

**Statement of
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Department of the Interior
Senate Committee on Energy and Natural Resources
S. 1784, Oregon and California Land Grant Act of 2013
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Thank you for the opportunity to discuss the views of the Department of the Interior on S. 1784, the Oregon and California Land Grant Act of 2013. The bill concerns the 2.2 million acres of Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands (the O&C Lands) in western Oregon administered by the Bureau of Land Management (BLM).

S. 1784 would establish new designations and principles for the management of O&C forest lands (Title I), transfer certain lands into trust status on behalf of two tribes and amend the Coquille Restoration Act (Title II), and establish new conservation designations in western Oregon (Title III). Due to the complexity of the bill and the issues it addresses, the Department of the Interior's testimony summarizes the views of the Administration on each title of the bill.

The Department appreciates the Chairman's work in developing this legislation and views it as a continuation of discussions about improving the management of these western Oregon lands. The Department supports many of the goals of the bill, supports Title III, and would like to work with the sponsor and the Committee on substantive, clarifying, and technical amendments to Titles I and II. The Department has previously testified on many of the ideas contained in the provisions in Title II and Title III. We have concerns with the bill as drafted, but we are committed to continue working with the sponsor to address concerns and we are encouraged by the ongoing discussion between stakeholders. We look forward to working with the sponsor and the Committee to further develop the proposal.

Management of O&C Lands / Background

Current BLM Management of O&C Lands

The O&C Lands Act of 1937 placed 2.2 million checkerboard acres of Oregon and California Railroad and Coos Bay Wagon Road grant lands under the jurisdiction of the Department of the Interior. Under the O&C Lands Act, the Department of the Interior manages the O&C lands 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." The Act also provides that the 18 O&C counties receive yearly payments equal to 50 percent of receipts from timber harvests on O&C lands in these counties.

After the historic highs of the late 1980s, timber harvests and the associated payments to counties decreased significantly in the mid-1990s due to many factors, including business cycles, changes in logging practices, and a better understanding of conservation requirements for threatened and endangered species such as the Northern Spotted Owl, Coho Salmon, and Marbled Murrelet. The 1994 Northwest Forest Plan was developed by Federal agencies and scientists in consultation with the public and industry to be a balanced, long-term management plan striving

for a stable supply of timber along with protection of fish and wildlife habitat for 24.5 million acres of Federal forest, most of which is managed by the U.S. Forest Service, and the majority of which occurs in western Oregon, western Washington, and northern California. The BLM's western Oregon Resource Management Plans were amended in 1995 (1995 RMPs) to incorporate the Northwest Forest Plan management guidelines and land use allocations.

In addition to the O&C lands in western Oregon, the BLM manages 212,000 acres of public domain forests and other acquired lands within the boundary of the Northwest Forest Plan. The Department of the Interior continues to manage the O&C lands under the 1995 RMPs and the guidance of the Northwest Forest Plan, along with management recommendations derived from the 2011 Northern Spotted Owl recovery plan and 2012 Final Critical Habitat Rule, as well as a number of court decisions. The BLM's timber management program involves complex legislative frameworks and resource management goals, including providing a predictable and sustainable yield of timber and other forest products vital to rural communities, maintaining endangered species habitat and recovering populations, providing clean water, restoring fire-adapted ecosystems, and providing recreational opportunities. In the last three years, the BLM in western Oregon has offered approximately 620 million board feet of timber from O&C lands and generated over \$60 million dollars in timber receipts. These and other BLM-managed lands in western Oregon also provide outstanding recreational opportunities, with over 5 million visits per year to enjoy hiking, camping, hunting, and fishing.

Collaborative Approaches

In western Oregon, the BLM strives to strike a balance between the need for a predictable and sustainable timber supply, provision of recreational opportunities and other non-timber products, and achieving conservation objectives, such as protecting older forests and aiding in the recovery of the Northern Spotted Owl and other threatened and endangered species. Despite decades of controversy surrounding these issues, many in Oregon continue to work hard to look for solutions that meet the needs of industry, rural communities, local governments, and the conservation of habitat, species, and water resources. As provided under Title II of the Secure Rural Schools Act, the BLM has collaborated with Resource Advisory Committees to prioritize and allocate funding for restoration projects.

As part of the Administration's ongoing commitment to improve forest resiliency, aid in the recovery of the Northern Spotted Owl, and support economic opportunities for local communities in the Pacific Northwest, leaders from the FWS, BLM, and U.S. Forest Service met in 2013 with employees from all three agencies to articulate a common vision and intent in approaching these goals. We are aware that during the past year, Governor Kitzhaber; Senator Wyden; and Representatives DeFazio, Walden, and Schrader have initiated efforts to better understand and address these multifaceted concerns. We are eager to engage with them on these issues and we appreciate both the challenges and the possibilities that result from collaborative efforts involving the wide range of stakeholders.

Resource Management Plans

The BLM is currently revising the 1995 RMPs that govern management of the O&C lands. The BLM has actively sought significant engagement from the public and key stakeholders and will continue do so throughout this effort, striving for a cooperative approach to the complex issues

associated with managing these lands.. The BLM in western Oregon is employing a series of collaborative approaches and meetings to engage over 25 formal cooperators and interested stakeholders during the current efforts to revise the RMPs. We have received positive feedback on these efforts. The revised RMPs will provide a management framework for O&C lands that furthers the recovery of threatened and endangered species, produces a reliable and sustainable yield of timber products, provides for clean water, restores fire-adapted ecosystems, and ensures diverse recreational opportunities. The BLM has completed public scoping as part of the National Environmental Policy Act (NEPA) process and used input derived during the scoping period to help craft the Purpose and Need for the planning effort. As the BLM moves forward in developing draft RMPs, it will consider public input as well as lessons learned from 20 years of experience implementing the Northwest Forest Plan, the BLM's ecological forestry pilot projects, and threatened and endangered species recovery plans and critical habitat designations from both the U.S. Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS).

S. 1784 Title I

Management of O&C Lands

Title I pertains to management of the O&C lands. This title allocates certain forest lands as "Forestry Emphasis Areas" and others as "Conservation Emphasis Areas" and provides guidance for the management of each area. The BLM shares the goals of providing a sustained yield of timber, establishing a large block network of older forest habitat, and protecting older, more complex forests in support of improved conservation of threatened and endangered species. The BLM understands that one of the goals of S. 1784 is to simplify management direction and environmental analysis for the O&C lands and we also share that goal. BLM believes that the goal of addressing management challenges in Western Oregon must be achieved collaboratively and with the best available science. However, rather than simplify management for the O&C lands, BLM is concerned that that the current draft of the bill could create increased complexity and uncertainty.

In support of some of the same broad goals of Title I, in 2010, the Department of the Interior initiated four collaborative pilot projects applying the principles of ecological forestry in the BLM's Roseburg, Coos Bay, and Medford districts. These pilot projects have involved collaboration with resource professionals from the BLM, FWS, NMFS, and the Coquille Indian Tribe, as well as industry and the conservation community. The BLM is exploring the further application of ecological forestry principles in preparing ongoing timber sales while it undertakes efforts to revise its RMPs.

Although the BLM supports many of Title I's broad policy goals, we have concerns with the language of Title I and the impacts of its implementation. We would like to highlight some of those concerns and we would like to continue to work with the sponsor and the Committee to address them.

The BLM's management of the O&C lands, as well as public domain forests in western Oregon, is currently governed by a number of statutory and other requirements, including the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Clean Water Act, the O&C Lands Act of 1937, the Federal Land Policy and Management Act (FLPMA), and the

relevant implementing regulations and plans. We are concerned that there is a lack of clarity about the relationship between the various statutory provisions in this legislation and other related laws and regulations. This could lead to duplicative analyses and planning efforts, disputes or confusion over appropriate BLM management actions, delayed compliance, and potentially increased costs of litigation. In addition, the Department is concerned that the very prescriptive management requirements will undermine flexibility necessary to manage in changing circumstances, use the best available science, engage the public, or achieve recovery goals for key threatened and endangered species. For these reasons and others, it is difficult for the Department to determine the full scope of the impact this bill would have on existing environmental laws, public involvement in, and sound management of, these lands and to provide comments on that basis.

As drafted, the bill could be inconsistent with important protections provided by current laws for environmentally sound management of these lands and could reduce public involvement in the management planning process. The Department has concerns about provisions that are inconsistent with the species protections afforded by the ESA, such as the apparent allowance for certain projects to go forward in spite of a jeopardy determination by the FWS or site specific analysis.

Additionally, the Department has concerns regarding the time frames established in the bill, including the timelines prescribed for compliance with NEPA – the cornerstone law guiding environmental protection and public involvement in federal actions. Many deadlines in the bill are not sufficient to allow for the necessary level of analysis, the public participation necessitated by the high level of public interest and involvement in these issues, and the complexity of the issues and information that must be analyzed. In our experience, mandatory deadlines can often result in incomplete or rushed analyses, increasing litigation risk and delay. We are also very concerned with using an environmental impact statement prepared for a large area as the only NEPA review for any subsequent site- or project-specific activity for a period of 10 years precluding consideration of changes on the ground that occur during that 10 year period. The Administration's concerns include: (1) the temporal and spatial scale of the EIS; (2) the limitation precluding consideration of more than two reasonable alternatives; (3) the limitation precluding consideration of impacts beyond specific authorized actions; (4) the limitations on the public's ability to review and challenge; and (5) the limitations on the consistency document that replaces a tiered, site- or project-specific, environmental review. These concerns cut to the very core of the ability to prepare a reasoned and considered NEPA environmental review. We would like to work with the sponsor and the Committee to ensure that the processes required under the bill allow for the necessary analyses and sequencing to produce environmental reviews for informed and defensible analyses and decisions.

Finally, the bill does not incorporate direction for the 212,000 acres of public domain lands that are found within western Oregon and currently managed under the Northwest Forest Plan guidance. The BLM is concerned that implementing different management direction on public domain versus O&C lands that are intermingled, ecologically similar, and have historically been managed under the same guidance could lead to confusion and further management challenges and associated costs.

The Department has a number of substantive and technical concerns, and would like to work with the sponsor on clarifying amendments.

Revenue Distribution

The Administration has a number of concerns with the language regarding revenue distribution as drafted and we look forward to working with the sponsor on clarifying amendments. Title I would depart from the historic formula of sharing revenues from O&C timber sales with the O&C counties and Treasury's General fund for the benefit of all taxpayers. Additionally, the bill caps receipts allocated to the General Fund at no more than \$4 million and provides that money be taken from the U.S. Treasury and BLM administrative payments if a minimum county payment threshold is not met. BLM takes seriously its responsibility to the public as stewards of our nation's natural resources and ensuring that public resources on federal and Indian lands provide a fair return to the American people. As drafted, the bill may set an undesirable precedent by diverting receipts from the Treasury and thereby reducing the net return to taxpayers.

Conservation Designations

Title I would establish or modify several conservation designations that would be included in the BLM's National Landscape Conservation System. Section 112 proposes to add approximately 2,050 acres to the Cascade-Siskiyou National Monument in southwestern Oregon. The Monument was established by Presidential Proclamation on June 8, 2000, and was later modified with the addition of wilderness and additional management direction by P.L. 111-11, the Omnibus Public Lands Act. The Monument's nearly 53,000 acres are a place of great biological diversity due to its location at the confluence of three converging mountain ecoregions – the Cascade, Klamath, and Eastern Cascade. The proposed additions would enhance this biodiversity and provide important habitat connectivity. The BLM generally supports the proposed additions, and would like to work with the sponsor to ensure consistency in management across the entire Monument and to consider any minor boundary modifications.

Section 114 establishes a protective corridor for sections of the Pacific Crest National Scenic Trail where it travels through and adjacent to Cascade-Siskiyou National Monument. While the BLM generally supports these provisions we would like to work with the sponsor to improve consistency with the National Trails System Act, BLM policy, and BLM management objectives. Finally, section 103 would protect over 50 miles of Oregon rivers with new designation as either recreational or scenic rivers under the Wild and Scenic Rivers Act. The BLM supports these designations.

Title I also establishes a wide variety of designations, including two National Recreation Areas, four Drinking Water Special Management Units, and the Illinois Valley Salmon and Botanical Area Special Management Unit. Additionally, the bill establishes Special Environmental Zones, Primitive Backcountry Special Management Areas, and Special Management and Research Areas. Many of these designations are new to BLM and it is unclear whether they will meet their stated conservation objectives. We would like to work with the sponsor on language that would clarify the management goals for each of these designation types. Likewise, we would like the opportunity to consider boundary modifications for manageability.

S. 1784 Title II, Tribal Land

Title II of S. 1784 provides that approximately 14,804 acres of BLM-managed lands in western Oregon be held in trust for the benefit of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and that approximately 17,826 acres of BLM-managed lands in western Oregon be held in trust on behalf of the Cow Creek Band of Umpqua Tribe of Indians. This title would also require the Department of the Interior to reclassify an equal number of acres of public domain lands as O&C lands to compensate for the loss of O&C lands transferred by the bills. Finally, Title II provides for an amendment to the Coquille Restoration Act.

Many of the BLM-managed lands in this area have significance for nearby tribes. Both the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and the Cow Creek Band of Umpqua Tribe of Indians have expressed their desire to acquire culturally significant tracts of land in the region as well as forest lands to be managed for the financial benefit of tribal members. The BLM strongly believes that open communication between the BLM and tribes is essential in maintaining effective government-to-government relationships, and the BLM has a positive working relationship with the tribes in the area. The Department welcomes opportunities to work with Congress on the transfer of lands into trust status and supports the goals of this title. The BLM would like the opportunity to work with the sponsor and the Committee to address various issues related to the bill, including access rights, utility and facility encumbrances, and timber harvest.

The bill would require the BLM to identify sections of public domain lands to be reclassified as O&C lands within 18 months. It is our understanding that the sponsor intends the bill to transfer or reclassify only BLM-managed lands. The BLM would like to work with the sponsor to clarify language in sections 206 and 216 accordingly. The timeframes provided in the bill to complete reclassification of public domain lands are insufficient considering the workload, staffing and costs involved. Additionally, the BLM is concerned that lands of approximately equal acreage, habitat condition, productivity, and land use allocation are unavailable for reclassification within the affected planning areas. The BLM would like to work with the sponsor on a timeline that would add flexibility and language providing specificity regarding the lands to be reclassified and their subsequent management.

Because many of the lands to be taken into trust through this title have been identified for potential future timber sales, the BLM believes that the transfer of these lands into trust status would reduce the land base from which the BLM could offer timber sales, thereby reducing the quantities of timber that could be offered by the BLM in future timber sales and resulting in a potential reduction of timber revenues to the United States and to the O&C counties, and potentially impacting the BLM's implementation of the provisions in Title I.

Subtitle A, Oregon Coastal Land Conveyance

The bill's Oregon Coastal Land Conveyance provisions (Title II, Subtitle A; introduced separately as S. 1414) provide that seven tracts of land currently managed by the BLM, totaling 14,804 acres, be held in trust for the benefit of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (the Tribes). The bill directs all right, title, and interest of the United States to the identified lands, subject to valid existing rights, to be held in trust for the benefit of the Tribes. These parcels are located in western Oregon's Coos, Douglas, Benton, and

Lane Counties, and include tracts such as the Coos Head, Talbot Allotment, and Umpqua Eden parcels, which are of particular cultural significance to the Tribes, as well as areas such as the Lower Smith River and Tioga tracts, managed for timber production. While the transfer would be subject to valid existing rights, we have concerns about access and withdrawal. Finally, the lands identified for transfer contain 6,236 acres of critical habitat for the northern spotted owl, as well as critical habitat for the marbled murrelet and other threatened species. The Department notes that transfer of these lands could impact recovery of these species, and would like to work with the sponsor to clarify language related to the protection of wildlife.

Subtitle B, Canyon Mountain Land Conveyance

The bill's Canyon Mountain Land Conveyance provisions (Title II, Subtitle B; introduced separately as S. 1415) provide that approximately 17,826 acres of BLM-managed land in Douglas County, Oregon, be held in trust for the benefit of the Cow Creek Band of Umpqua Tribe of Indians (Tribe). The bill directs all right, title, and interest of the United States to the identified lands, subject to valid existing rights, to be held in trust for the benefit of the Tribe. The lands identified for transfer would be used to restore and expand the historic and economic base for the Tribe in southwestern Oregon. The parcels are scattered and interspersed with private lands, and include many areas popular with hunters, anglers, and campers. While the transfer would be subject to valid existing rights, the BLM has access concerns related to some parcels. These lands also include populations of the Federally-threatened Kincaid's Lupine and roughly 14,600 acres of critical habitat for the northern spotted owl. The Department notes that transfer of these lands could impact recovery of these species. The BLM would like to work with the sponsor to clarify language related to the protection of recreational, wildlife, and cultural resources.

Subtitle C, Coquille Restoration Act

Subtitle C of Title II would amend the Coquille Restoration Act (P.L. 101-42) to provide for a change in management direction for the Coquille Forest. The Department supports this modification to the Coquille Restoration Act.

S. 1784 Title III, Oregon Treasures

The BLM also manages many extraordinary lands in western Oregon that are proposed for conservation designation under this legislation. Title III of S. 1784 includes the following wilderness and wild and scenic river designations in Oregon: the Wild Rogue in southwestern Oregon (introduced separately as part of S. 353); the Devil's Staircase in southwestern Oregon (introduced separately as S. 352); and the Molalla River in northern Oregon (introduced separately as part of S. 353). It also makes technical corrections to the Wild and Scenic Rivers Act (introduced separately as part of S. 353). The Department supports this title, which would conserve and protect these special places that are treasured both locally and nationally.

Wild Rogue Wilderness

Over millions of years, the Rogue River, one of the initial eight rivers recognized in the 1968 Wild and Scenic Rivers Act, has carved its way through western Oregon's mountains. Dense, old-growth forests flank the Rogue providing habitat for forest-dependent species. The cold, clear waters of the river provide a home for Pacific salmon, steelhead trout, and green sturgeon.

Recreationists drawn to the Rogue River watershed are a critical economic engine for local economies and include fishing, rafting and boat tours, and hiking and backpacking.

The bill (Section 301) proposes to enlarge the existing Wild Rogue Wilderness by adding nearly 60,000 acres of land administered by the BLM and extend the existing Rogue Wild and Scenic River by adding 93 miles of 35 tributaries to the wild and scenic river system. In addition, the bill withdraws 50 miles of 20 other Rogue River tributaries from land laws, mining laws, and mineral leasing laws and prohibits the Federal Energy Regulatory Commission (FERC) from licensing new water resource projects and associated facilities along these tributaries.

The BLM supports this section of the bill. This wild and rugged area is largely untrammelled and has been influenced primarily by the forces of nature with outstanding opportunities for primitive recreation or solitude.

Devil's Staircase Wilderness

The proposed Devil's Staircase Wilderness near the coast of southwestern Oregon is wild, reminding us of what much of this land looked like hundreds of years ago. A multi-storied forest of Douglas fir and western hemlock towers over underbrush of giant ferns, providing critical habitat for the threatened northern spotted owl and marbled murrelet. The remote and rugged nature of this area provides a truly wild experience for any hiker.

Subtitle B of Title III proposes to designate over 30,000 acres as wilderness, as well as portions of both Franklin Creek and Wasson Creek as components of the Wild and Scenic Rivers System. In previous testimonies, the U.S. Department of Agriculture has supported legislation to designate Devil's Staircase as Wilderness as well as Franklin and Wasson Creeks as components to the Wild and Scenic River System. Our understanding is that USDA continues to support these designations. Additionally, the Department supports the designations that would be managed by the BLM, including approximately 6,830 acres of the proposed Devil's Staircase Wilderness and 4.2 miles of Wasson Creek.

Molalla Wild & Scenic River

At an elevation of 4,800 feet, the Molalla River flows undammed for 49 miles west and north until it joins the Willamette River, providing drinking water for local communities and important spawning habitat for several fish species. Within an hour's drive of the metropolitan areas of Portland and Salem, the Molalla watershed provides significant recreational opportunities for fishing, canoeing, mountain biking, horseback riding, hiking, hunting, camping, and swimming and draws over 65,000 visitors annually.

Section 321 of the bill proposes to designate 15.1 miles of the Molalla River and 6.2 miles of the Table Rock Fork of the Molalla as components of the National Wild and Scenic Rivers System. The Department supports these designations.

Corrections to the Wild and Scenic Rivers Act

Section 322 of the bill pertains to lands managed by the U.S. Forest Service, and the Department defers to the Department of Agriculture on this provision.

Conclusion

S. 1784 would modify and direct the BLM's management of the O&C lands for timber harvest and conservation purposes, transfer certain lands into trust status for the benefit of tribes, and establish new conservation designations in western Oregon. The Department does support the goals of transferring lands into trust status and modifying management of certain lands for the benefit of tribes and supports the conservation designations that would be made under Title III. Additionally, the Department supports the goal of identifying a collaborative solution to conflicting management goals in western Oregon and the Department looks forward to continuing to work with the sponsor, the Committee, and stakeholders to address concerns with the bill as drafted, and to accomplish our shared stewardship goals for BLM-managed lands in western Oregon.