



## **Public Lands Foundation Position Statement**

### **THE FUTURE OF O&C FORESTS**

#### **Executive Summary**

The Public Lands Foundation (PLF) believes that the O&C lands<sup>1</sup> must stay in Federal stewardship under the management of the Bureau of Land Management: the agency that has managed them since they were revested to the United States. The PLF also believes that the O&C lands need to be professionally managed for the sustainability of the forest. This involves managing the lands for permanent timber production; wildlife and watershed conservation; recreational values and for contributing to the economic stability of western Oregon Counties and its communities. This management must take into account that these lands are unique in the Federal land portfolio with a unique history, having been granted into private ownership to encourage construction of a railroad from Portland south to the California State border. When the railroad company violated terms of the grant, the lands revested back to the Federal government with the prescribed statutory intent to harvest the timber and then to sell the lands to individuals. When sale attempts failed to provide the economic objectives intended, the lands were permanently placed into Federal ownership by Congress in the O&C Act of 1937 for the narrow and specific purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, contributing to the economic stability of local communities and industries, and providing recreational facilities. It is the uniqueness of these lands and their history that dictate that they warrant a unique solution. The checkerboard landscape of the O&C lands does not have the same biological capabilities as the large-block land pattern of the National Forests. The intermingled land ownership pattern of industrial and private forest land owners and the associated road network require unique expertise to efficiently manage. BLM has the expertise to do this.

Congress reaffirmed the timber management and revenue sharing mandates for the O&C lands when it enacted the Federal Land Policy and Management Act (FLPMA) in 1976. The BLM has a long history of managing lands for conservation values in Western Oregon. They have done this for permanently protected lands, such as the Table Rock Wilderness, Wild and Scenic Rivers such as the Rouge, Outstanding Natural Areas such as Yaquina Head and Cascade Siskiyou National Monument. BLM has also managed Late Successional Reserves under the Northwest Forest Plan to provide for the recovery of the Northern Spotted Owl. BLM has a proven track record and the needed expertise to manage for all of the values found on the O&C lands.

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<sup>1</sup> Alternate sections of public lands in Western Oregon along the right-of-way granted to the Oregon and California Railroad Company or the Coos Bay Wagon Road Company and subsequently revested to the United States, which are managed by the Bureau of Land Management under the authority of the O&C Lands Act.

Any solution should be scientifically-based, meet the requirements of all federal law, and consider the economic and social needs of the local communities. The work done by the BLM for the 2008 Resource Management Plans (RMP) is the most comprehensive analysis ever undertaken for these lands to date and should be considered as the basis for a solution. The PLF further believes that any solution must provide implementation certainty and this likely will require Congressional intervention. The BLM has the authority, the staff and the organization in place to manage any “solution” devised by Congress. However, successful implementation can only be achieved by enacting a solution that will allow BLM to avoid the endless loop of delays, administrative processes, court reviews and continuous planning that has, over the past 25 years, not achieved positive results.

## **Background**

**The O&C lands are subject to the unique mandate of the O&C Act of 1937 that lands be managed for permanent timber production under the principles of sustained yield.**

These lands were originally granted to a railroad company from the public domain by the Federal Government as an incentive for construction of a rail line from Portland to the California border. The railroad company violated the terms of the land grant and the Government took back, or revested, the unsold lands. These lands were not returned to the federal public domain, but were set aside for special management. Historically, large contiguous blocks of forest in the public domain were set aside as Forest Reserves, eventually becoming part of the National Forest System. However, the O&C lands were always different and set apart from National Forest System Lands as a result of their history. At the time, lumbering practices were “cut and run” and involved the harvesting of whole watersheds; moving to the next watershed, when logging finished. This meant the lumber mill and logging camps also moved leaving ghost towns in their place. Little regard was paid to wildlife and water resources or for re-establishing a new forest after harvest. These practices were not sustainable, and eventually principles of conservation and sustained yield began to evolve. The principle of sustained yield management was seen as a solution to these problems. The O&C Act of 1937 is based on the principle of sustained yield. Sustained yield assures that the harvest level is in balance with the growth of the forest and its capabilities to provide timber for future generations. The O&C Act included a revenue sharing provision to compensate the counties along the original railroad right-of-way, since the Federal Government would not pay taxes on the revested lands. Sustained yield timber production provides a perpetual revenue stream using the forest to generate funds rather than tax dollars and simultaneously provides a forested landscape that is beneficial for wildlife, water resources and recreation.

## **Discussion**

**How can the O&C lands be managed to continue to provide needed resources and revenue now and into the future while conserving the conservation values on these lands?**

The O&C lands were intended to be in private ownership since the railroad land grants in the 1860s. It was only after years of fraud and litigation that the Congress through the Chamberlain–Ferris Act<sup>2</sup>,

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<sup>2</sup> The Chamberlain–Ferris Act (39 Stat. 218) of June 9, 1916 was an Act of the United States Congress that ruled that 2,800,000 acres (11,000 km<sup>2</sup>) of the original 4,000,000 acres (16,000 km<sup>2</sup>) granted to the Southern Pacific Company (successor to the Oregon and California Railroad) in California and Oregon were revested to the United States, and put under the control of the General Land Office, which was to dispose of the lands and timber through auction sales.

revested the lands back to the Federal Government. The reversion of the land was intended to be temporary with the timber being sold and the lands sold into private ownership for the benefit of the counties where the lands exist. Because of geographical and market limitations this Chamberlain–Ferris Act failed and the counties did not receive the benefits from the lands. To correct this, Congress tried again in 1926 with another Act of Congress to dispose of the land into private ownership and provide payments to the counties. Again, the Act failed in its intended purpose. In 1937, Congress acted again by deciding to retain the O&C lands in Federal ownership for the primary purpose of contributing to the stability of local governments and providing forest products. This was to be done by providing for permanent forest production using newly developed principles of sustained yield. The counties were to be provided for by sharing receipts with the Federal Government. By using a sustained yield system and harvesting no more than the land could grow in a given period of time, the land would produce benefits to local governments in the long term.

The context of the O&C lands is also unique. The checkerboard ownership pattern of BLM lands intermingled with private industrial and rural residential ownerships is a vastly different landscape context than the continuous Forest Service lands. Given this checkerboard pattern, the biological capabilities of BLM lands for providing conservation values differ from capabilities of the large blocks of National Forest System lands. The Northwest Forest Plan applied a common set of management guidelines and allocations as a “one size fits all” approach that did not recognize the ownership uniqueness and circumstances of the O&C lands.

BLM has shown many times in previous plans that management strategies can be developed to meet multiple objectives and the vast array of federal laws guiding the management of these lands (See Appendix A for a partial listing). Management strategies can be developed to meet the objectives of all of the laws simultaneously. Evidence and NEPA analysis has shown that improved forest conditions through a balanced land allocation approach that includes adequate lands dedicated to sustained yield management would yield positive environmental, social and economic results. The success of sustained yield management under the O&C Act has been verified in BLM’s forest inventories. These sophisticated inventories have shown that after over fifty years of sustained yield management with annual harvests of over one billion board feet per year from the early 1960’s through the late 1980’s, there is more standing timber on the O&C Lands today than the 1950’s when sustained yield management began in earnest. Sustained yield management is the foundation to provide certainty for jobs, timber supply and revenues for the long term.

### **What is needed to provide management certainty now and in the future?**

The O&C Act became law in 1937 and in 1976 Congress affirmed its timber management mandate in Section 701(b) of FLPMA. Other laws have been enacted with which the BLM must also comply. Most notable, the National Environmental Policy Act (NEPA) passed in January 1970 and the Endangered Species Act (ESA) passed in 1973. NEPA is a procedural act that requires agencies to undertake an assessment of the environmental effects of their proposed actions prior to making decisions. Two major purposes of the environmental review process are better-informed decisions and citizen involvement. The ESA requires the agencies to utilize their authorities in the furtherance of the Act and to insure that any action authorized, funded or carried out by them is not likely to jeopardize the continued existence of listed species or modify their critical habitat. It is clear that these acts and other acts did not amend or repeal the O&C Act. The authority for management of the O&C Lands remains the O&C Act. The FLPMA was subsequently passed in 1976 and affirmed the purposes of the O&C Act. Court decisions in the U.S. Ninth Circuit and the U.S. District Court of the District of Columbia have upheld the purpose of the O&C Act as late as June 2013. It is less clear how these other statutes affect the implementation of

the O&C Act. Without Congressional clarification or a comprehensive decision by the Courts, these issues will continue to be hammered out case by case in the Courts at the plan or project level, leading to continued gridlock.

The Northwest Forest Plan was conceived to end "gridlock" caused by lawsuits and controversy over the management of the Northwest Forest. This has not happened. Protests, appeals and litigation over timber sales and other actions that comply with the Northwest Forest Plan have increased tenfold since the Northwest Forest Plan.

### **Public Lands Foundation Position**

#### **The O&C Lands must stay in Federal Ownership under BLM Management.**

Current legislative proposals retain the O&C lands in Federal ownership. However, subdividing the O&C lands into smaller and smaller parcels adds management complexity and confusion. Splitting management responsibility between two agencies is not efficient nor is it good public policy. The BLM is staffed by dedicated professional land and resource managers, and it has a proven track record for managing the complexity of the O&C Lands, and is authorized by FLPMA to manage lands for both timber production and conservation purposes. The BLM should retain management responsibility for the O&C Lands.

#### **The O&C forest lands need active professional management.**

The O&C Act requires the forest be managed following the principles of sustained yield. That practice has worked well since 1937 and can continue to satisfy multiple demands from the forest into the future. All of the laws related to management of the O&C forest land can be met simultaneously by a balanced approach of allocation and management of land for specific purposes. The O&C Act mandate to manage these lands according to the principles of sustained yield is fundamental to provide for timber production, revenues to support county services, raw material supporting forest management infrastructure, jobs for rural communities, significant habitat for wildlife, and quality water, now and into the future.

#### **The O&C Lands are unique and warrant a unique solution.**

The Northwest Forest Plan developed a one-size-meets-all approach for allocation of land and management guidelines. The Critical Habitat for the northern spotted owl designation did not evaluate altering the approach specific to the BLM lands (10% of the Northwest Forest Plan area and approximately 4% of the total northern spotted owl range). The checkerboard landscape does not have the same biological capabilities of the large-block land pattern of the National Forests. The intermingled land ownership pattern of industrial and private forest land owners and the associated road network require unique expertise to efficiently manage.

The BLM Western Oregon Plan Revisions Final Environmental Impact Statement (FEIS) completed in 2008 evaluated a variety of alternative management strategies utilizing the best available information on the O&C lands, and sophisticated land management modeling to evaluate the outcomes of these alternatives based on their effectiveness for meeting multiple objectives. This body of work was conducted over 5 years, with full interagency coordination, public involvement and full evaluation of the relevant science. This FEIS is the most comprehensive evaluation ever of the capabilities of the O&C forest lands in context of the private/industrial lands of the checkerboard and large blocks of the Forest Service land.

The preferred alternative represented a well-grounded balance of allocation and management direction that met all of the laws. (See Appendix A for details). The preferred alternative and the scientific analysis conducted for the 2008 RMPs, updated with any new scientific information, should form the basis for any solution to the management of these valuable lands.

### **Implementation Certainty**

The issues that have plagued the management of the O&C lands will not be resolved until Congress intercedes and enacts legislation that clarifies the relationship of the various laws that effect the management of these lands. Legislation must include provisions that will ensure implementation certainty. Successful implementation can only be achieved by enacting a solution that will allow the BLM to get out of the endless loop of delays, administrative processes, courts and continuous planning that, to date, has not achieved positive results.

November 11, 2013

## **Appendix A—Laws and additional background information**

### ***Laws***

#### **The O&C Act of 1937**

The O&C Act mandates that the O&C lands be managed “for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal (sic) of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities” (43 U.S.C. §1181a). The O&C Act goes on to state that “[t]he annual productive capacity for such lands shall be determined and declared: Provided, that timber from said lands in an amount not less than one-half billion board feet, or not less than the annual sustained yield capacity when the same has been determined and declared shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market” (43 U.S.C. §1181a). When monetary receipts from the sale of timber from the O&C lands are distributed, 50% is distributed to the counties in which the revested lands are located<sup>3</sup>. That 50% is distributed to the counties according to their proportion of the total assessed value of the revested lands that existed in each of the counties in 1915. In meeting the various requirements for managing the O&C lands, the Secretary of the Interior has discretion under the O&C Act to determine how to manage the forest to provide for permanent forest production on a sustained yield basis.

#### **Federal Land and Policy Management Act of 1976 (FLPMA)**

The Federal Land Policy and Management Act of 1976 (FLPMA) provides the legal authority to the Secretary of the Interior for the management of public lands. The FLPMA specifically provides that if there is any conflict between its provisions and provisions of the O&C Act related to management of timber resources or the disposition of revenues from the O&C lands and resources, the O&C Act prevails (i.e., takes precedence) (43 U.S.C. §1701). Thus, the multiple-use management direction of the FLPMA does not apply to the O&C lands that are suitable for timber production. When Congress enacted FLPMA in 1976, Congress preserved requirements of the O&C Act as they relate to the management of timber resources and the disposition of revenues to O&C Counties (FLPMA sec 701(b)). FLPMA also authorizes the BLM to manage federal lands for conservation purposes.

#### **Endangered Species Act of 1973 (as amended) (16U.S.C. §1531 et seq.)**

The provisions of the Endangered Species Act applies to plants and animals that have been listed as endangered or threatened, proposed for listing, and the areas designated or proposed for critical habitat. Section 7 of the ESA requires BLM to use its legal authorities to promote the conservation of species. (The O&C Act and FLPMA are BLM’s legal authorities for management of O&C and CBWR lands.) It requires BLM to consult with U.S. F&WS and National Marine Fisheries Service to ensure that actions will not jeopardize species listed as threatened or endangered under ESA (or, in the case of critical habitat, adversely modify.) The ESA is to be complied with as BLM implements its mandates under the O&C Act and the FLPMA, but does not change the BLM’s authorizing statutes.

#### **Clean Water and Safe Drinking Water Acts**

The objective of the Clean Water Act is to restore and maintain the chemical, physical and biological integrity of the Nation’s waters. The Safe Drinking Water Act protects public health by regulating the

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<sup>3</sup> Initially, the Act provided for a 75% share to go to the counties; however 25% was used to pay back the Federal Treasury for funds advanced to the counties under preceding Acts. This debt was satisfied in the early 1950s and the counties elected to “plowback” the 25% into management of the lands. The counties contributed over \$2 billion in today’s dollars to the Plowback Fund.

public's drinking water supply. In Oregon, the Department of Environmental Quality implements and enforces provisions of the federal Clean Water Act, the Safe Drinking Water Act and state water quality laws and policies. BLM'S management actions on O&C and CBWR lands must be in compliance with the State of Oregon's established water quality standards.

### **Current Management and Land Use Plans**

Timber harvest on the O&C and CBWR lands, following the principle of sustained yield<sup>4</sup>, began in earnest in the late 1940's in response to the housing boom for returning GIs. Concerns about the harvest of old-growth forests and decline in the population of northern spotted owls increased in the 1980s culminating in injunctions that severely curtailed all timber harvest in the early 1990s. In April 1993, President Clinton held a Forest Conference in Portland, Oregon. He ordered a scientific and technical team to be formed that would provide recommendations for forest ecosystem management on Federal public lands within the range of the Northern Spotted Owl. Those recommendations became the basis for the Northwest Forest Plan. BLM incorporated the Northwest Forest Plan in Resource Management Plans in 1995.

The Northwest Forest Plan was to be a forest ecosystem-based plan. It not only provided protection for Northern Spotted Owl and marbled murrelet habitat but it also incorporated an Aquatic Conservation Strategy to protect at-risk species and stocks of anadromous fish. It went beyond ESA listed or at-risk species by including a substantial set of management guidelines coined "Survey and Manage," which dealt specifically with inventory surveys and monitoring studies needed to supply information on the lesser known and potentially vulnerable species of fungi, lichens, plants and animals. In this new framework, the Northern Spotted Owl was addressed as one of many species and ecosystem components to be dealt with in forest ecosystem management (Marcot PNW-GTR-408 September 1997). The conservation strategy of the Northwest Forest Plan addressed not only the Endangered Species Act, but also the National Forest Management Act of 1976 (NFMA) and its requirement that the U.S. Forest Service "provide for diversity of plant and animal communities ... to meet overall multiple-use objectives" (16 U.S.C. §1604). The Northwest Forest Plan applied the same criteria for management of habitat on both U.S. Forest Service and BLM-administered lands even though the NFMA does not apply to the BLM-administered lands (USDA Forest Service and USDI Bureau of Land Management. 1994. *Record of Decision on management of habitat for late-successional and old-growth forest related species within the range of the northern spotted owl (Northwest Forest Plan)*. Portland, Oregon, p. 44). The Northwest Forest Plan "reserved" a large portion of the land base for uses other than permanent forest production, arguably in violation of the O&C Act.

The Northwest Forest Plan allocated 27% of the O&C forestlands to be managed for sustained yield forest management despite the fact that 82% has been classified as suitable for timber production. The harvest level is established based on a cycle of thinning and regeneration harvest, i.e. starting a new forest. This planned cycle assumes regeneration harvest will occur, generally, no sooner than when the growth of individual stands have culminated (80-120 years). To sustain the harvest level the land base (down to 27% of the productive forest land base) must remain fully available and the planned cycle of harvest implemented. Several of the management standards and guidelines included in the Northwest Forest Plan, including the Aquatic Conservation Strategy and Survey and Manage provisions, were problematic and led to litigation. Decisions from several court cases further restricted the BLM from comprehensively implementing the Northwest Forest Plan as intended. Regeneration harvest practices were nearly

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<sup>4</sup> Sustained Yield - the yield that a forest can produce continuously at a given intensity of management (SAF Dictionary of Forestry, 2008)

completely curtailed on the lands allocated for sustained yield management. BLM turned to thinning to produce timber and feed dollars into the economic stream. Although thinning is an important silvicultural tool to meet some of the objectives of the Northwest Forest Plan, it is not sustainable without being used in conjunction with regeneration harvest. Furthermore, not implementing regeneration harvest has resulted in the BLM not harvesting the types and ages of forest stands modeled and predicted in the Resource Management Plans (RMP) and the accompanying NEPA analysis.

Monitoring conducted on the Northwest Forest Plan at years 10 and 15 of implementation found that timber and economic objectives were not being met. The BLM's RMP evaluations in 2004 and 2010 also found that timber objectives were not being met. Planning regulations require the BLM to revise the plans if RMP objectives are not being met to a significant degree. In 2005, BLM began a 4 year multimillion dollar planning process, developed with interagency and intergovernmental cooperation, and extensive public involvement. Records of Decision were signed in December 2008.

The BLM Western Oregon Plan Revisions Final Environmental Impact Statement (FEIS) completed in 2008 evaluated a variety of alternative management strategies utilizing the best available information on the O&C lands, and sophisticated land management modeling to evaluate the outcomes of these alternatives based on their effectiveness for meeting multiple objectives. This body of work was conducted over 5 years, with full interagency coordination, public involvement and full evaluation of the relevant science. This FEIS is the most comprehensive evaluation ever of the capabilities of the O&C forest lands in context of the private/industrial lands of the checkerboard and large blocks of the Forest Service land.

The preferred alternative represented a well-grounded balance of allocation and management direction that met all of the laws. Implementation of the 2008 plan would have provided:

- Increasing levels of habitat and structurally complex forest at nearly the same level as the Northwest Forest Plan
- Guidance for implementing sustainable forest management practices to maintain the health and productive capacities of the forest to produce timber that can be harvested on a sustained yield basis as well as maintaining other values associated with the forest including water quality and old growth values.
- An ecological balance of forest succession stages such as stand development, young forest, mature forest and structurally complex forest.
- 500 million board feet of sustainable timber production – double the Northwest Forest Plan.
- Approximately 80 million board feet for 20-30 years to promote the development of spotted owl and marbled murrelet habitat.
- No harvest of stands 160 years and older conducted for the first 15 years
- A large block habitat network meeting the long established standards for Northern Spotted Owl that provides better habitat than those in the Northwest Forest Plan
- Riparian management areas that will provide high quality habitat for fish and clean water for users
- Protection of habitat for Northern Spotted Owl and marbled murrelets
- Approximately \$75 million each year to O&C Counties for funding public services
- An increase of approximately 1,200 timber related jobs
- Uneven age management in Southwest Oregon to simultaneously improve forest resiliency and provide for sustainable timber production. The types of harvest are similar to those proposed by Drs. Johnson and Franklin in recent pilot projects in the Medford District

The preferred alternative and the scientific analysis conducted for the 2008 RMPs, updated with any new scientific information, should form the basis for any solution to the management of these valuable lands.

The Secretary of the Interior withdrew the Records of Decision in July of 2009; the decision to withdraw the RODs was challenged in court by the American Forest Resource Council and others. In March of 2011 the Court of the District of Columbia found that the Secretary failed to follow the procedures required by the FLPMA and the decision to withdraw the ROD because of alleged “legal error” was arbitrary, capricious, and an abuse of discretion. A coalition of environmental groups then filed suit in Federal District Court of Oregon. The Records of Decision were invalidated by the District Court of Oregon in 2012 based on a determination that the BLM failed to consult on the plans with the USFWS as required by ESA.

The political decision was made to nonetheless start over and revise the current RMPs again. BLM initiated a new planning process in 2012 with an estimated completion in 2015.

### **Economic and Social Effects**

While the debate about the O&C lands are often couched in terms of sustained yield of trees and populations of spotted owls, the issue now is about the economic and social impacts of the regional economy. Job loss caused by reduced timber harvest has been devastating to the forest product industry and rural communities in western Oregon. "In Oregon, 170 mills have closed since 1990. The majority of these took place in the early 1990s. While most mill closures occurred prior to the end of 1995, at least two mills closed every year from 1990 to 2009."<sup>5</sup> Across all Oregon study counties there was a decline in manufacturing jobs related to the timber industry as seen in the lumber and wood products sector and wood product manufacturing. Nearly 12,000 of these jobs were lost over the 20-year period. This decline is especially critical to five Oregon counties where the timber industry accounts for over 10% of total employment: Clatsop, Douglas, Jefferson, Klamath, and Tillamook."<sup>6</sup> "Case studies, in Oregon ..., were conducted to better understand socioeconomic changes and current socioeconomic conditions ‘on the ground.’ Some key findings from these cases include...:

- Tillamook County has 24% of its children living in poverty, and 39% living in single-parent households, almost double the national average.
- Douglas County has 31% of its children living in poverty - twice the national average and 34% living in single-parent households.
- In both of these counties, but especially in Douglas County, there are significant declines in manufacturing jobs, particularly since 2008. Free and Reduced Priced Meal participation rates increased over the last four years as well, some schools by almost 20 percent.
- Over the last several decades, Josephine County saw forestry and logging jobs decline by 80%. Wages have stagnated and are two-thirds of the Oregon average. The county now ranks near the bottom of Oregon counties in health indicators and FRPM participation rate for the county is 70%."<sup>7</sup>

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<sup>5</sup> Sierra Institute for Community and Environment and Spatial Informatics Group, *Response to the economic analysis of critical habitat designation for the northern spotted owl by industrial economics In Response to the 2012 Critical Habitat Designation of the Spotted Owl*, (August 2012.), vi

<sup>6</sup> Sierra Institute, *Response to the economic analysis*, vii

<sup>7</sup> Sierra Institute, *Response to the economic analysis*, vii

The O&C Counties receive 50% of the revenue generated by the O&C lands. This money goes into the county general fund and can be used at the county's discretion. When the Northwest Forest Plan was adopted, timber harvest was reduced by 80%, which reduced revenue accordingly. To replace lost timber revenue the Congress has made "safety net" payments to the counties. The Omnibus Reconciliation Act of 1993 and later the Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393) (hereafter SRS) stabilized payments to counties and schools by providing payments to counties based on receipts during years with historically high harvest levels. The original SRS act expired in September 2006 and a one-year extension of the SRS expired in September 2007. This meant that final payments would have been received during the 2007-08 county fiscal year ending June 30, 2008. Despite efforts by the Oregon Congressional delegation and others, counties entered the 2008-09 county fiscal year without SRS funds. In October 2008, Congress reauthorized the SRS act as part of P.L. 110-343. This reauthorization, which continued payments but phased them down, expired in 2011. SRS was extended another year expiring in 2012, and recently extended again, expiring in 2014. Although the BLM has rarely met timber targets in recent years, the revenues generated from the thinning of low value timber with high logging costs produces receipts that are less than 25% of what was anticipated by the Northwest Forest Plan. The loss of revenue and uncertainty about future funding has resulted in counties closing jails, laying off deputies and curtailing vital public services. Some southwest Oregon counties are on the brink of bankruptcy.

### **A Search for Solutions**

Job loss in timber country is not a new story, but what is unique about this economic catastrophe is that the O&C lands have the capability to produce sustainable volumes of timber, and also protect habitats for other species because they are so productive, and the BLM knows how to efficiently accomplish this in this scattered and checkerboard lands. What is needed is the political will to accomplish some type of solution.

The growing crisis with the regional economy, social impacts and timber supply issues with mills has prompted a search for solutions from several levels; the governor of Oregon, part of the U.S. House Oregon delegation, U.S. Senator Wyden, and the BLM.

Governor Kitzhaber convened a 14-member panel representing conservation interests, the timber industry and county government. The Governor asked the group to build on existing proposals and develop recommendations that help Oregon counties improve financial stability, ensure adequate sources of timber that support local mills and jobs and meet the Oregon's water and land conservation goals. The panel failed to come to a consensus on what actions should be taken after meeting in a dozen very intense sessions. The governor ended the effort by sending a letter to the Congressional delegation highlighting several components of a solution including 1.) A stable and predictable harvest level from O&C lands at higher levels than currently exist without significant impact to old growth habitat or the aquatic ecosystem, 2.) Revenues from timber harvest or land disposition could be used to stabilize county funding, 3.) Areas that should be added to the wilderness and wild and scenic river systems, 4.) Voluntary conservation efforts on private land should be considered, and 5.) The O&C Act should be modernized to provide for more economic and environmental certainty.

Three members of the Oregon delegation to the U.S. House of Representatives, Congressmen Peter Defazio, Greg Walden, and Kurt Schrader have drafted a bipartisan legislative proposal called the "O&C

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Trust, Conservation, and Jobs Act.” This draft legislation would divide the O&C lands into two components. First, land with timber stands over 125 years old and currently protected areas would be transferred to the U.S. Forest Service for management under the current Northwest Forest Plan. Second, land with stands less than 125 years old would be managed by a legislatively established trust for economic outputs. The land would remain public, but the BLM would no longer have any management responsibility in western Oregon. The legislation would also add areas to the wilderness and wild and scenic river systems. This legislation was included in H.R. 1526, the Restoring Healthy Forests for Healthy Communities Act. The House Natural Resource Committee marked up the bill and reported it out in August 2013. The House passed the bill and sent it to the Senate September 20, 2013, where the bill has been read twice and referred to the Committee on Energy and Natural Resources.

U.S. Senator Ron Wyden has released *The O&C Act of 2013* legislation to reform O&C management. This legislation would keep the O&C lands under BLM stewardship while dividing the lands into two designations. Lands with timber less than 120 years old would be timber emphasis areas and managed for sustainable economic activity with timber harvest governed by rules established in the legislation using “ecological forestry” and sustained yield principles. Within the timber emphasis areas are Legacy Old Growth Protection Networks where timber not be managed for sustained yield but for general ecological and conservation. Directs that ten year landscape level plan be done for timber emphasis area and once a large-scale EIS is developed, it will serve as the environmental review document for all projects for approximately 10 years, with subsequent environmental impact statements to be developed for 10-year periods. Federal environmental laws would be modernized as they apply to the O&C lands with the intent to increase certainty in harvest levels. Areas with timber greater than 120 years old would receive a designation of conservation emphasis areas to protect general ecological and conservation values. Some lands would be added to the wilderness, Wild and Scenic River systems and Indian trust holdings. Voluntary conservation measures on private lands would be encouraged as would land exchanges to block up ownerships. Revenues from the intensively managed lands would the US Treasurer (\$4 million) 25% BLM for management expenses not to exceed \$20 million and the, remainders goes to the counties.

Since past RMP evaluations have documented that BLM is not meeting the sustainability objectives of existing RMPs, regulations dictate amending or revising the RMPs. Thus the BLM has initiated another Resource Management Planning process under FLPMA guidelines to attempt to administratively resolve the issues. Decisions on the new RMPs are expected in late 2015. Given BLM’s experience with past planning efforts since the late 1980s, it can be assumed that several years of litigation will follow the completion of the new plans.