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* Bark * Benton Forest Coalition * Cascadia Wildlands * Center for Biological Diversity *
Conservation Northwest * Coast Range Association * Dakubetebe Environmental Education
Programs * Earthjustice * Environment America * Environment Oregon *
Forest Web of Cottage Grove * Gifford Pinchot Task Force
* Klamath-Siskiyou Wildlands Center * Lane County Audubon Society
* Oregon Wild * Sierra Club * Soda Mountain Wilderness Council *
Threatened and Endangered Little Applegate Valley * Umpqua Valley Audubon Society *
Umpqua Watersheds * Western Environmental Law Center * Willamette Riverkeeper

January 23, 2014

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

Dear Senator Wyden,

On behalf of our tens of thousands of members and supporters in Oregon, and millions of supporters nationally, we write to express our disappointment with the recently introduced “O&C Land Grant Act of 2013.”

The legislation, as introduced, represents a significant departure from the principles laid out in your document titled “Principles for an O&C Solution: A Roadmap for Federal Legislation to Navigate both the House and Senate,” released in 2012. Those principles represented a good starting point for discussion to craft a workable, balanced, and realistic legislative proposal that did not sacrifice conservation values that Oregonians, and all Americans, hold dear.

Unfortunately, S. 1784, the “O&C Land Grant Act of 2013” (O&C Act of 2013) falls far short. Some of our major concerns are listed below.

Weaken environmental laws and policies.

Despite assurances that you intended to maintain all environmental laws in any O&C legislation, provisions of your proposed O&C Act of 2013 would both undermine and override federal environmental laws, including the Endangered Species Act (ESA), Clean Water Act, National Environmental Policy Act (NEPA), and Administrative Procedure Act.

In regards to the ESA, for example, the legislation attempts to override critical and long-standing requirements of the ESA in some sections, and weakens them in others. The ESA provides a safety-net for our most imperiled species, and the ESA’s consultation process gives the federal fish and wildlife agencies the chance to review and balance proposed projects against harmful impacts to species and their habitat. These vital protections must not be undermined as proposed in the O&C Act of 2013.

In regards to NEPA, the bill would severely undermine the law by eliminating environmental analysis and public review of individual timber sales, and mandating a single large-scale analysis

covering 10 years of logging spread over a million acres of western Oregon. Currently, individual timber sales go through rigorous environmental review and public vetting to ensure they are consistent with applicable law and do not irreparably harm the environment. However, S. 1784's mandate to analyze 10 years of logging in a single Environmental Impact Statement (EIS) disregards the critical need for site-specific reviews of a project's impacts. By eliminating project-level review under NEPA, the public will be largely unable to ensure that BLM makes informed decisions and carefully considers the best available science, public input, local conditions, and changed circumstances.

While members of the public may still challenge the large-scale EISs, severe timing and content restrictions are placed on those seeking to hold federal agencies accountable to federal laws. We are disappointed to see you endorse significant and precedent-setting restrictions on the ability of citizens to participate in a federal process, particularly given your commitment to other government transparency and accountability issues.

Dismantles the Northwest Forest Plan.

The system of conservation reserves set up under the Northwest Forest Plan (NWFP) to both protect and restore fish and wildlife habitat will be effectively dismantled under the O&C Act of 2013. Streamside buffers and the strong provisions of the Aquatic Conservation Strategy are severely reduced. The "Survey & Manage" program—deemed a "foundational" element of the NWFP by the courts¹ when the Bush administration tried to remove it—is eliminated in Forestry Emphasis Areas. And, by changing the reserve system, the bill eliminates the integrated landscape approach to conserving clean water supplies and fish and wildlife habitat across public lands managed by both the U.S. Forest Service and Bureau of Land Management (BLM).

Does not solve county budget problems.

One of your original stated aims for legislation was to provide stable funding for the 18 O&C counties facing budget shortfalls due in part to the expiration of Secure Rural Schools funding. In 2012, we were heartened that your principles for legislation pointed out that it is not reasonable for local and state elected officials to rely solely on federal funding to make up for county budget shortfalls. A lasting solution to this problem will require local, state, and federal components.

Your proposed legislation aims to double logging to generate revenue for counties, but at the same time recognizes that this revenue alone will fall far short what counties say they need to balance their budgets. And because the legislation shifts the BLM logging program from relatively less controversial thinning of young stands towards more controversial clearcutting of older forests, any logging revenue is far from certain.

We thank you for your reauthorization of the Secure Rural Schools program for FY2013 and urge you to reauthorize this vital program while we work with you on finding alternate proposals that decouple payments from resource extraction and do not jeopardize our conservation values.

¹ *Northwest Ecosystem Alliance v. Rey*, 380 F. Supp. 2d 1175, 1192 (W.D. Wash. 2005).

Mandates aggressive logging and harms water quality.

Your goal of “sustainability” of timber harvest in last year’s principles has translated into the designation of zones where logging is the only prioritized resource value and other public values, such as clean water, are ignored. Management of the Forestry Areas in the O&C Land Act is overly prescriptive and blatantly disregards the need for using the best available science information and site conditions to dictate appropriate management.

Last year’s principles mentioned using “ecological forestry principles” as one way of meeting timber production goals. In contrast, your legislation mandates its use. Moving this experimental concept forward with such broadscale application on nearly one million acres of public lands is dangerous. Experimental logging methods such as those from Johnson and Franklin have only been applied on a limited number of pilot projects in western Oregon. They have not been tested over long periods or large scale, and this raises questions of consistency with water quality, wildlife, carbon storage, or social acceptance.

Furthermore, your legislation undermines two critical requirements of the method proposed by Johnson and Franklin, making its application all the more concerning. According to their key publication on the subject in the *National Journal of Forestry* in December 2012, their new approach is heavily dependent upon monitoring and adaptive management.² But your legislation explicitly eliminates monitoring and survey requirements in forest management areas and prevents adaptive management by limiting review to one generalized look every decade for the two forest types and by mandating the use of certain ecological forestry logging principles without providing any opportunity to deviate from this approach.

The O&C Act of 2013 also drastically shrinks riparian buffers – putting at risk threatened salmon populations, clean water, and sensitive soils – and reducing the forests’ resilience to withstand climate change impacts such as increased heavy rain events. Buffers for streams and other bodies of water are significantly reduced in many areas, and monitoring of impacts is inadequate or nonexistent.

Falls short on old growth protection.

The bill also falls short on one of your legislative principles of which we were most supportive: safeguarding old growth forests. While we support setting aside the “Legacy Old Growth Protection Network” within moist-forest Forestry Emphasis Areas and the general prohibition of cutting and removing old growth trees in both moist and dry forest types, other provisions in the bill leave hundreds of thousands of acres of mature forests and old trees available or specifically designated for logging. This is unacceptable. Under the Northwest Forest Plan, forest stands over 80 years old are recognized as being essential habitat for old-growth dependent species. This habitat is also recognized as important to the growth of future old growth forests. In addition, exceptions and loopholes that allow cutting and removal of old-growth are found throughout the bill.³

² Franklin and Johnson; *Journal of Forestry*; Dec 2012; Pg. 435 available at: <http://www.blm.gov/or/districts/medford/plans/trail/files/forest-restoration.pdf>.

³ U.S. Senate. 113th Congress, 1st Session. S1784, Oregon and California Land Grant Act of 2013. Title 1, Sec. 102 (d)(3); Sec. 105 (b)(1)(A)(ii & iii); Sec. 121 (a).

Disposes of and fragments public lands.

By abandoning the Northwest Forest Plan reserves and promoting aggressive logging techniques, this legislation will result in extreme fragmentation of the O&C lands – making an even less sensible pattern out of the O&C checkerboard.

Furthermore, provisions in your O&C Act of 2013 concerning land sales and exchanges⁴ are of great concern to us. Historic consolidation and privatization proposals involving the transfer of public lands to private logging interests have resulted in losses to the environment and American taxpayers. We point to the failed Lower Umpqua Land Exchange Project as an example that would have resulted in a significant loss of older forests on public lands, in exchange for logged-over industry lands.

Rather than giving careful consideration to consolidation or land sales/exchanges, your bill allows the fast-tracking of privatization of public lands by reducing public oversight. These provisions do not ensure that such land trades are in the public interest, and shortchange the American public and the long-term conservation of public resources.

Offsets major environmental harms with small conservation gains.

Our organizations were heartened by your indications leading up to the introduction of this bill that you were committed to proportional conservation designations, including Wilderness. As you know, with just 4% of its land safeguarded as Wilderness, Oregon lags far behind California (15%), Washington (11%), and Idaho (8%).

Unfortunately, the conservation measures proposed to balance increased logging and reduced stream buffers fall far short of Wilderness protection standards. While the O&C Act of 2013 would designate areas nearing 900,000 acres for conservation, recreation, backcountry, drinking water, and Wild & Scenic Rivers, much of the land in these new conservation designations is already currently protected under other laws and regulations (including the Northwest Forest Plan), and could still be subject to logging under the guise of “fire threat reduction” and other logging loopholes found in your bill.

Sets a dangerous precedent for public lands across the nation.

We are deeply concerned that the advancement of this bill will encourage far-reaching federal forestland legislation that further endangers public resources and values. The allowance in the O&C Act of 2013 for private citizens and local governments to remove vegetation from public land with minimal oversight is but one small example of a precedent that could open the door to losing the environmental laws and policies that have helped protect our public lands for 40 years.

We sincerely hope you will consider making changes to your proposed legislation based on our concerns, and that we can continue to work with your office on forest management and county revenue programs that do not impair the clean water, wildlife, and public lands that Americans hold dear.

⁴ U.S. Senate. 113th Congress, 1st Session. S1784, Oregon and California Land Grant Act of 2013, Title 1, Sec. 117.

Sincerely,

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