Testimony of The Association of O&C Counties
For The
U.S. House of Representatives Committee on Natural Resources
Subcommittee on Federal Lands
Regarding The
Discussion Draft of "Resilient Federal Forests Act of 2017"

June 15, 2017

With apologies to Samuel Taylor Coleridge, I quote the most famous stanza from his most famous poem:

"Water, water, every where,
And all the boards did shrink;
Water, water, every where,
Nor any drop to drink."

I am Commissioner Tim Freeman and I am from Douglas County in Western Oregon, the most productive timber-growing region of the United States, where we are surrounded by millions upon millions of acres of Federal timber that, unfortunately, is mostly withdrawn from even the most benign economic utilization. As with the Ancient Mariner, the resource we desperately need is all around us, yet we are prevented by federal policies from using it to help fulfill our communities' needs.

I am here today as President of the Association of O&C Counties (AOCC). Since 1925 AOCC has represented Counties in Western Oregon that have a statutory interest in 2.1 million acres managed by the BLM pursuant to the O&C Act of 1937, 43 USC 1181a-f. Similarly, the O&C Counties have a statutory financial interest in about 500,000 acres of O&C Lands that are managed by the Forest Service. And although I am not here today specifically to address National Forests, the O&C Counties also have within their boundaries many millions of acres of National Forests.

We are, quite literally, surrounded by Federal timber lands. We therefore appreciate very much this Committee's interest in streamlining some aspects of Federal forest management. We are critically in need of forest management reform legislation that addresses Federal forest management practices to get more work done on the ground, to improve the health of our forests and to provide economic opportunity for our forest communities. Proper management can also produce much-needed revenue for the U.S. Treasury.

The O&C Lands have a unique history, having been granted in the late 1800s in exchange for construction of a railroad, but then taken back into federal ownership in 1916 due to the railroad company's violations of the terms of the grant. For a complete discussion of the fascinating history of the O&C Lands, visit the history section of the AOCC website: http://www.oandc.org/o-c-lands/history-of-o-c-lands/.

In 1937, the O&C Lands were designated by Congress for sustained-yield timber production. All of the O&C Lands classified as timberlands

> "* * * shall be managed * * * for permanent forest production, and the timber thereon shall be sold, cut and removed in conformity with the principal [sic] of sustained yield 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 * * *." 43 USC §1181a.

The O&C Act goes on to require that "timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained-yield capacity when the same has been determined and declared, shall be sold annually * * *." 43 USC §1181a. The O&C Lands have a dominant use---timber production---that has been recognized many times by the courts. See, for example, Headwaters, Inc. v. BLM, Medford Dist., 914 F2d 1174, 1183-84 (9th Cir. 1990). For more than 50 years following the O&C Act, the O&C Lands were managed as Congress directed---for sustained yield timber production---and our communities thrived as a result. For many decades the O&C Lands supported local communities and were at the same time a source of revenue for the Federal government.

And yet currently, the vast majority of the O&C timberlands, about 80 percent, are withdrawn from sustained yield timber production. How can this be?

Beginning in the 1990s and becoming progressively worse since, Federal policies have become so tangled and the regulatory agencies have usurped so much of the management authority that the BLM is no longer able to manage the O&C Lands as it should. It appears the BLM is no longer willing to even try. Fearful of litigation and criticism, the BLM has taken the path of least resistance.

The most recent example of the avoidance principle on full display is the resource management plan (RMP) adopted by the BLM for the O&C Lands in 2016. The land use allocations in the RMP are (in the opinion of AOCC) illegal, in that the majority of the O&C lands (about 80 percent) are allocated to reserves in which sustained yield management is not allowed. Some of the driving policies are internal to the BLM, but the inspiration for the management restrictions are largely traceable to other agencies. The BLM's ability to utilize broad flexibility under principles of sustained yield forestry is primarily constrained by policies of the U.S. Fish & Wildlife Service.

Just prior to the most recent BLM planning process the U.S. Fish & Wildlife Service issued a recovery plan for the northern spotted owl that precludes sustained yield management for substantially all older, more structurally complex forest as a blanket restriction across three states. This inflexible policy is supposed to be voluntary for the land management agencies, but is being treated as though it has the force of law. In addition, "critical habitat" was designated for the marbled murrelet and northern spotted owl, covering 57 percent of the BLM forest in western Oregon. This designation of critical habitat included over a half million acres of younger forest, which are not currently habitat, but as these forest age they too will have constraints placed on sustained yield management.

These policies and designations were developed largely without consideration of ways sustained yield management could provide habitat that would aide recovery of the northern spotted owl and marbled murrelet. There was almost no consideration by the U.S. Fish & Wildlife Service of

forestry techniques that would permit simultaneous achievement of sustainable economic and environmental objectives. The BLM took the U.S. Fish and Wildlife Service policies as binding, and in its own planning process the BLM also gave little consideration to forestry methods that would permit simultaneous achievement of economic and environmental objectives. The door was shut to such consideration by the BLM's up-front designation of reserves that precluded analysis of sustained yield techniques within those reserves.

There are numerous kinds of "reserve" designations under the BLM's RMP, but the story of the "large block" reserves is perhaps the most troubling. The BLM in its planning process designated over a million acres of large block reserves in which sustained yield management is precluded. The boundaries of the BLM's million-acre large-block reserves do not coincide with the U.S. Fish & Wildlife Service's designated critical habitat. The BLM's large block reserves preclude sustained yield management on approximately 250,000 additional acres that the U.S. Fish & Wildlife Service did not think was critical habitat.

Conversely, 40 percent of the lands that are allocated by the BLM for sustained-yield management are designated as critical habitat by the U.S. Fish & Wildlife Service---meaning that the BLM's planned sustained-yield management activities within those areas will almost certainly be substantially curtailed. The BLM RMP pretends that timber harvests will occur within the designated critical habitat, but any experienced observer well knows that they will be repeatedly litigated and ultimately avoided by the agency.

On top of all this, at the end of the RMP process the BLM agreed to a U.S. Fish & Wildlife demand for a "No Take" provision until more is known about barred owl interactions with the spotted owl. The No Take policy means that timber management is precluded on 30-40 percent of the lands allocated by the BLM for sustained yield timber harvests, which could potentially reduce by half the BLM's declared sustainable harvest level.

The combination of these restrictions and impediments make it clear to AOCC that the BLM's RMP---which is grossly inadequate to begin with---will never be implemented as advertised. The regulatory actions by the U.S. Fish & Wildlife and the BLM plans are not effectively coordinated nor do they recognize the unique sustained yield mandate of the O&C Lands to contribute to the support of rural communities. The Counties and the public had limited opportunity to participate in the up front decisions that severely limited the management strategies considered under NEPA in the recent BLM planning process. These Federal government actions fail to address the human species and the well-being of rural communities, which is directly tied to the management of the O&C forests.

Numerous judicial decisions have made clear that O&C Lands are dedicated to sustained yield timber production in order to generate revenue for the O&C Counties and to provide an economic base for local industries and communities. Pursuant to 43 U.S.C 1181f, the O&C Counties share 50 percent of the total revenues generated from timber harvests on O&C Lands. Counties depend on shared timber receipts to pay for essential public services of all kinds, from public safety such as sheriff patrols and jails to public health programs and libraries. When O&C lands are withdrawn from sustained yield management, there is a direct financial loss to County governments and a loss of services to local citizens and their communities.

The O&C Counties are reeling from two decades of federal mismanagement of the O&C lands and a drastic reduction in revenues from shared timber harvest receipts. Counties struggle to provide even minimally acceptable levels of public services. Under the new BLM plans, if ever fully implemented, payments would be only 19 percent of historic payments. Based on the BLM's past performance, AOCC is confident these BLM plans will never be fully implemented and shared timber receipts will resemble those of the recent past that are only about 8 percent of the historic payment average. In the rural O&C Counties commissioners are faced with closure of libraries, jails, and elimination of sheriff patrols. Hundreds of employees have been laid off in recent years, services have been curtailed, and whole departments shuttered. Unfortunately, there is more bad news to come.

Perhaps worse than loss of public services has been the loss of jobs in the private sector. The lack of adequate timber supply has caused many of our mills to close and forced thousands of people out of work. Some mills in our area even have to import timber from Canada in order to have the raw materials they need for operations. Living in a sea of timber, we nevertheless must buy and transport logs from Canada, a sad irony that makes local residents question their government at every level.

We are very pleased that this Committee is giving attention in the Resilient Federal Forests Act of 2017 to some of the issues that hinder proper management. We stand ready to assist in developing and improving legislation that recognizes the necessity of resuming active management in ways that contribute to the economic health of local communities and reverses federal policies that are killing forest jobs.

Through sustained yield management, the O&C Lands can contribute to the economy of local communities and county governments and simultaneously provide a wide range of forest values such as recreation, wildlife habitats, clean water, wood products, and carbon storage. The O&C Lands can once again be a performing asset that produces revenue to help balance the Federal budget. The benefits of proper management accrue both locally and nationally. AOCC wishes to be a partner in your efforts to correct some of the Federal policies that interfere with these objectives.

In the coming weeks we will provide comments regarding specific Titles of the draft bill to Committee staff. The bill as a whole is of major importance to us, but AOCC is likely to give extra attention to sections dealing with the Stewardship Contacting, the Secure Rural Schools and Community Self-Determination Act and, of course, anything having to do specifically with the O&C Lands.

Thank you for the opportunity to comment on these important issues.

ASSOCIATION OF O&C COUNTIES

Commissioner Tim Freeman, President

COMMITTEE ON NATURAL RESOURCES
115th Congress Disclosure Form
As required by and provided for in House Rule XI, clause 2(g)(5)

Oversight Hearing on "Examining the Consequences of Executive Branch Overreach of the Antiquities Act."

May 2, 2017

For Individuals:

Name:
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For Witnesses Representing Organizations:

Name: Douglas County Commissioner Tim Freeman
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For Nongovernment Witnesses ONLY:

1. Please attach/include current curriculum vitae or resume.

2. Please list any federal grants or contracts (including subgrants or subcontracts) related to the subject matter of the hearing that were received in the current year and previous two calendar years by you or the organization(s) you represent at this hearing, including the source and amount of each grant or contract.

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