁸ Frank, "Legislative History," p. 2.

⁹ Text of the Yosemite Grant appears in Hillory A. Tolson, *Laws Relating to the National Park Service: The National Parks and Monuments* (Washington, DC: GPO, 1933), p. 64.

¹⁰ Frank, "Legislative History," pp. 40-45, and 50-51.

¹¹ *Ibid.*, pp. 3-5.

¹² Dolph to Steel, 2/14/88, SP; W/M, p. 18; also printed in "Crater Lake Park," *Portland Oregonian*, 2/23/88.

¹³ Frank, "Legislative History," pp. 46-48.

¹⁴ Senate Joint Memorial No. 8, *Journal of the House of the Legislative Assembly of the State of Oregon for the Fifteenth Regular Session, 1889*, pp. 118-121; W/M, pp. 23-24, with map of Waldo's proposal on p. viii.

¹⁵ Gerald W. Williams, *"Judge John Breckenridge Waldo, Letters and Diaries from the High Cascades of Oregon"* (Eugene: USDA forest Service, Willamette National Forest, 1992), p. vi.

¹⁶ O.C. Applegate and E.W. Hammond, "Petition of the American Forestry Association for the Crater Lake Forest Reserve," RG 48, Entry 550, NA Washington; W/M, p. 11.

¹⁷ Tolson, *Laws Relating to the National Park Service*, pp. 48-51 and 64-66.

¹⁸ Harlan D. Unrau, *Administrative History, Crater Lake National Park, Oregon* (Denver: USDI-NPS, 1988), p. 45.

¹⁹ Harold K. Steen, *The Beginning of the National Forest System* (Washington, DC: USDA-Forest Service, publication FS-488, May 1991), pp. 18-21; Unrau, *Administrative History*, p. 46; "The New Land Law," *Portland Oregonian*, 3/21/91; W/M, p. 26.

²⁰ James Muhn, "Early Administration of the Forest Reserve Act: Interior Department and General Land Office Policies, 1891-97," in Harold K. Steen (ed.) *Origins of the National Forests: A Centennial Symposium* (Durham, NC: Forest History Society, 1992), pp. 259-261. T.H. Carter, [GLO] Commissioner, "Circular of Instructions Relating to Timber Reservations," 5/15/91, in W/M, pp. 33-34.

²¹ Gerald W. Williams, "The USDA Forest Service in the Pacific Northwest: Major Political and Social Controversies, 1891-1945," Umpqua National Forest publication R6-Umpqua-001-1985), 2/29/88, p. 3.

²² R.G. Savery to the Secretary of the Interior [John W. Noble], 7/23/92, RG 48, Entry 550, NA Washington; Oregon Alpine Club petition, forwarded to the President [Benjamin Harrison], 6/18/92, SP; both in W/M, pp. 51-54.

²³ Oregon Alpine Club petition to the President, 11/12/92, SP; W/M, pp. 69-70; Savery to the Secretary, 11/14/92, and Binger Hermann, "Crater Lake Reserve List B," [Nov. 1892], RG 48, Entry 550, NA Washington; W/M, pp. 71-72.

²⁴ "More National Parks," Pittsburgh (PA) *Dispatch*, 1/4/93; Steel to John Gill, 1/14/93, SP; "A Timber Reserve," *Portland Oregonian*, 1/14/93; "Alpine Club Happy," *Oregonian*, 1/15/93. Senate Joint Memorial No. 4, *Journal of the Senate of the Legislative Assembly of the State of Oregon for the Seventeenth Regular Session*, 1/16/93; W/M, pp. 75-83.

²⁵ "The Timber Reserve," *Portland Oregonian*, 3/25/93; W/M, pp. 98-99; Ise, *Our National Park Policy*, p. 120. See also Lary Dilsaver and William C. Tweed, *Challenge of the big Trees: A Resource History of Sequoia and Kings Canyon National Parks* (Three Rivers, CA: Sequoia Natural History Association, 1990), pp. 64-68, 84-85.

²⁶ W. Henry Byars, Office of U.S. Surveyor General, to [Senator] J.N. Dolph, 4/21/92, RG 48, Entry 550, NA Washington; W/M, pp. 43-44.

²⁷ *Portland Oregonian*, 1/21/93.

²⁸ Unrau, *Administrative History*, pp. 70-75; a sketch showing forest reserves in Oregon as of 1893 appears in W/M, p. ix.

- ²⁹ Muhn, "Early Administration," p. 265.
- ³⁰ Department of the Interior notice, 4/14/94, in W/M, p. 126.
- ³¹ House Joint Memorial No. 10, *Journal of the House*, 2/21/95; W/M, p. 148.
- ³² House Joint Memorial No. 2, 1/16/96; see Frank, "Legislative History," p. 4.
- ³³ Alfred Runte, *Yosemite: The Embattled Wilderness* (Lincoln: University of Nebraska Press, 1990), p. 22.
- ³⁴ Charles S. Sargent, "Forest Reservations," *Portland Oregonian*, 12/18/91; W/M, pp. 37-38.
- ³⁵ John H. Mitchell to S.W. Lamoreaux [GLO Commissioner], 11/30/95, SP; W/M, p. 186. Lamoreaux to the Secretary of the Interior [Hoke Smith], February 1896, SP; W/M, pp. 200-201.
- ³⁶ Muhn, "Early Administration," p. 267.
- ³⁷ Consul to Hoke Smith, 5/16/96, SP; W/M, p. 331.
- ³⁸ "War on Sheepmen," *Portland Oregonian*, 8/2/96, and "Sheepmen Arrested," *Oregonian*, 8/5/96; W/M, pp. 349-351.
- ³⁹ John Leiberg, "Descriptions of Townships," in Henry Gannett, et al., *Forest Conditions in the Cascade Range Forest Reserve, Oregon*, (Washington: GPO, 1903), pp. 229-262.
- ⁴⁰ "Sheepmen's Case Dismissed," *Portland Oregonian*, 9/1/97; W/M, p. 576.
- ⁴¹ "Cleveland Celebrates the Day," *Chicago Tribune*, 2/23/97, and "The Preservation of Forests," *Chicago Inter-Ocean*, 2/24/97; W/M, pp. 444-445. See also Williams, "The USDA Forest Service in the Pacific Northwest," pp. 4-5.
- ⁴² B.E. Fernow, Chief [USDA Division of Forestry] to Steel, 3/1/97, SP, and "The Forest Reserves," *Portland Oregonian*, 3/5/97; W/M, pp. 449-450. See also Harold K. Steen, *The U.S. forest Service: A History* (Seattle: University of Washington Press, 1976), pp. 33-34.
- ⁴³ 30 Stat. 11, 34-36 (June 4, 1897).
- ⁴⁴ Binger Hermann, [GLO] Commissioner, "Rules and Regulations Governing Forest Reserves Established Under Section 24 of the Act of March 3, 1891," 6/30/97, in Unrau, *Administrative History*, pp. 78-83 or W/M, pp. 530-534.
- ⁴⁵ Frederick V. Coville, "Sheep-Grazing in the Cascade Forest Reserve of Oregon," in C.N. Bliss, Secretary [of the Interior], *Report on the Survey and Examination of Forest Reserves*, 3/15/98 (Washington: GPO, 1898), p. 140.

⁴⁶ Leiberg, "Descriptions of Townships," p. 261; "Fifty Billion Feet Standing Timber in Cascade Forest Reserve," *Portland Oregonian*, 10/27/02, in W/M, p. 956.

⁴⁷ "Under his Plan: Pinchot says Forest Reserves will be beneficial," *Portland Oregonian*, 10/6/03, in W/M, pp. 987-989; David A. Clary, *Timber and the forest Service* (Lawrence: University of Kansas Press, 1986), p. 30.

⁴⁸ Hermann, "Rules and Regulations," in W/M, p. 532.

⁴⁹ George McBride, Thomas Tongue, and William Ellis, to Cornelius N. Bliss, Secretary of the Interior, 5/7/97, SP; W/M, pp. 509-510.

⁵⁰ Coville, "Sheep Grazing," p. 154.

⁵¹ Coville, "Sheep Grazing," pp. 187-188.

⁵² "Good for Sheep Men," *Portland Oregonian*, 6/2/98; W/M, p. 620.

⁵³ Diller, *Crater Lake Special Map*, edition of March 1896, in Crater Lake National Park Museum and Archives Collections.

⁵⁴ Crater Lake Excursion Interest," *Ashland Tidings*, 6/25/96; W/M, p. 345.

⁵⁵ "Map of Washington and Oregon, Showing Progress of Topographic Surveying and Primary Control," in U.S Geological Survey, *Twenty-fifth Annual Report* (Washington: GPO, 1904), plate 13.

⁵⁶ Coville, "Sheep Grazing," pp. 142-144; William C. Tweed, *Recreation Site Planning and Improvements in National Forests, 1891-1942* (Washington: USDA-Forest Service, Publication FS-354, November 1980), p. 1.

⁵⁷ J.S. Diller to the Secretary of the Interior, 2/28/98, C. Hart Merriam to the Secretary, 2/28/98, and Frederick V. Coville to the Secretary, 3/1/98, RG 79, Entry 1, Crater Lake records, 1872-1907, Box 1, folder 1, NA Washington.

⁵⁸ Diller to Steel, 12/6/01, SP; W/M, p. 891. The text of HR 7200, which served as boilerplate for the various Crater Lake enabling bills that followed, is in Frank, "Legislative History," pp. 53-56.

⁵⁹ "Crater Lake Public Park," *Portland Oregonian*, 12/21/99; W/M, p. 787.

⁶⁰ G.W. Kingsbury, "Crater Lake," *San Francisco Bulletin*, 8/25/73, and S.A. Clarke, "Klamath Land," *Overland Monthly* 11:6 (December 1873), pp. 548-553.

⁶¹ L.W. Hammond, "Crater Lake," *Portland Pacific Slope*, 10/7/74; reprinted in the *Jacksonville Democratic Times*, 1/2/91, p. 1.

⁶² Emil Britt to Steel, 11/15/18, vertical file at Southern Oregon Historical Society, Medford; Ruth Teiser and Catherine Hannum, "First Crater Lake Photograph," *National Parks* 36 (September 1962), pp. 14-16.

⁶³ Ken McLeod, "Along Nature's Trail," Klamath Falls *Herald and News*, 6/15/53; interview with Frances Pearson (Prospect, Ore.) by Jeff LaLande in "Recollections: People and the Forest," vol. 3, Rogue River National Forest, Medford, 1990, p. 10. See also "Going on Vacation," Portland *Daily Standard*, 8/4/85; and "Crater Lake," Portland *Evening Telegram*, 8/29/85.

⁶⁴ Earl Morse Wilbur, "Description of Crater Lake," *Mazama* 1:2 (1897), p. 149.

⁶⁵ Thomas Tongue (U.S. Representative from Oregon) to Steel, 2/1/02 and 3/4/02, SP; W/M, pp. 906-907.

⁶⁶ Pinchot to Steel, 3/4/02, Tongue to Steel, 4/18/02, Pinchot to Steel, 5/15/02, SP; W/M, p. 916, 925, and 934. Some detail about the petition and the Speaker's opposition is in Unrau, *Administrative History*, p. 100.

⁶⁷ Tongue to Steel, 4/21/02, SP; W/M, p. 937; "Crater Lake Bill Passes," Portland *Oregonian*, 5/10/02; W/M, p. 929; and Unrau, *Administrative History*, p. 109.

⁶⁸ Unrau, *Administrative History*, p. 121.

⁶⁹ Susan Lasdun, *The English Park* (New York: Verdome Press, 1992), and Tom Williamson, *Polite Landscapes: Gardens and Society in Eighteenth Century England* (Baltimore: Johns Hopkins University Press, 1995), pp. 1-18, 77-140.

⁷⁰ The word "sublime" is used to describe the proposed park's scenery in the Oregon Legislature's Senate Joint Memorial No. 5 [November 1885], SP; W/M, p. 3.

⁷¹ Joseph L. Sax, *Mountains Without Handrails: Reflections on the National Parks* (Ann Arbor: University of Michigan Press, 1980), pp. 5-7; John C. Miles, *Guardians of the Parks: A History of the National Parks & Conservation Association* (Washington: Taylor and Francis, 1995), p. 74.

⁷² Runte, *Yosemite*, pp. 34-35.

⁷³ Pinchot to Steel, 2/18/02, SP; W/M, p. 908.

⁷⁴ Steen, *The U.S. Forest Service*, p. 71; "Favored by Roosevelt, Plan to Transfer Reserves to Agricultural Department," Portland *Oregonian*, 4/5/02, in W/M, p. 924; "For the People: Why Forest Reserves have been Created, Mr. Pinchot Gives Reason, *Oregonian*, 10/7/03, in W/M, pp. 991-994.

⁷⁵ "With Pinchot at the Head," Portland *Oregonian*, 1/24/05; W/M, p. 1002.

⁷⁶ Clary, *Timber and the Forest Service*, pp. 6-7; Tweed, *Recreation Site Planning*, p. 2.