

**Statement of  
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Department of the Interior  
Senate Committee on Energy and Natural Resources  
Subcommittee on Public Lands, Forests, & Mining  
S. 132, Oregon and California Land Grant Act of 2015  
July 16, 2015**

Thank you for the opportunity to discuss the views of the Department of the Interior on S. 132, the Oregon and California Land Grant Act of 2015. The bill concerns 2.8 million acres of: Revested Oregon and California Railroad, Reconveyed Coos Bay Wagon Road Grant Lands (the O&C Lands), intermixed public domain lands, controverted O&C lands managed by the U.S. Forest Service (USFS), and some US Army Corps of Engineers lands in western Oregon, to be administered by the Bureau of Land Management (BLM).

S. 132 would establish new designations and principles for the management of forest lands in western Oregon (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 has previously testified on many of the ideas contained in the provisions of this bill and believes this legislation is a continuation of the ongoing discussion about providing predictability for the management of western Oregon lands. The Department appreciates the sponsor's work to include helpful modifications while developing the current legislation. Overall, the Department supports many of the goals of the bill, and fully supports Title III. We would like to work with the sponsor and the Committee on substantive, clarifying, and technical amendments to Titles I and II to resolve our outstanding concerns. We look forward to continuing to work 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 or 75 percent of receipts from timber harvests on O&C lands in these counties.

Timber harvests and the associated payments to counties decreased significantly in the mid-1990s, after the historic highs experienced in the late 1980s. The decrease was caused, in part, by the need for management measures to address the conservation and recovery of 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 predictable and sustainable supply of timber along with protection of fish and wildlife habitat for 24.5 million acres of Federal forest in western Oregon, western Washington, and northern California, most of which is managed by the U.S. Forest Service. 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 the economies of 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 650 million board feet of timber from O&C lands generating over \$83 million dollars in timber receipts. In FY14 alone, BLM western Oregon timber sale program generated over \$500 million dollars in economic output. These and other BLM-managed lands in western Oregon also provide outstanding recreational opportunities, with over 5 million people visiting each 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. The recently released 20 year Northwest Forest Plan monitoring report highlights the success the Forest Service and BLM have achieved in meeting multiple resource conservation objectives at the regional scale while providing a sustainable timber supply.

### ***Resource Management Plans***

In March of 2012, the BLM began the planning process to revise the 1995 RMPs that govern management of the O&C lands. The BLM has spent over three years engaging the public, key stakeholders, cooperators, and tribes conducting extensive public scoping and providing numerous opportunities for all parties to provide public input through design workshops, public meetings, and other venues as part of the National Environmental Policy Act (NEPA) process. The BLM has used this input, along with lessons learned from 20 years of experience implementing the Northwest Forest Plan, as well as 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), to craft and publish a Draft Environmental Impact Statement (DEIS). The DEIS is currently available for public comment. The BLM has recently received a request for extension and has decided to grant an extension of 30 days. The comment period will now end on August 21<sup>st</sup>, 2015 and publication of a Revised RMP and Record of Decision is anticipated in Spring of 2016.

## **S. 132 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 S.132 to provide a sustained yield of timber, establish a large block network of older forest habitat, and protect older, more complex forests in support of improved conservation of threatened and endangered species. Another goal of S. 132 is to stabilize management direction and environmental analysis for the O&C lands and we also share that goal.

Although the BLM supports many of Title I’s broad policy goals and appreciates the sponsor’s helpful revisions from previous versions, we have concerns with the language of Title I and the impacts if it were to be implemented as written. We would like to highlight some of those concerns and we would like to continue to work with the sponsor and the Committee to resolve these issues.

The BLM’s management of intermixed O&C lands and public domain forests in western Oregon is currently governed by a number of statutory 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. Under current law, some statutory requirements are applied differently depending upon whether the lands are designated public domain or O&C. We note that this bill resolves those differences. The BLM appreciates the sponsor’s work to address our concerns about a lack of clarity in prior versions. There remain some provisions of the bill that we believe may not provide sufficient 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, and we would like to work with the sponsor to address those issues.

The Department has concerns regarding the requirement for mandated 5 year timber sale environmental impact statements (EISs). For example, the Department believes that these mandated time periods would not provide for adequate consultation under the Endangered Species Act and would not allow sufficient flexibility to respond to large-scale, stochastic events such as fires. In addition, we have concerns with the time frames established in the bill for those EISs and whether we can meet the intent and comply 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, the volume of pre-

disturbance data that must be collected, 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, increased litigation risk and delayed completion of final products.

More specifically, the Administration's concerns with Title I of this bill include: (1) the temporal and spatial scale of the EIS, particularly given the mandated 5-year time period; (2) the requirement for the Department to select the EIS alternative with the highest timber production; (3) the limitation precluding consideration of impacts beyond specific authorized actions; (4) the limitations on the public's ability to challenge the EISs and subsequent projects; and (5) the lack of clarity regarding the Landscape Prioritization Plan and 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 implementation of the bill would still allow for the analyses and sequencing necessary to produce environmental reviews that lead to informed and defensible analyses and decisions.

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 establishes a total of approximately 690,000 acres as a "Conservation Network," for the purpose of creating forest reserves for wildlife habitat, old-growth forests, healthy ecosystems, recreation, and other purposes. Among these new designations are several that would be included in the BLM's National Landscape Conservation System. Section 10 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 9, 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 10 also 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.

Title I also establishes a wide variety of designations, including two National Recreation Areas, four Drinking Water Special Management Units, Late Successional Old-Growth Forest Heritage Reserves, the Illinois Valley Salmon and Botanical Area Special Management Unit, the Kilchis Wild Salmon Refuge Area, the Smith River Salmon Restoration Unit, seven Primitive Backcountry Special Management Areas, numerous units of a Protected Environmental Zone Special Management Area, and the Cathedral Hills Natural and Recreation Area. Many of these designations are new to BLM and it is unclear whether they will meet their stated conservation objectives; however, the bill as drafted appears to provide the same management provisions for each of these areas. We would like to work with agency partners and the Committee on language that would clarify the management goals for the Conservation Network, particularly as they relate to other management provisions provided elsewhere in the bill. The BLM is not certain that all of these new management designations would be appropriate for inclusion in the NLCS and the BLM would appreciate the Committee's careful consideration of new designation types and purposes for this system. Likewise, we would like the opportunity to consider boundary modifications for manageability.

Finally, section 102 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.

### ***Land Management Rationalization***

Under the bill, the BLM would generally have the authority to exchange Federal land for non-Federal land under certain circumstances. The BLM would transfer administrative jurisdiction of 25,000 acres of land to the Forest Service, to be managed as part of the National Forest System, while the Forest Service would transfer administrative jurisdiction of 102,000 acres to the BLM to be managed as part of the Forestry Emphasis Area and 206,000 acres to be managed as part of the Conservation Emphasis Area. The Army Corps of Engineers would also transfer administrative jurisdiction of about 3,500 acres to the BLM. We would like to work with the sponsor on language to clarify the processes for these land exchanges. The bill would also establish a Legacy Roads and Trails program to conduct road decommissioning projects. The changes described in this section of the bill, which would require public input and would occur after passage of the bill, would lead to changes in management that could not be completed or analyzed within the bill's timelines for the EISs or Landscape Prioritization Plans.

### **S. 132 Title II, Tribal Land**

Title II of S. 132 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. Title II also provides for an amendment to the Coquille Restoration Act.

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.

Because many of the lands to be taken into trust through this title have been identified for potential future timber sales in the BLM's out-year timber sale planning efforts, the BLM believes that while the transfer of these lands into trust status would provide financial benefit to the tribes, it would also reduce the land base from which the BLM could offer timber sales. This would reduce the quantity of timber that could be offered by the BLM in future timber sales and potentially result in a reduction of timber revenues to the United States and to the O&C counties; this could impact the BLM's implementation of the provisions in Title I. The Draft EIS does not analyze the impacts of this transfer in any of the alternatives. The BLM is concerned that if these bills became law, there may not be sufficient time to address these transfers and their impact to resources and uses in the Final EIS. The Final EIS Record of Decision is scheduled to be signed in spring 2016.

#### ***Subtitle A, Oregon Coastal Land Conveyance***

The bill's Oregon Coastal Land Conveyance provisions 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 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 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 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 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. 132 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. 132 includes the following wilderness and wild and scenic river designations in Oregon: the Wild Rogue Wilderness Area in southwestern Oregon; the Devil's Staircase in southwestern Oregon; and the Molalla River in northern Oregon. It also makes technical corrections to the Wild and Scenic Rivers Act. 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 approximately 120 miles of 37 tributaries to the National Wild and Scenic Rivers System. In addition, the bill withdraws 16 miles of 6 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 untrammled and has been influenced primarily by the forces of nature with outstanding opportunities for primitive recreation or solitude. The BLM would like to work with the sponsor to ensure that the bill language is consistent with how BLM manages other congressionally designated Wilderness Areas.

#### ***Devil's Staircase Wilderness***

The proposed Devil's Staircase Wilderness near the coast of southwestern Oregon is an example of what much of this land looked like hundreds of years ago. This area is a multi-storied forest

of Douglas fir and western hemlock that towers over underbrush of giant ferns and provides 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. The Department supports the transfer of administrative jurisdiction of 49 acres to the U.S. Forest Service but would like to work with the sponsor on minor technical corrections. 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. The BLM would like to work with the sponsor to ensure that the bill language is consistent with how BLM manages other congressionally designated Wilderness Areas.

#### ***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.

#### ***Frank Moore Wild Steelhead Sanctuary***

The Department of the Interior defers to the Department of Agriculture on the Frank Moore Wild Steelhead Sanctuary provision (Title III subtitle D) which affects lands administered by the U.S. Forest Service.

#### **Conclusion**

S. 132 would modify and direct the BLM's management of lands in western Oregon 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 supports the goals of transferring lands into trust status and modifying management of certain lands for the benefit of tribes, and also 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. The Department looks forward to continuing



to work with the sponsor, the Committee, and stakeholders to address concerns with the bill as drafted, to reconcile differences, and to accomplish our shared stewardship goals for BLM-managed lands in western Oregon.