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GOVERNOR

Statement of Governor John Kitzhaber
State of Oregon
Before the
Subcommittee on Public Lands and Environmental Regulation
Committee on Natural Resources
United States House of Representatives

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Mr. Chairman and members of the Subcommittee, I am Governor John Kitzhaber and I am pleased to provide my perspective on issues related to the Oregon and California (O&C) lands in Oregon.

I would like to thank you Mr. Chairman and members of the subcommittee for taking the time to address this important and unique issue in my state. I would also like to recognize Congressman Peter DeFazio, Congressman Greg Walden and Congressman Kurt Schrader for their strong leadership on this very difficult issue. Oregonians, indeed all Americans, have strong and diverse views regarding how public forests should be managed. It takes real courage to step up and propose the changes that are reflected in the *O&C Trust, Conservation and Jobs Act*. Thank you for your leadership and please know it is appreciated back home.

Mr. Chairman, I hold very strong conservation values. I believe that our public lands can and should be managed to provide a diversity of forest types, including ecosystems ranging from early to late successional stages and preserving old growth. Our forests should provide clean water for domestic uses and for aquatic ecosystems to flourish. Our forests should be managed so that Americans have places to recreate and come to appreciate the tremendous natural values of our forests, grasslands and waterways. Yet, I also believe a portion of these public lands can simultaneously provide some sustainable level of timber to support local and regional economies.

Some say these are mutually incompatible goals, but given our large, resource rich public lands system, I respectfully disagree. We are currently at a place regarding Oregon's O&C lands where the pendulum has swung from harvest levels in the 1980s that largely did not sustain a wide array of conservation attributes to current practice that only forecasts a 15 to 25 year window of thinning sales. Timber volume levels from thinning alone do not provide adequate quantity and quality of logs to local mills, nor do they produce adequate funds for basic public services in the 18 O&C Counties.

So where do we go from here? The status quo is not working and while increasing federal timber harvest will not solve all of rural Oregon's economic challenges, it can serve as a foundation. Congress should act to find a solution for O&C lands that helps Oregon counties improve financial stability, ensures adequate supplies of timber to support mills and jobs, and continues to meet aquatic and land conservation goals.

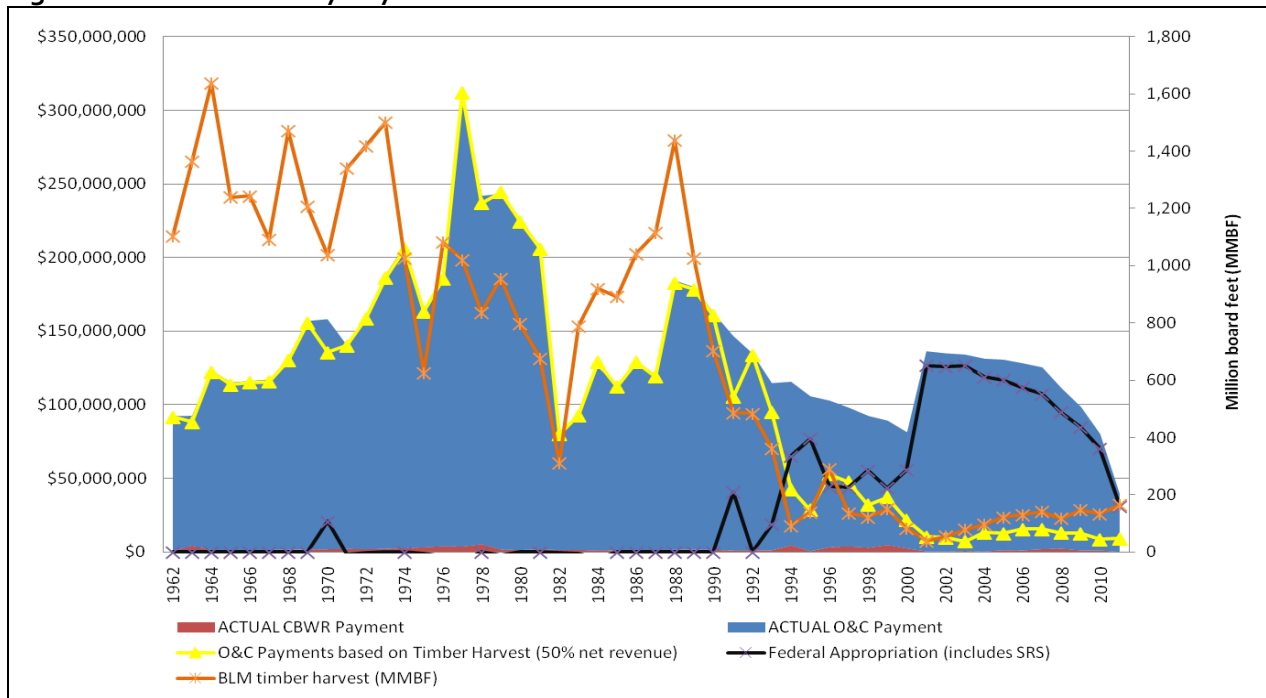
I am a strong supporter of our nation's environmental laws, but I believe it is time to modernize the O&C Act and to update the application of the Northwest Forest Plan in a manner that provides more certainty for conservation, timber supply and County revenues. The O&C Act was written decades ago and the Northwest Forest Plan is now 20 years old and has not delivered on all of its timber supply commitments. I believe we can adapt the O&C Act and the Northwest Forest Plan in a manner that optimizes what we conserve and produce from our public lands. In the case of the O&C forests, here is our story and here are some ideas for the Committee's consideration on how you might build on the *O&C Trust, Conservation and Jobs Act* moving forward.

O&C Lands – A Brief Background

The Oregon and California Revested Lands Sustained Yield Management Act of 1937 (O&C Act) revested 2.6 million acres of forestland in western Oregon to the Federal government. The O&C Lands had been intended as compensation for the construction of a railroad but were revested after discovery that sales of the O&C Railroad Company violated Federal law. After revestiture, the Federal government agreed to share timber revenue, in lieu of foregone property taxes, with the 18 counties within which the O&C lands were located. In addition to establishing a fiscal relationship, the O&C Act included a mandate to provide a sustained level of timber harvest and a community stability clause to ensure the economic viability of local economies. The Act also included conservation requirements in calling for the protection of watersheds and regulations of stream flows.

Through the late 1980s, the O&C Lands were managed by the Bureau of Land Management (BLM) to produce timber under the sustained yield mandate. For a 30 year period through 1989, timber harvests on the O&C Lands averaged 1.1 billion board feet (BBF). The resulting payments to the O&C Counties over the same time period averaged \$151 million (in 2011\$). Figure 1 shows annual timber harvest and payments derived from the O&C lands from 1960 – 2011. Note that even prior to significantly reduced timber harvest levels beginning in the early 1990s that timber harvest levels and total payments to counties (blue shaded area) demonstrate appreciable annual fluctuation due primarily to conditions in timber markets. Most notable is the recession that spanned the late 1970s and early 1980s. One can speculate that if payments were coupled to timber harvests today, a similar response would have occurred during our recent economy.

Figure 1. Historical County Payments and Timber Harvest Levels for O&C Lands



O&C Lands Sustain Multiple Values

In its original interpretation, sustained yield is a relationship where the volume of timber harvest equals the volume of forest growth on an annual basis. During the 1960s and 1970s, many Americans felt that the concept of sustainability, particularly as it relates to the management of our federally-owned forests, should be broadened to incorporate not just fiber supply but other forest attributes. The Multiple Use Sustained Yield Act (1960) required federal agencies to manage for non-timber values in addition to producing forest products. The Federal Land Management Policy Act (1976) and the National Forest Management Act (1976), along with the Endangered Species Act (1973) and Clean Water Act (1972), collectively broadened sustainability criteria in forest planning and management.

Throughout the mid-to-late 1980s, a series of lawsuits sought to further interpret these environmental laws regarding forest management practices in the Pacific Northwest. Litigants sought injunctions against the harvest of timber in northern spotted owl (NSO) habitat. Between 1985 and 1990, Congress bypassed court-granted injunctions and provided certainty of timber harvests in the region through so-called "sufficiency language". This language declared certain federal actions (i.e. USDA Forest Service timber sales) "sufficient" to meet existing environmental laws. New information indicating the decline of NSO population ultimately led the U.S. Fish and Wildlife Service (USFWS) to list the NSO as 'threatened' under the Endangered Species Act (ESA) in 1990. Subsequently, US District Courts entered injunctions barring timber harvests on forests managed by both the US Forest Service (1991) and Bureau of Land Management (1992).

The Courts required that the BLM maintain habitat for threatened and endangered species per the ESA. To simultaneously satisfy these requirements, the Clinton Administration initiated the development of the NW Forest Plan that applied the same Standards and Guidelines on both USFS and BLM jurisdictions.

The NW Forest Plan created and applied two unique conservation strategies in an attempt to remove the injunctions on timber harvests: 1) the role and allocation of late-successional old-growth forest

reserves and 2) the development of an Aquatic Conservation Strategy (ACS) – a holistic approach to manage water quality and quantity by implementing a watershed analysis and restoration strategy. These strategies were integrated into a mix of land allocations, including old growth/habitat, riparian reserves and Matrix lands for timber production. The majority of O&C Lands are in some form of reserve, leaving 25% available for timber production.

Under the NW Forest Plan, conservation objectives have trended upward. Results from a 15-year monitoring report¹ underscore the role of federal forests in maintaining old-growth in western Oregon. Old-growth has experienced a slight net loss but that loss is well below the projected 2.5% decadal loss rate projected when the NW Forest Plan was written. Watershed evaluation showed that 69% of watersheds² have experienced a positive change. Populations of and habitat for NSO and marbled murrelets are still in decline across the region largely due to the fact that recruitment of suitable habitat is slow, often requiring 100+ years to develop from young forests. Projections of trends show substantial representation of 150+ year old stands by 2050.

Average annual timber supply from the O&C Lands was projected at 203 million board feet (MMBF)³. Since 1995, the BLM has offered for sale 84% of that volume target⁴. Actual average annual harvest on O&C lands has averaged 120 mmbf/year⁵, ranging from 38 mmbf (2001) to 288 mmbf (1996). Figure 2-a shows annual timber metrics since 1995. Note that Congress measures the BLMs annual performance against 'Volume Sold' and that timber purchases typically have 3-5 years to conduct harvests.

More recently, primarily resulting from a 2006 settlement⁶, O&C timber volume has matched the NW Forest Plan projections. However, Figure 2-b shows that thinning volume has increasingly constituted the majority of total volume sold. In contrast, the NW Forest Plan projected that 80% of timber volume would result from regeneration harvests. A little-known accompanying report to FEMAT⁷ showed a potential increase in timber harvest after initial implementation as second-growth forests matured and became economically-available for harvest.

¹ <http://www.reo.gov/monitoring/reports/15yr-report/index.shtml>

² Watersheds were analyzed at 6th field hydrologic units (HUC), approximately equivalent to 20,000 acres.

³ All volume numbers included here are for 'long logs' for comparison with the NW Forest Plan. The BLM standard is to report in 'short logs'. To convert to short logs, divide by 0.825.

⁴ Since 1995, the BLM has offered 96% of the volume Congress has funded them to produce.

⁵ From 1962-1990, the BLM timber harvest averaged 1.0 billion board feet per year. Annual harvest under the NW Forest Plan is only 12% of this historical volume.

⁶ In 2004, the USFS and BLM issued a Record of Decision (ROD) attempting to remove Survey & Manage from the NW Forest Plan entirely but it was overturned in 2006. As part of this decision, parties agreed to the 'Pechman exemptions' whereby four categories of actions, including thinning of forest stands less than 80 years old, would be permitted.

⁷ The Forest Ecosystem Management Assessment Team conducted a risk analysis for management of forests in the region of the Northern Spotted Owl which became the foundation for the NW Forest Plan.

Figure 2a. Annual Timber Volume Metrics for the O&C Lands under the NW Forest Plan.

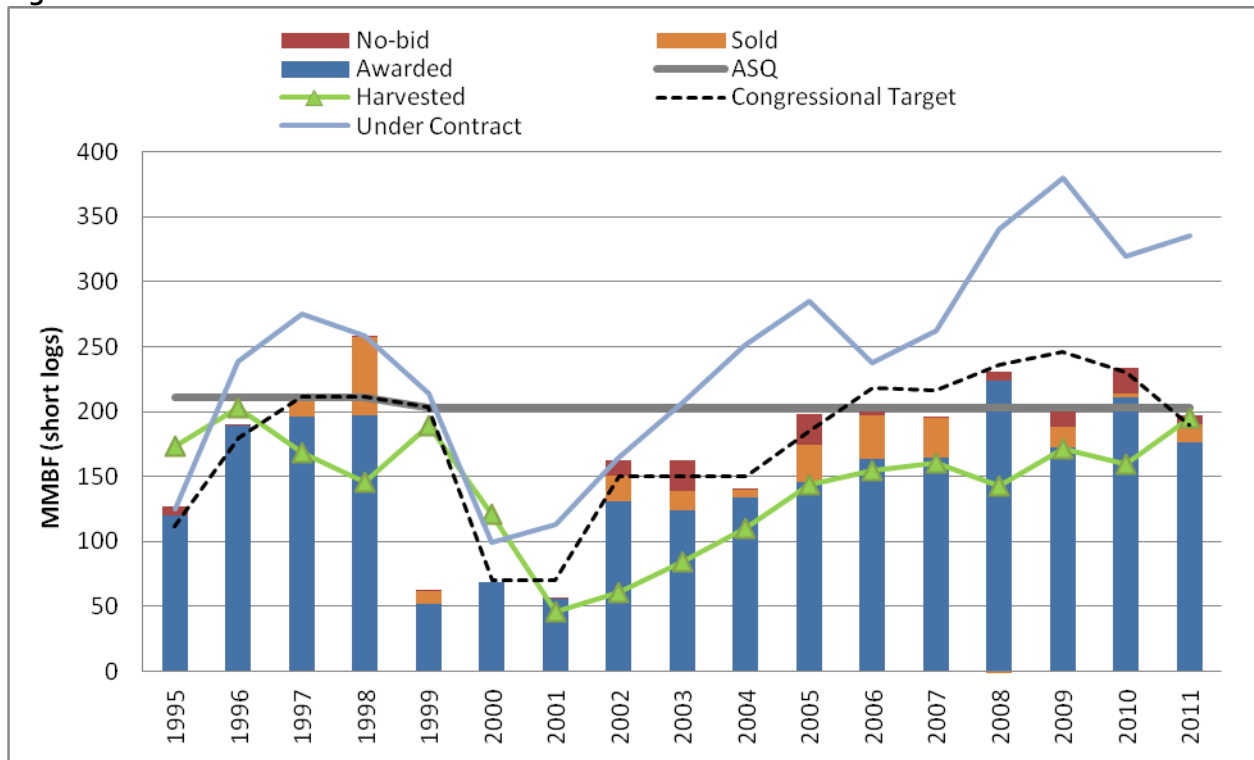
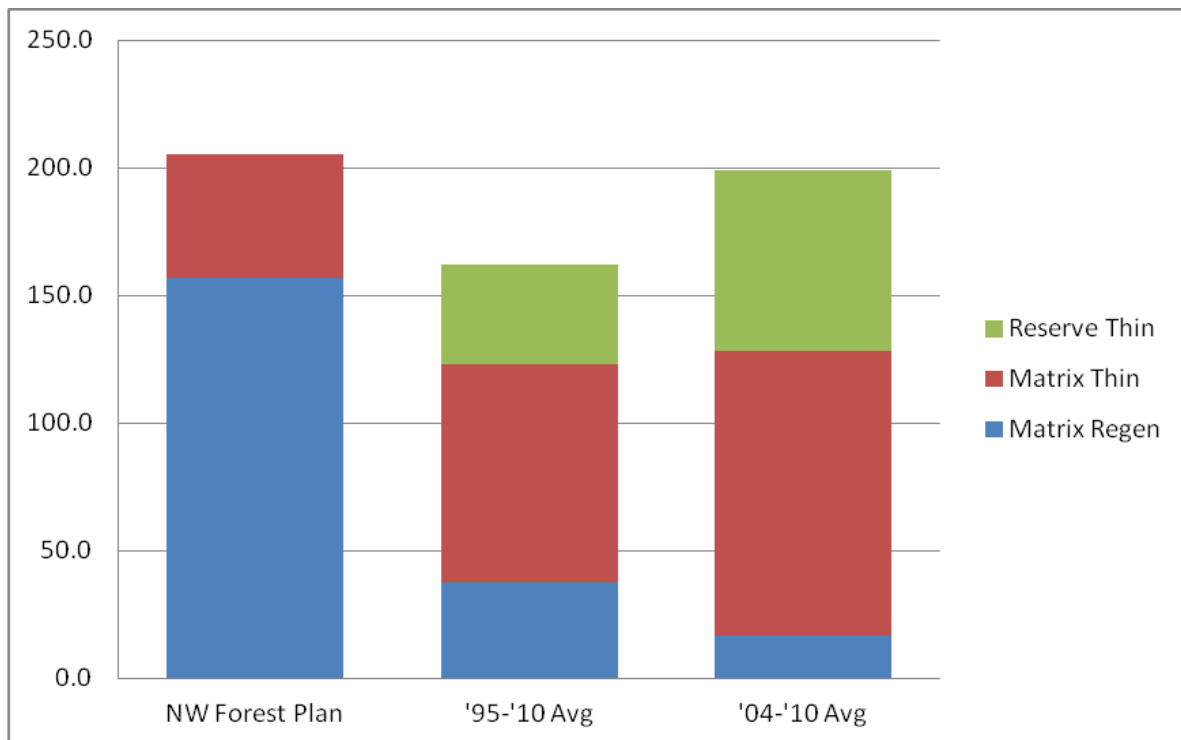


Figure 2-b. Comparison between NW Forest Plan Projections and Annual Timber Volume for Two Time Periods.



Future thinning opportunities on O&C Lands vary by BLM District, resulting in geographic disparity and generally reduce the size, quality and species diversity of timber supply. At current, mills in western Oregon report an additional 1 billion board feet (BBF) of milling capacity, however, issues such as log exports and the housing market also have an effect on capacity.

While thinning is a valuable ecological forest management tool and provides fiber for manufacturing facilities, the economics of thinning operations make it difficult to simultaneously achieve County payment objectives. Although impacted by the economy, harvest volume between 2004-2010 would have yielded only \$12.9 million in payments to O&C Counties (compared against \$113.9 million funded through Secure Rural Schools). The O&C Counties indicate that this total is roughly one-tenth of the revenue needed to fund basic services provided by local governments. Not surprisingly, O&C Counties are facing unprecedented financial challenges with 5 or 6 counties facing insolvency and another 5 or 6 facing significant challenges.

With this in mind, I believe it is time modernize the O&C Act and The Northwest Forest Plan in a manner that provides more certainty for conservation, timber supply and county revenues. I believe we can draw upon our experience implementing these guiding laws and administrative actions to adapt them without weakening their intent though I know that some may feel differently.

Exploring Potential Management Scenarios for the O&C Lands

In October 2012, I convened a panel to address challenges related to O&C issues and to advise me on potential O&C solutions. The *O&C Trust, Conservation and Jobs Act* along with a set of principles drafted by Senator Ron Wyden and another set drafted by myself served as the starting point for our discussions. The Panel met 15 times over a 3-month period and my staff published a report based on these meetings that can be downloaded at <http://www.oregon.gov/gov/GNRO/docs/OCLandsReport.pdf>.

While most people think of O&C lands as those 2.1 million acres managed by the BLM, there are additional categories of O&C and BLM lands that the Panel chose to include in its analysis. Table 1 provides a breakdown of these 2.8 million acres.

Table 1. Acres under management of the NW Forest Plan

	Acres
NW Forest Plan (OR, WA , CA)	24.5 million
US Forest Service (Oregon only)	7.1 million
O&C Lands (all in Oregon)	2.6 million
<i>BLM – O&C</i>	2.1 million
<i>BLM – Coos Bay Wagon Roads</i>	74,600
<i>BLM – Special Act Lands</i>	29,700
<i>USFS – Controverted Lands</i>	462,700
BLM Public Domain Lands (west side)	200,000

The Panel agreed to analyze a range of management scenarios including the current “thin only” approach, two runs based on the *O&C Trust Act* concepts, two ecological forestry runs, and options that included a small land sale and community forestry component. More description of the modeling runs is included the report.

Modeling results demonstrated a wide range of potential timber harvest and associated county revenues. Table 2 shows that continuing the “thin only” approach (Run A) would generate the current

timber volume for less than 25 years and only return less than \$15 million annually to the O&C Counties. On the high end of the range, a Trust authorized by the *O&C Trust Act* managed under the Oregon Forest Practices Act (Run B) would generate 700 MMBF of timber supply and \$165 million of county revenues annually.

The runs that included some kind of ecological forestry component (Runs D, E, F,G) generated slightly increased annual timber supply volumes in excess of NW Forest Plan timber targets. Revenue projections were similar among this group with the exception of Run F that evaluated the sale of 200,000 acres of O&C Lands. The thinking is that sale proceeds would be used to create a financial trust for benefit of the O&C Counties. Analysis suggested the sale would generate \$910 million that, if placed in a financial fund with a conservative rate of return at 5%, would produce consistent annual revenue of \$46 million for the O&C Counties. Timber receipts would generate the additional revenue projected to meet the total shown in Table 2.

Table 2. Timber Supply and County Revenue Modeling Outputs from O&C Panel Report.

Run	Descriptor	OUTPUTS				Timber Supply (MMBF/yr)
		No Harvest Reserves (acres)	Sustained Timber Base (acres)	Other Harvest ** (acres)	County Revenue (\$ Million)	
A	Thin Only	1,992,544	0	772,634	\$13	185
B	Management Trust, OFPA Management Trust, 20%	1,109,188	1,655,990	0	\$165	700
C	Riparian Buffer	1,379,706	1,385,472	0	\$127	565
D	Critical Habitat & Ecological Forestry	1,724,613	544,464	496,100	\$27	205
E	Critical Habitat, NWFP, Ecological	1,623,527	645,551	496,100	\$34	261
F	Land Sale (200K) & Ecological Forestry	1,646,613	622,465	496,100	\$67	439 then 261
G	Community Forest (400K) & Ecological Forestry	1,540,967	728,111	496,100	\$36	240

** Other Harvest Acres were treatments modeled primarily to improve habitat and were not assumed to recur over time.

Ecological Effects

A major challenge given the Panel’s timeframe was completing a robust analysis of the ecological effects of these management scenarios. Relating to habitat for the Northern Spotted Owl (NSO) and marbled murrelet (MAMU), the Panel did undertake an analysis of the intersection of proposed harvest units to two measures: Suitable Habitat and Critical Habitat. Due to time and budget constraints, the Panel contracted this analysis for selected runs (Run A, Run C, Run D, and Run F).

Suitable habitat is assessed at the stand level and combines an array of measurements including canopy closure, tree diameter, and structural diversity. A rough approximation for suitable habitat is any native forests older than 120 years although stands between 80-120 years serve as habitat where distribution of older forest is limited.

Our analysis showed that suitable habitat for NSO increased as after 50 years of implementation for all runs. However, projection of suitable habitat for MAMU declined when applying the Trust in Run C but increased under Runs D & F.

In the midst of the Panel's work, the US Fish and Wildlife Service (USFWS) released their final Critical Habitat rule for the Northern Spotted Owl (NSO). Critical habitat is a network of large landscape areas designed specifically to fulfill an endangered specie's range of needs, including nesting, roosting and foraging habitat.

In general, implementation of Run C as modeled would have significant impact on Critical Habitat as identified by USFWS. For Run C, approximately 27% of the identified Critical Habitat acres on the O&C Lands were scheduled for a regeneration harvest over the first 50 years of management. With additional thinning, 55% of Critical Habitat on O&C Lands would experience a harvest in the first 50 years. By design, no regeneration harvests were scheduled in Critical Habitat for Runs A, D & F. Thinning was prescribed however and was scheduled in 35% of stands identified by the USFWS. Due to time constraints, the Panel was not able to conduct population modeling as used by USFWS but ultimately it would be important to do so to understand the risk of increased harvest to future species viability.

Conclusions and Recommendations⁸

Given the short timeframe allowed and recognizing the inherent role of Congress in the ultimate resolution, development of a detailed proposal proved difficult for the O&C Panel. However, I believe significant process was made in three important areas:

- First, a foundation of understanding and trust was created between Panel participants.
- Second, it is clear that federal legislation is needed to achieve any significant progress.
- Third, O&C Lands Report contains an array of ideas that could be integrated in different ways to create a durable solution for all parties.

Based on the Panel's consideration and these conclusions, I believe a legislative solution can and should be passed into law that includes the following equally important elements.

- **Stable Timber Supply** – Stable and predictable timber sale levels above current harvest levels can and should be achieved with minimal impact old growth and aquatic ecosystems.
- **Adequate County Funding** – Timber harvest and/or revenues generated from land disposition can significantly improve the stability of O&C counties. Oregon and state and local governments should share in the responsibility to fill any gap that may remain between timber revenues and the funding required to keep counties fiscally viable.
- **Protect Unique and Special Places** – There are approximately 118,000 acres deserving of wilderness protection and an additional 30,000 acres worthy of protection as part of a

⁸ See letter submitted to the Oregon Congressional Delegation on February 6, 2013.
<http://www.oregon.gov/gov/GNRO/docs/OCDelegationLetter.pdf>

conservation network. Additional acres should be considered for protection as priority watersheds for fish habitat as salmon strongholds and Wild and Scenic River designation

- **Durable and Adaptive Conservation Standards** – To achieve timber harvest goals on Federal land, ecological forestry-based regeneration harvest should be used in stands 120 years old or younger, and certain riparian buffers should be modified in recognition of evolving science that concludes such modifications can be made. Once these modifications have been made, the late successional old growth strategy and aquatic conservation strategy components of the Northwest Forest Plan should be institutionalized in a manner that dedicates those areas to the conservation of endangered species and other conservation values as the dominant use. And adaptive management process should be developed to incorporate future scientific findings where and when appropriate.
- **Achieve Certainty** - The O&C Act should be amended to include some combination of a dominant use mandate on certain acres for timber production and on other acres for conservation. In addition, a reallocation of some non-strategic acres should be made to a trust and/or sold to a community nonprofit or private buyer. Together such actions would create certainty for an array of different forest uses and outputs.
- **Tribal Considerations** - A number of tribes exist with ceded lands and ancestral history tied to the O&C land area. I believe an O&C solution should consider land management impacts on these tribes' ancestral lands, participation in management authority and/or land restoration requests.

In closing Mr. Chairman, I would strongly encourage the Committee to pass legislation that includes the elements outlined above and then work with your colleagues in the Senate to craft a balanced long-term solution. I feel confident that if we think in creative new ways that we can provide for most of what everybody wants from our O&C forests. Conversely, failure to act is bad for our rural communities and in the long run bad for our conservation efforts as well.

Thank you again for this opportunity to testify and I would be happy to answer any questions you may have.

Appendix

Item A. Governor Kitzhaber's O&C Lands Principles

- **Stable County Funding** – Recognize the O&C Act's unique community stability mandate and provide adequate and stable county revenues sufficient to meet needs for basic public services.
- **Stable Timber Supply** – Provide adequate and stable timber supply that will provide for employment opportunities, forest products and renewable energy.
- **Protect Unique Places** – Permanently protect ecologically unique places.
- **Durable & Adaptive Conservation Standards** – Maintain Northwest Forest Plan forest management standards – Late Successional/Old Growth Reserves & Aquatic Conservation Strategy – in an adaptive manner where and when required to comply with environmental laws.
- **Conservation Opportunities** – Promote conservation advances on private “checkerboard” lands through voluntary, non-regulatory incentives – financial, technical, regulatory relief, etc.
- **Federal Budget Neutral** – Recognize that O&C solution will need to be budget neutral or positive at the Federal level.
- **Achieve Certainty** – Develop a policy framework that will provide for certainty in achieving *all* of these principles.

Item B. Participants on Governor Kitzhaber's O&C Panel

- **O&C County Representatives**
 - Jamie Damon – Clackamas County Commissioner
 - Doug Robertson – Douglas County Commissioner
 - Simon Hare – Josephine County Commissioner
 - Tony Hyde – Columbia County Commissioner
- **Conservation Representatives**
 - Sybil Ackerman – Sybil Ackerman Strategies
 - Greg Block – Wild Salmon Center
 - Bob Davison – Defenders of Wildlife
 - David Dreher – Pew Charitable Trust
 - John Kober – Pacific Rivers Council
 - Jack Williams – Trout Unlimited
- **Timber Industry Representatives**
 - Allyn Ford – Roseburg Forest Products
 - Ray Jones – Stimson Lumber Company
 - Jennifer Phillipi – Rough and Ready Lumber Company
 - Dale Riddle – Seneca Sawmill Company