

# **DISCUSSION DRAFT -- O&C TRUST, CONSERVATION, AND JOBS ACT**

## **SECTION BY SECTION**

### **Sec. 1. Short title.**

Names the legislation the “O&C Trust, Conservation, and Jobs Act.”

### **Title I- Creation and Terms of O&C Trust**

#### **Sec. 101. Definitions.**

Defines all applicable terms in the O&C Trust, Conservation, and Jobs Act.

### **Title II- O&C Trust, Conservation, and Jobs**

#### **Subtitle A—Creation and Terms of O&C Trust**

#### **Sec. 211. Creation of O&C Trust and designation of O&C Trust lands.**

Establishes and defines the purpose of the O&C Trust.

Designates 1.479 million of the 2.7 million acres of Oregon and California Railroad Grant lands as O&C Trust lands, excluding all lands within the National Landscape Conservation System, Areas of Critical Environmental Concern, the National Wilderness Preservation System, the National Wild and Scenic Rivers System, national monuments, parks, other developed recreation areas, and all Oregon Treasures included in Title IV.

Clarifies that lands included in the O&C Trust are generally previously managed stands of timber younger than 80 years and not older than 125 years.

#### **Sec. 212. Legal Effect of O&C Trust and Judicial Review.**

Clarifies that the title to all lands and subsurface minerals remain with the United States, but the management of the surface resources on the O&C Trust lands shall be transferred to the Board of Trustees.

Clarifies that actions taken by the Board of Trustees on the O&C Trust lands shall be considered non-federal and deemed not to involve federal agency action or involvement.

Transfers management responsibilities of the forest road system on formerly Oregon and California Railroad Grant lands to the O&C Trust and allows the Board of Trustees to use rock and gravel from existing quarries on BLM lands to construct, maintain, or improve existing forest roads.

Requires all old and new roads on the O&C Trust lands to comply with the Clean Water Act and Oregon's Best Management Practices.

Protects public access to all lands, but authorizes the Board of Trustees to temporarily restrict access to protect public safety.

Protects the assets of the O&C Trust from all creditors of O&C Trust counties.

Provides O&C Trust counties with the legal rights and remedies available to beneficiaries of a fiduciary trust, but requires an O&C Trust county to provide the Board of Trustees, the Secretary concerned, and the United States Attorney General with a written notice of intent to sue 60 days prior to filing.

Requires judicial challenges to the Act to be made within 60 days of enactment in the United States Court of Appeals for the District of Columbia Circuit. Prohibits preliminary injunctive relief or stays pending appeal and directs the court concerned to consolidate multiple challenges, if applicable, and to rule on any challenge within 180 days.

### **Sec. 213. Board of Trustees.**

Establishes a Board of Trustees of seven members to manage the O&C Trust lands.

Authorizes the Governor to appoint members of the Board of Trustees within 60 days of enactment, including two representatives from the forestry/wood products industry, one representative of the general public, one representative of the science community, and three governmental representatives.

Sets guidelines for initial appointments, term limits, vacancies, compensation, quorums, decision making, meetings, and audits.

Requires the Board of Trustees to comply with State public meeting laws.

### **Sec. 214. Management of O&C Trust Lands.**

Clarifies the O&C Trust lands will be managed in compliance with applicable Federal and State laws in the same way they apply to private forest lands.

Requires the Board of Trustees to approve and update timber management plans and authorizes deferrals of sale plans during periods of depressed timber markets.

Establishes short and long rotation requirements for the O&C Trust lands, including that 50 percent of the harvestable O&C Trust lands be managed on a 100-120 year rotation.

Authorizes the Board of Trustees to establish sale contract terms, requires sale contracts to be offered on a competitive bid basis, and sets aside a portion of annual timber sales for small businesses.

Prohibits exports of raw timber from the O&C Trust lands and imposes strong penalties on businesses that ship Oregon timber and jobs overseas.

Requires an integrated pest management plan to assist the Board of Trustees in prioritizing and minimizing the use of herbicides and pesticides. Encourages ground application and the establishment of diverse early seral forests after harvests.

Requires the Board of Trustees to maintain riparian areas and retention zones consistent with State law and to include old growth in those zones to meet the requirements.

Ensures timely access to neighboring Forest Service lands as is reasonably necessary for the Board of Trustees to carry out its management activities on the O&C Trust lands.

Preserves existing fire agreements for 10 years and authorizes the Board of Trustees to continue to provide for fire protection of the lands by any means permitted by law.

Establishes strong guidelines for the protection of the northern spotted owl.

#### **Sec. 215. Payments to O&C Trust counties.**

Authorizes the Board of Trustees to make annual payments to the general funds of the 18 O&C Counties generated from timber sales.

Requires payments to each O&C County be equal to the total value of Oregon and California Railroad Grant lands in each county in fiscal year 1915 bears to the total value of Oregon and California Railroad Grant lands in the state in 1915 (identical to O&C Act of 1937).

Prohibits, after the first five payments made to O&C Counties from the O&C Trust, an increase in payments exceeding 110 percent of the previous year's payments adjusted for inflation.

Establishes a Reserve Fund and directs the Board of Trustees to maintain an annual balance of \$125,000,000 within five years. Sets restrictions on use of Reserve Fund monies.

#### **Sec. 216. Land exchange authority.**

Authorizes the Board of Trustees to negotiate proposals for land exchanges with neighboring land owners, including the federal government, in order to create larger contiguous blocks of land under the management of the O&C Trust to facilitate more efficient management or to improve conservation values of the lands.

Authorizes the Secretary concerned to administratively approve the Board's proposals if established criteria is met, including: lands must be in Oregon, lands must have high timber value, lands must have equal value to O&C Trust lands, lands will increase net income of O&C Trust, and lands will not reduce the O&C Trust land base by more than 5 percent.

Clarifies that following the completion of a land exchange, formerly O&C Trust and Forest Service lands will be managed consistent with existing O&C Trust and Forest Service lands.

**Sec. 217. Payments to the United States Treasury.**

Requires the Board of Trustees to make eight annual payments of \$10,000,000 to the United States Treasury.

**Sec. 218. Continued treatment of O&C Trust lands as Federal land for certain purposes.**

Exempts the O&C Trust from State and local property taxes and severance taxes in the same manner as other federal lands.

Exempts the O&C Trust from Federal, State, and local income taxes.

**Subtitle B- Transfer of Certain Lands to Forest Service**

**Sec. 231, Transfer of certain Oregon and California Railroad Grant lands to Forest Service.**

Transfers administrative jurisdiction of all Oregon and California Railroad Grant lands not under management by the newly established O&C Trust to the United States Forest Service.

**Sec. 232. Management of transferred lands by Forest Service**

Requires to the greatest extent possible all transferred Oregon and California Railroad Grant lands to be assigned to the National Forest System unit geographically closest to the lands.

Provides Secretary of Agriculture ultimate decision-making authority for assignment of Oregon and California Railroad Grant lands to a National Forest System unit, but requires all transfers to be completed by beginning of second fiscal year of the transition period.

Requires all transferred lands to the Forest Service to be managed under the Northwest Forest Plan and retains Northwest Forest Plan land use designations.

Prohibits the harvest of old growth, as defined by the established Old Growth Scientific Panel in Section 234.

Requires fifty percent of annual revenues generated from the transferred lands to the Forest Service to be paid to the general funds of each O&C Trust county.

Mandates the Secretary of Agriculture or contracted parties hired to aggressively abate and extinguish uncontrolled wildfires.

**Sec. 233. Management efficiencies and expedited land exchanges**

Provides Secretary of Agriculture with administrative authority to approve land exchanges to create larger contiguous blocks of land, improve conservation value, or improve management efficiency of National Forest System lands.

Sets criteria for land exchanges between Forest Service and non-federal owners, including: lands must be in state Oregon, lands must have high wildlife or recreation value, lands must have equal value to federal lands, lands are necessary to increase management efficiencies, and lands will not reduce total acreage of lands transferred to the Forest Service under this title by more than 5 percent.

Sets criteria for land exchanges between the Forest Service and the O&C Trust, including: lands must have high wildlife values, ecological value, or facilitate more efficient resource management; the exchange is requested or approved by the Board of Trustees, the lands are equal in acreage, and the lands do not contain stands of timber meeting the definition of old growth established by the Old Growth Review Panel in Section 234.

**Sec. 234. Scientific review panel and old growth protection**

Requires Secretary of Agriculture to appoint five members to newly established Old Growth Scientific Review Panel within 60 days of enactment and requires members of panel to hold a Doctor of Philosophy degree in wildlife biology, forestry, ecology, or related field.

Directs members of Old Growth Scientific Panel to establish a scientific definition or definitions of old growth for forested vegetation types in western Oregon and to submit the definition(s) to Secretary of Agriculture within six months of enactment.

**Sec. 235. Uniqueness of old growth protection on Oregon and California Railroad Grant lands.**

Clarifies that all references to "old growth" are intended to resolve unique management issues on the formerly O&C lands only.

**Subtitle C- Transition**

**Sec. 251. Transition period and operations.**

Establishes a three year transition period to facilitate the activities of the Board of Trustees and the Forest Service.

Requires the Board of Trustees in year one to employ sufficient staff or contractors to prepare management plans and a harvest schedule for the O&C Trust lands, which are transferred to the O&C Trust in year two.

Requires the Forest Service in year one to prepare for management of the lands transferred to its authority, which occurs in year two. Allows the Forest Service to obtain and manage all BLM documents and data relating to the lands transferred to its authority.

Requires the BLM and Forest Service in year one to continue management of their respective lands in accordance with existing laws.

Requires the Secretary to provide the Board of Trustees with copies of information pertaining to the O&C Trust lands upon written request.

Requires the Board of Trustees in year two to begin implementing its management plan for the O&C Trust lands and distributing revenues to each O&C County, each of which will remain eligible for Title I payments under any extension of Secure Rural Schools and Community Self-Determination Act.

Requires the Board of Trustees in year three, and all subsequent years, to assume all management responsibilities of the O&C Trust lands and make payments to each O&C County, each of which will now no longer be eligible to receive Title I payments under any extension of the Secure Rural Schools and Community Self-Determination Act unless they are Title I payments for lands under the jurisdiction of the Forest Service.

**Sec. 252. Forest trust management loan authorization.**

Authorizes the Board of Trustees to borrow from any available private or non-federal public sources in order to provide for the Trust's costs of organization, administration and management during the three year transition period.

**Sec. 253. Existing Bureau of Land Management and Forest Service contracts.**

Requires any work or timber contracts sold or awarded by the BLM and Forest Service before the transfer of lands to remain binding and effective according to the terms of the contracts after the transfer of lands.

Requires the Board and Secretary to accommodate such contracts and avoid interfering with their performance.

Protects payments made under such contracts according to their terms and does not allow payments from such contracts to be made to the O&C Trust.

**Sec. 254. Protection of valid and existing rights and access to non-Federal land.**

Requires the Secretary of Agriculture to preserve all valid and existing rights on the Oregon and California Railroad Grant lands, including, but not limited to: permits, patents, right of access, right-of-ways, tail holds, and easement obligations.

Requires the Secretary of Agriculture to enter into access agreements with current or future landowners of land intermingled with the O&C Trust lands to ensure neighboring landowners' retain all access to their lands for recreational, economic, or management purposes.

Provides judicial review for decisions from the O&C Board of Trustees denying recreational, economic, or management access to private landowners.

**Sec. 255. Assistance for displaced Federal employees**

Requires the Secretaries concerned to offer preference within the Department of the Interior or the Department of Agriculture for any employee of the Bureau of Land Management or Forest Service whose employment is displaced by this Act.

Provides O&C Trust job preference for any displaced BLM employee with the requisite skill set.

**Sec. 256. Deauthorization of certain Bureau of Land Management accounts and authorization of new Forest Service accounts.**

Deauthorizes budget accounts within the Department of Interior budget pertinent to the management of the Oregon and California Railroad Grant lands. Clarifies amounts from the deauthorized accounts may be used to satisfy remaining contractual obligations in existence on October 1 of the second fiscal year.

Authorizes budget accounts within the Department of Agriculture budget pertinent to the management of the Oregon and California Railroad Grant lands transferred to the Forest Service under Section 231.

**Sec. 257. Repeal of superseded law relating to Oregon and California Railroad Grant lands.**

Repeals the O&C Act of 1937 unless any provision of this Act is ruled legally invalid, in which case the O&C Act of 1937 would remain valid.

**Title III- Coos Bay Wagon Road Lands**

**Sec. 301. Transfer of management authority over certain Coos Bay Wagon Road lands to Coos County, Oregon**

Transfers management authority of timber stands on the Coos Bay Wagon Road lands under 125 years old to Coos County excluding all federal lands within the National Landscape Conservation System, Areas of Critical Environmental Concern, National Wilderness

Preservation System, National Wild and Scenic Rivers System, national monument, park, or other developed recreation areas.

Transfers management authority of timber stands older than 125 years, and all excluded lands above, found on the Coos Bay Wagon Road lands to the United States Forest Service.

Requires Coos County to abide by all management restrictions described in Section 214 of this title.

Directs Coos County to assume all management and administrative costs of the lands transferred to the county.

Authorizes Coos County to contract the management and administration of the transferred lands to a public, private, or tribal entity substantially based in Coos or Douglas counties and requires the contract to be competitively bid.

Authorizes revenues generated from the transferred Coos Bay Wagon Road lands to be deposited in the general fund of Coos County.

Requires Coos County to make eight annual payments of \$400,000 to the United States Treasury beginning in year three.

Requires Coos County to make annual payments to Douglas County beginning the first fiscal year for which management of the transferred lands generate net positive revenues and requires that the annual payment to Douglas County be based on the proportion of Coos Bay Wagon Road lands in Douglas County bears to all Coos Bay Wagon Road lands in the State.

### **Sec. 302. Transfer of Certain Coos Bay Wagon Road Grant Lands to Forest Service**

Transfers administrative jurisdiction of all timber stands on the Coos Bay Wagon Road Grant lands over 125 years and excluded in Section 301 to the United States Forest Service.

### **Sec. 303. Land exchange authority**

Provides authority for Coos County to recommend changes to the Forest Service to improve management efficiencies and for conservation purposes.

### **Sec. 304. Continued treatment of Coos Bay Wagon Road Grant lands as Federal land for certain purposes.**

Exempts the Coos Bay Wagon Road Grant lands from State and local property taxes and severance taxes in the same manner as other federal lands.

## **Title IV- National Monument Designation**

### **Sec. 401. Limitation on Designation of National Monument on Certain Lands in Oregon.**



Prohibits the designation of a national monument under the Antiquities Act on any portion of the Oregon and California Railroad Grant Lands unless approved by Congress.

## **Title V- Oregon Treasures**

### **Subtitle A—Wilderness Areas**

#### **Sec. 501. Designation of Devil's Staircase Wilderness.**

Designates 30,520 acres within the Siuslaw National Forest and Roseburg BLM District as wilderness to be administered by the Forest Service.

#### **Sec. 502. Expansion of Wild Rogue Wilderness Area.**

Adds 58,100 acres within the Medford BLM District to the existing Wild Rogue Wilderness Area to be administered by the Forest Service.

### **Subtitle B—Wild and Scenic River Designated and Related Protections**

#### **Sec. 511. Wild and Scenic River Designations, Molalla River.**

Designates 15.1 miles of the Molalla River and 6.2 miles of the Table Rock Fork of the Molalla River as “scenic” under the Wild and Scenic Rivers Act.

#### **Sec. 512. Wild and Scenic Rivers Act Technical Corrections Related to Chetco River.**

Reclassifies 2 miles of the Chetco River from “scenic” to “wild” and extends the “scenic” segment 1.5 miles downstream under the Wild and Scenic Rivers Act.

Withdraws 11 miles of “scenic” and “recreational” segments of the Chetco River from mineral entry subject to valid and existing rights.

#### **Sec. 513. Wild and Scenic River Designations, Wasson Creek and Franklin Creek.**

Designates 4.5 miles of Franklin Creek and 10.1 miles of Wasson Creek, both tributaries of the Umpqua River and included in the proposed Devil's Staircase Wilderness Area, as “wild” under the Wild and Scenic Rivers Act.

#### **Sec. 514. Wild and Scenic River Designations, Rogue River Area.**

Designates 93 miles of 35 tributaries to the Rogue River as either “wild,” “scenic,” or “recreational” under the Wild and Scenic Rivers Act.

#### **Sec. 515. Additional Protections for Rogue River Tributaries.**

Prohibits the Federal Energy Regulatory Commission from licensing water projects on 19 tributaries of the Rogue River.

Withdraws 19 tributaries of the Rogue River from mineral entry subject to valid and existing rights.

### **Subtitle C—Effective Date**

#### **Sec. 531. Effective Date.**

Sets the enactment date of all designations under Title V for October 1 of the second fiscal year of the transition period to coincide with the transfer of the Oregon and California Railroad and Grant lands to the O&C Trust and Forest Service.

Ensures that if any provision of this title is ruled legally invalid all designations under Title V shall have no force.