The Oregon and California Revested Lands

by

W. Ellis Gross

A Thesis
Presented to the Faculty
of the
School of Forestry
Oregon State College

In Partial Fulfillment
of the Requirements for the Degree
Bachelor of Science
June 1940

Approved:

______________________
Professor of Forestry
TABLE OF CONTENTS

I. INTRODUCTION ........................................ 1

II. HISTORY ............................................... 1

   Origin of O & C Lands .............................. 1
   Provisions of O & C Railroad Grant ............. 1
   Transfer of O & C Right to the Southern
      Pacific Railroad Company .................. 2
   Violation of O & C Grant Provisions by the
      Southern Pacific Railroad Company ...... 3
   Restoration of Grant Lands to Public Ownership 4
   Passage of the Chamberlin-Ferris Act ......... 5
   Maladministration of Grant Lands by
      Federal Government ............................ 5
   Congressional Appropriation to Compensate
      for Taxes ........................................ 8
   Improvements in Administration Made in 1928 . 9
   Complete revision of Grant Lands Administra-
      tion made by Congress in 1937 .......... 11

III. PRESENT MANAGEMENT ............................... 14

   Sustained Yield Management .................... 14
   Selective Cutting Practiced .................... 15
   Reclassification of Lands ...................... 16
   Present Practices Economically Sound ........ 17
The Oregon and California Revested Lands

The curtains are gradually closing upon one of the most distasteful scenes in Oregon's land grant history—the Federal forest lands most commonly known as the O & C Lands. They are a patchwork of timber lands extending through western Oregon from Portland to the California line in a strip some sixty miles wide. These lands were originally a part of a grant of land made by the Federal Government in 1866 to a private railroad company to aid in financing the construction of a railroad across Oregon from Portland to the California line. Of the original 4,300,000 acres involved in the grant, about 2,500,000 acres remain. The other 1,800,000 acres were disposed of to private individuals by the Oregon-California Railroad Company and its successor, the Southern Pacific Company, during the time they held these lands. The existing area, if put into a solid block of land, would comprise an area approximately the size of the state of Connecticut and is the largest single holding of merchantable timber left standing in the Pacific Northwest, or anywhere else in the United States.

The original Congressional Act under which the O & C Lands came into existence was known as the Oregon & California Railroad Grant of July 25, 1866 (14 Stat. 239). The grant consisted of every alternate odd-numbered section
of public domain, not mineral in character, to the amount of twenty alternate sections per mile (ten on each side) of the railroad's right-of-way. Where such alternate sections had been reserved or disposed of before the railroad company received the grant, the company was given the privilege of making lieu selections of other alternate sections within an area of not more than ten miles on each side beyond the limits of the first-named sections.

The Act further provided that these lands must be sold to actual settlers only, in quantities not greater than one-quarter section to any one purchaser and specified that the sale price must not exceed $2.50 per acre.

As the early organization and financing of the railroad encountered a somewhat vicarious and uncertain career, after a twenty-year struggle the Oregon & California Railroad Company went into receivership. In 1887 it was taken over by the Southern Pacific Railroad Company which assumed the benefits and conditions of the grant and within a few years completed the building of the railroad to the California boundary. By the time the Southern Pacific acquired the railroad and its supporting grant, the Oregon-California Railroad Company had sold the best and most accessible agricultural lands in the grant. The remaining lands were largely timber, and in those days timber in western Oregon was a drug on the market; but during the '90's a rising tide of timber speculation reached the west coast, and the grant lands became more and more in demand, and the Southern Pacific
was able to sell many of the timbered sections at prices from ten to twenty-five dollars an acre above the statutory price. By January 1903, local speculation in timber land was well under way, and people were visualizing large profits to be made from these grant lands. At this time, however, the Southern Pacific threw a bomb, the repercussions of which are only now beginning to subside. The Southern Pacific announced the withdrawal of all its grant lands from sale, and the local people felt that this action was an unwarranted blockade of development. E. W. Harriman, president of the railroad, later justified the company's action by stating it was the purpose of the company to hold lands as a future source of timber for railroad ties and not for speculation. "We will let other people cut the forests", he said, "we will use the ties from their ground, and when the time comes, we intend to have a reserve with which we can maintain these great transportation lines, for those that come after that they may not accuse us of wasting the resources we had at our command." This statement seemed to be a signal for open revolt of local communities, and charges were made that the company had violated its grant by refusing to sell the land and by having sold some for more than the $2.50 an acre permitted in the grant, by selling to other than actual settlers, and by selling more than one-quarter section to an individual. A memorial was sent to the President of the United States and to Congress charging violations of the grant and requesting Congress to cancel it. So much opposition was voiced that the Attorney General of the United States was asked to investigate the
situation, and a joint resolution was passed by Congress on April 30, 1908 compelling the railroad to restore the remainder of the grant lands to the Federal Government. Court action was instituted by the railroad company against this procedure, and it was finally carried into the Supreme Court of the United States where in 1915 the action of Congress was upheld. The Court decision was followed in 1916 by additional legislative action in Congress to determine the compensation that should go to the railroad for losses suffered upon surrendering the property and also for the purpose of providing for the future administration of the property by the Federal Government. Under the terms of the settlement, the railroad company was allowed $2.50 per acre for the entire area of the original grant, less a deduction for money received from sales of land and timber which it made previous to the revestment proceedings. Under the terms of the settlement, the railroad company was paid in excess of four million dollars by the Government, and an additional payment of $1,500,000 was made to the counties to satisfy delinquent taxes owed by the company in the years 1913, 1914, and 1915, during which period revestment proceedings were under way.

Under the revestment and reconveyance acts of 1916, the Secretary of the Interior was directed to classify the O & C Lands as (1) power sites, (2) timber lands, and (3) agricultural lands. The act arbitrarily defined timber lands as those having three hundred thousand or more feet
(board measure) of timber per forty-acre sub-division. All other lands having less than three hundred thousand feet of timber per forty acres became agricultural lands with absolutely no regard for soil or topography. Some of the lands classified as agricultural had young growing stands of timber, and others were either barren and rocky mountain tops or cut-over land which could never be used for agricultural purposes. As a result of this arbitrary classification, substantial areas of land in the actual process of reforestation were removed from the status of timberland and, with much of the other land, open to homestead entry. Under the classification by the act drafted in Congress, the following classification of lands resulted:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power sites</td>
<td>62,000</td>
</tr>
<tr>
<td>Timber lands</td>
<td>1,307,000</td>
</tr>
<tr>
<td>Agricultural lands</td>
<td>1,987,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2,456,000</strong></td>
</tr>
</tbody>
</table>

It is interesting to note in this connection that during the Court litigation and revestment proceedings, a Southern Pacific land commissioner classified the land as 99% timber land, with approximately 19% of it subject to grazing. The accuracy of the land commissioner's classification has been borne out in more recent years much to the sorrow of a large number of homesteaders who took the Government's classification of land and acquired pieces of the property.

The revestment act of June 9, 1916 was known as the Chamberlain-Ferris Act. It appears to have been a compromise between eastern and western viewpoints in the
handling of our national resources in which the rather selfish and greedy viewpoint of the west prevailed. This came about largely because the west had a majority on the Public Lands Committee. Under this act it seemed to be the purpose of Congress to dissipate this public asset as quickly as possible. The areas classified as power sites were rather insignificant considering the whole, and were set aside in the beginning. On the land classified as timber land, the Secretary of the Interior was instructed "that such timber should be sold as rapidly as reasonable prices can be secured therefore in a normal market", and that land from which the timber had been removed should then be classed as agricultural and opened for entry. From this time until a few modifications in the act were initiated in 1926, the sole concern of the Secretaries of the Interior appeared to be that of selling the timber and collecting the money. No regulations of any sort regarding manner of cutting or disposal of slashings were made, and no provision was made for fire or other protection. The revestment act specified how funds received from the sale of timber should be distributed. Twenty-five per cent of the receipts were to go to the state, twenty-five per cent to the counties in which the lands were located, forty per cent to the Reclamation Fund, and ten per cent to the United States Treasury. A further provision required that the settlement with the railroad, including delinquent taxes owed by the railroad, must be returned as a prior claim against receipts and fully
satisfied before any of the income could be distributed by the above schedule. It appears that the intention of the act was to provide through the exploitation of the land and timber a continuous fund which would be divided equally between the state and the Federal Government. Undoubtedly, the expectation was that sales of timber would bring returns ample to offset the state and county losses in taxes. In handling the sale of timber, the following procedure was carried out: upon application to purchase, the Secretary of the Interior advertised the timber applied for at appraised prices and passed the title to a successful bidder upon the payment in cash. It appears that every Secretary of the Interior assumed that the Chamberlain-Ferris Act limited his control upon the timberland and did not permit him to specify in what manner it should be cut. As a result, once the timber was bought and paid for, the operators were permitted to lumber as they saw fit. They were solely concerned with their returns, so these areas were logged in the cheapest possible manner. This usually meant that they cut the area clean as they went along, destroying young trees; or else they took just the cream of the timber, leaving the remainder where it lay increasing the fire hazards. Over 120,000 acres of O & C timber have been sold under this loose and destructive system.

Income from the sale of timber, however, was received more slowly than had been anticipated; and, consequently, the counties were deprived of revenue from these
O & C Lands for a period of eleven years. In the counties having rather large acreages of these lands, the shrinkage of income became a serious problem. County expenditures and bonds had previously been made with these lands included in the assessed valuations. Robert Stanfield, senator from Oregon, was chairman of the Senate Public Lands Committee and interested himself very widely in the public land problems over a large part of the west. Being a prominent stockman himself, a good many of his motives were not strictly ulterior, and some of the legislation that he attempted backfired because of public resentment. However, he was able to obtain some legislation in regard to the O & C Lands in an act bearing his name, which was passed by Congress on July 13, 1926. This bill was apparently put through during the last minute rush and contained certain provisions that were nearly unheard of at that time in Federal legislation. It provided that the counties holding O & C Lands should be paid taxes that would have accrued to them during the previous eleven year period had these lands remained in private ownership. The assessed valuation of the property was taken at the 1915 level, which was a high assessed valuation year. The act further provided that the Government was to continue paying these taxes for an unlimited period.

The striking part of this act, and the part to which President Coolidge objected, was that the Government was required to advance money to the counties before it was received, and without interest. The taxes paid were to continue at the same rate after the timber was sold; and, if
the Government kept the land, the money was to be paid without any appropriation by Congress. Before signing the bill, President Coolidge extracted a promise from Senator Stanfield that corrective legislation would be undertaken along the lines requested by President Coolidge at the next session of Congress. Political memories are notoriously short, however, and no action was taken to remedy any of the objected-to features of the bill. Under the provisions of the Stanfield Act, the counties were paid seven million dollars in lieu of unpaid taxes for the eleven years; and by 1937 the Government had paid a total of approximately $16,700,000 and was delinquent to the counties in the amount of two million dollars. During this same period the receipts from the O & C Lands amounted to $8,270,000. A further outlay of approximately $100,000 per year had been made to defray administration and protection costs of the property. Excluding the costs of administration and protection, the government had incurred a deficit of approximately ten and a half million dollars by 1937 through the accumulation of payments made in excess of income.

Administratively, the situation was somewhat improved in 1928 when the Chamberlain-Ferris Act was amended to authorize the Secretary of the Interior to make such rules, regulations, and conditions for the cutting and removal of the timber as he might deem necessary. The only ruling that was made, however, under this authority was the requirement that the purchaser of this timber file a bond
to insure the disposal of slash resulting from the cutting. This requirement assisted materially in reducing the fire hazards, but the responsibility for fire protection was left to the state, the Oregon Fire Protective Association, and the United States Forestry Service, acting under the provisions of the Clark-McNary Act. Over a million dollars has been spent by these agencies for the prevention and suppression of fires in the O & C sections. This has called for an average expenditure of nearly $100,000 a year in normal times that adjoining private, state, and national forest timber might be protected from the potential fire hazards presented by the O & C Lands because of the lack of controlled logging and slash burning. Experience has shown that the average homesteader on these O & C "stump farms" presents a greater fire hazard than almost any other source. These settlers have practically no other way of clearing their land than to slash and burn. They have no particular experience in handling such burnings, having practically no equipment or facilities for holding a fire within bounds, and are usually unconcerned about additional damage. One fire from careless burning covered approximately fifteen thousand acres at the head of the Coos River, killed 230,000,000 feet of timber valued at $250,000, and cost $19,000 to extinguish. Had these lands continued to have been open for entry during the past few years when there has been such a pronounced movement of population from the dust bowls of the Middle West into Oregon, the hazards of
settlers' slashing fires would have been increased many times. President Roosevelt's order of November 26, 1934, withdrawing all public lands from homestead entry was very timely in protecting these forest areas and immeasurably timely in saving human misery from failures that are sure to result from trying to farm large portions of this area. In this same connection, the Resettlement Administration, and later the Farm Security Administration, have been of material help in moving many settlers off the sub-marginal areas and in providing necessary equipment and finances for those settlers located in areas where they have a chance of at least making a living and paying their obligations. Most of the land that has been bought by the Government under the land purchase program has been obtained at a price of from one to seven dollars an acre, and it is very unlikely that any of the O & C holdings will ever again be opened for homesteading.

One of the greatest problems in the administration of the O & C Lands is their very wide dispersion and inter-mingling with other public and private timber holdings. It appears that for years it was considered easier just to let the whole matter ride rather than to do anything about it, until in 1937, twenty-two years after the government had formally taken over the lands, Congress enacted a law designed to correct most of the evils embodied in previous laws.

O & C Lands by the Secretary of the Interior, and states in what manner they shall be handled. Those lands classified as timber lands or power site lands valuable for timber shall be so managed as to provide permanent forest production. The timber shall be sold, cut, and removed in conformity with the principles of sustained-yield 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 for recreational facilities. The act directed the Secretary of the Interior to determine the production capacity of these lands and to sell timber equal to but not in excess of the yearly production. To assist in the orderly administration of these lands, the area was to be subdivided into regions that were to be handled as single units, each unit applying the principle of sustained-yield. The boundary lines for each of these units were to be established in cooperation with the local vicinities, and consideration was to be given to established lumbering operations when necessary to protect the economic stability of dependent communities. One of the most important provisions of the act was that authorizing the Secretary of the Interior to make cooperative agreements with other federal or state forest administrative agencies or with private forest owners for the coordinating administration of these timbered areas.

The Act also provides for the classification of these lands as agricultural, and restores to homestead entry
or purchase any of the O & C Lands that are more suitable for agricultural use than for reforestation, stream flow protection, recreational or other public purpose. This classification may be initiated either upon application or upon the initiative of the Secretary of the Interior, and any of the lands previously classified as agricultural lands under the old act of 1916 may be re-classified as timber lands if found to be more suitable for that purpose. Grazing may be permitted at the discretion of the Secretary of the Interior, provided (1) that all money received on account of grazing leases shall be conveyed into the Oregon-California Land Grant Fund and be subject to distribution as other moneys in such fund, and (2) that the Secretary shall formulate rules and regulations for the protection and rehabilitation of such grazing lands.

In contrast with the previous law, this Act was very specific in giving the Secretary of the Interior power to formulate and execute necessary rules and regulations in all phases of the administration of these lands. However, these regulations shall conform with the requirements and practices of the State of Oregon insofar as they are consistent with the interests of the United States. The Act legally sets up a fund in the United States Treasury known as the "Oregon & California Land--Grant Fund", and all moneys received from the O & C Lands after March 1, 1938 were to go into this fund and be distributed annually as follows: (1) 50% to the counties in proportion to the
total assessed valuation of the O & C Lands in each of said counties, and the money is to be used as other county funds; (2) 25% to the counties in lieu of taxes; and (3) 25% to the Federal Government for the administration of the Act, and any part of this amount that was not used for administrative purposes shall go into the general fund of the United States Treasury.

It can readily be seen that this Act is a conscientious attempt to erase from the statutes of the United States one of the biggest jokes in public lands administration, and progress is being made under the Act.

At the present time, the O & C Lands have approximately fifty billion board feet of commercial forest valued at approximately fifty million dollars. Under the terms of the Act, three sub-divisions were set up with district offices in Eugene, Roseburg, and Medford, Oregon, with a district ranger in charge of each of these local offices. These district foresters are responsible to the Chief Forester, whose office is in the Customs House in Portland, Oregon. The general set-up is known as the Oregon & California Revested Lands Administration, and comes under the supervision of the General Land Office of the Department of the Interior. Now timber is being cut from these O & C Lands at the rate of approximately 500,000,000 board feet annually. At this rate, there is enough mature standing timber to last approximately one hundred years. At the end of this time it is calculated another crop of mature timber will be ready
for cutting. Logging operations are being administered more or less in conformity with lumber industry problems than with national forest regulations. Most of the revenue goes to the counties, and the cost of management must come out of one-fourth of the gross revenue. Because of the small portion of the gross receipts that go to the Federal Government, the personnel administering the O & C Lands must be rather limited, and the administration must be business-like and economizing. The organization is made up of a personnel possessing high technical qualifications for their job, and substantial progress has been made in establishing the O & C forest lands as a self-sustaining dividend-earning forest enterprise. Progress has been made along the lines of cooperation with intermingling forest interests to the end that individual logging and milling operations within definite districts may be put on a general self-sustaining basis. Additional study and plans will be made toward this end as time goes along if present tendencies are an indication.

Timber is sold insofar as possible on the selective basis which may take any of several recognized forms depending upon local conditions of the timber stand, topography, and other factors which combine to determine the form of selection most likely to produce the most satisfactory re-growth of the forest. In the over-aged stands of Douglas fir where selection by area is practiced, seed trees are reserved either as scattered individual specimens or in
small groups or blocks so situated that they can be protected from fire damage while serving to re-seed adjacent areas of cut-over land. Owing to the great surplus of old over-mature and decadent timber, sales are encouraged on areas where this class of timber predominates, and discouraged on areas where the timber is still young and vigorous. Sales conducted in this manner require careful estimating of timber values and appraisal of value by timber experts. In this work, accurate maps of forest types and conditions are essential.

In the O & C forests, the principal species of timber is Douglas Fir, which comprises about 85% of the total stand. The remainder includes chiefly Ponderosa pine, sugar pine, hemlock, spruce, red cedar, and Port Orford cedar. An important fraction of the remaining supply of the rare and valuable Port Orford cedar is to be found on the O & C Lands. The O & C forests contain approximately 16% of the saw timber in the Douglas fir region of Oregon, or 3% of the total remaining supply of saw timber in the United States.

In an effort to determine best uses of these lands, a recent reclassification was made and is sufficiently advanced to show a rough classification of present-day lands:

<table>
<thead>
<tr>
<th>Lands</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Timber lands</td>
<td>1,934,000</td>
</tr>
<tr>
<td>Cut-over</td>
<td>103,000</td>
</tr>
<tr>
<td>Deforested burns</td>
<td>219,000</td>
</tr>
<tr>
<td>Non-forest</td>
<td>270,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2,576,000</strong></td>
</tr>
</tbody>
</table>

A large portion of the cut-over area and de-forested burn areas are in the process of reforestation. Other portions, where natural reforestation appears to be uncertain,
are being reforested with nursery-grown seedlings planted by
the CCC. labor.

In summing up the activity of the recently formed
Oregon & California Revested Lands Administration, it may
well be noted that when the administration was first
established in 1937, sales of timber were at a low ebb, but
they expanded rapidly during 1939 and have gone forward at
approximately the sustained-yield rate of five million board
feet per year. The cost of timber sales and management
during 1939, based on the volume of timber sold, has averaged
approximately three and a half cents per acre per year.
Payments made to the counties in lieu of taxes during 1939
averaged twelve cents per acre. On the basis of the
2,576,000 acres, the counties received $309,000 in taxes,
which is approximately half the amount paid to the counties
by the Federal Government under the provisions of the
Stanfield Act. However, this amount represents one-third of
the total returns of the county. Another $618,000, which
is 50% of the total revenue from the sale of timber, also
went into the general funds of the counties. A successful
fulfillment of the plans of the new administration would
serve as a demonstration on an extensive industrial scale of
the financial soundness of sustained-yield forest
management.
BIBLIOGRAPHY

1. Data on "O" and "C" and Coos Bay Wagon Road Revested Grant Lands.
3. Forest Development -- Cameron.
4. Looters of the Public Domain -- Puter.
5. Oregon and California Land Grant Legislation.
9. Public -- No. 405, 75th Congress -- Chapter 376, Sess. I.
15. The Oregonian -- March 11, 1938.
16. The 0 & C Lands, Their Historical Background and Present Administration, by W. H. Horning, Chief Forester, O & C Revested Lands Administration. (Unpublished)
18. United States General Land Office Statement Showing Land Grants Made by Congress.
20. West Coast Lumberman -- February 1938.