

MEMO

To: Rep. Hooley
From: Grey
Subject: O&C Forest Transfer Act
Date: February 5, 1997

Objective: To provide for the conditional transfer of the Oregon and California Railroad Grant Lands, the Coos Bay Military Wagon Road Grant Lands, and related public domain lands to the State of Oregon.

History: The lands were originally conveyed by the US into private ownership in 1866 to promote construction of wagon road and railroad for military purposes and for economic development in State of Oregon.

The Railroad Grant Lands and Wagon Road Grant Lands are unique in the history of public lands in the United States, in that they were once conveyed into private ownership (1866) but were revested to the United States after the railroad and wagon road were built (1916), whereas most railroad and wagon road grant lands in other states were conveyed into permanent private ownership to provide the land and resource base upon which local economies were developed.

Since 1953, the O&C counties have voluntarily relinquished revenues from the Railroad Grant Lands to use for management and development of the lands, including fire protection, recreation facilities, roads, bridges, buildings, reforestation.

The lands have been managed by the Bureau of Land Management (BLM) and are reportedly capable of producing over a million board feet of timber per year.

Provisions:

1. The bill would have required a vote of assent vote by the Oregon Legislature.
2. State will establish a Mineral Rights Program -- Patented lands located within transferred lands would not be subject to the Act.
3. State would not sell or transfe any lands capable of timber production.
4. State would continue management of parks and recreation areas.
5. State would continue to prevent timber harvesting in previously established wilderness protection areas.

Revenue Distribution: 50% to O&C Counties in same proportion as outlined in 1937 Act.
50% to be utilized by State for management of the lands.

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HR 3769 IH

104th CONGRESS

2d Session

To provide for the conditional transfer of the Oregon and California Railroad Grant Lands, the Coos Bay Military Wagon Road Grant Lands, and related public domain lands to the State of Oregon

IN THE HOUSE OF REPRESENTATIVES

July 10, 1996

Mr. BUNN of Oregon introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the conditional transfer of the Oregon and California Railroad Grant Lands, the Coos Bay Military Wagon Road Grant Lands, and related public domain lands to the State of Oregon

[Italic->] Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [<-Italic]

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'O&C Forest Transfer Act.'

(b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Definitions.

Sec. 3. Findings.

Sec. 4. Transfer of railroad grant lands and wagon road grant lands to the State of Oregon.

Sec. 5. Qualifying resolution of assent.

Sec. 6. New Management Plans.

Sec. 7. Suspension of laws rendered obsolete by transfer of railroad grant lands and wagon road grant lands.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term 'Railroad Grant Lands' means the Oregon and California Railroad Grant Lands.

(2) The term 'Wagon Road Grant Lands' means the Coos Bay Military Wagon Road Grant Lands.

(3) The term 'O&C counties' means 18 counties in the State of Oregon within which the Railroad Grant Lands and Wagon Road Grant Lands are situated.

(4) The term 'controversed lands' means those parcels of the

Railroad Grant Lands that are included within the boundaries of the National Forest System and managed by the Department of Agriculture, subject to certain obligations to the O&C Counties under the Act of August 28, 1937 (43 U.S.C. 1181a-1181f).

(5) The term 'qualifying resolution of assent' means legislation adopted by the State of Oregon to effectuate the transfer of the Railroad Grant Lands, the Wagon Road Grant Lands and certain, related public domain lands pursuant to this Act.

(6) The term 'O&C Lands Fund' means the fund established by the State of Oregon pursuant to section 5(a)(5) of this Act.

(7) The term 'Secretary' means the Secretary of the Interior.

(8) The term 'blocking up' or 'blocked up' means the act or result of consolidation of ownership by two or more owners of multiple, scattered parcels to ownership of a smaller number of contiguous, adjoining larger parcels through trades or other such transfers between owners.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The Oregon and California Railroad Grant Lands and the Coos Bay Military Wagon Road Grants Lands were originally conveyed by the United States into private ownership by the Act of July 25, 1866 (as amended by the Acts of June 25, 1868, and April 10, 1869), the Act of March 3, 1869, and the Act of May 4, 1870, to promote, in conjunction with construction of a wagon road and railway for military and other national purposes, the economic development of the State of Oregon and its communities.

(2) The railway and the wagon road were build and the national purposes of the grants were satisfied. The lands were in private ownership and under the jurisdiction of the sovereign State of Oregon and were carried on the property tax rolls for up to 30 years. But conditions in the original grants intended to facilitate community development were not complied with and on February 14, 1907, the State of Oregon petitioned the Congress of the United States by legislative memorial to take steps necessary to compel action in furtherance of the local purposes of the original grants.

(3) The Railroad Grant Lands and Wagon Road Grant Lands were revested to the United States by the Act of June 9, 1916 (39 Stat. 218), and the Act of February 26, 1919 (40 Stat. 1179), for the purposes of management and redistribution to promote the original goal of economic development in the O&C Counties.

(4) The United States ceased reconveying the grant lands back into private ownership and, instead, Congress placed the Railroad Grant lands by the Act of August 28, 1937 (43 U.S.C. 1181a-1181f), and the Wagon Road Grant Lands by the Act of May 24, 1939 (43 U.S.C. 1181f-1181f-4), into management for the

sustained yield of timber, with minimum harvest levels and the sharing of timber revenues with local governments, to provide for long-term community stability in the O&C Counties, while also providing for conservation of watersheds and recreational opportunities.

(5) The Railroad Grant Lands and Wagon Road Grant Lands are unique in the history of public lands in the United States, in that they were once conveyed into private ownership but were reverted to the United States after the railroad and wagon road were built, whereas most railroad and wagon road grant lands in other states were conveyed into permanent private ownership to provide the land and resource base upon which local economies were developed.

(6) All of the Wagon Road Grant Lands and most of the Railroad Grant Lands are managed within the Department of the Interior, but the controverted lands were included within the boundaries of the National Forest System upon their formation by proclamations of the President and are managed within the Department of Agriculture.

(7) Beginning in 1953 and thereafter, the O&C Counties voluntarily relinquished revenues from the Railroad Grant Lands to which they were otherwise entitled so that the Secretary of the Interior could use such revenues for the management and development of the Railroad Grant Lands.

(8) As a result of the voluntarily relinquishment of revenues, the O&C Counties have invested funds, the 1996 value of which is approximately \$2,000,000,000, in fire protection, recreation facilities, roads, bridges, buildings, reforestation, and other projects to enhance the usefulness and productivity of the Railroad Grant Lands, all with the expectation that their investment would be repaid through permanent management of the Railroad Grant Lands for the sustained yield of timber and future timber harvests and other purposes authorized by the Act of August 28, 1937 (43 U.S.C. 1181a-1181f).

(9) As a result of the nature of the original grants, the Railroad Grant Lands and the Wagon Road Grant Lands are scattered in a checkerboard pattern across the O&C Counties, interspersed primarily with private and State-owned lands and scattered parcels of other Federally owned timberlands managed within the Department of the Interior by the Bureau of Land Management in coordination with the Railroad Grant Lands.

(10) The scattered checkerboard pattern of Federal ownership of the Railroad Grant Lands and Wagon Road Grant Lands results in economic inefficiencies in the management of such lands and the interspersed private and State-owned lands and interferes with coordinated management across the landscape to achieve conservation goals.

(11) The Railroad Grant Lands and the Wagon Road Grant Lands were managed by the Secretary of the Interior for 50 years primarily for the sustained yield of timber as required by law, but such lands are not now being managed for that purpose.

(12) The Railroad Grant Lands, Wagon Road Grant Lands and related federally owned timberlands managed by the Bureau of Land Management are biologically capable of producing in excess of 1,600,000,000 board feet of timber per year on a sustained-yield basis to meet local and national needs.

(13) In 1995, the Legislative Assembly of the State of Oregon petitioned Congress to pass such legislation as may be necessary to transfer title to the Railroad Grant Lands to the State of Oregon, subject to such terms and conditions as are necessary to assure management in perpetuity for the sustained yield of timber to stabilize and support the O&C counties, conserve watersheds, and provide recreation opportunities to all citizens.

(14) The State of Oregon is actively engaged in the management, for itself and for the benefit of others, of large tracts of timberland and possesses the regulatory infrastructure and technical, scientific, and management expertise to efficiently and competently manage additional timberlands in a manner that effectively balances environmental protection with economic necessity. Oregon law prohibits the export of timber from lands owned by the State of Oregon, thereby helping to maintain the supply of raw materials for domestic processing.

(15) The State of Oregon is capable of managing the Railroad and Wagon Road Grant Lands efficiently while maintaining a high level of wildlife and ecosystem protection. State management of these lands would enable the demonstration of the principles and promise of adaptive forest and watershed management in areas with an intricate mixture of public and private land. Oregon can be a laboratory for finding creative ways of managing forests and watersheds under multiple owners to meet a balance of environmental and commodity goals.

(16) There is a strong national interest in maintaining a stable and dependable domestic timber supply, particularly from lands, such as the Railroad Grant Lands and Wagon Road Grant Lands, already dedicated to that purpose.

(17) It is in the national interest to reduce the size of the Bureau of Land Management, reduce the burden on the Federal Treasury of managing the Railroad Grant Lands, Wagon Road Grant Lands and related federally owned timberlands, and transfer control of and land management authority over such lands to the most local level of government capable of effectively and efficiently managing the lands.

(18) There is a strong national interest in protecting and

conserving all of the natural resources, including fish and wildlife, found on the Railroad Grant Lands, Wagon Road Grant Lands, and related federally owned timberlands.

(19) National, State, and local interests both public and private, and both economic and ecologic, would be best served if the checkerboard pattern of property ownership in the O&C counties in the area of the Railroad Grant Lands and Wagon Road Grant Lands was transformed through a process of blocking up ownerships.

(20) National, State, and local interests in the Railroad Grant Lands and the Wagon Road Grant Lands would be best served if these lands and related federally owned timberlands managed by the Bureau of Land Management were transferred to the State of Oregon, subject to terms and conditions necessary to assure their management consistent with the intent of this Act.

SEC. 4. TRANSFER OF RAILROAD GRANT LANDS AND WAGON ROAD GRANT LANDS

TO THE STATE OF OREGON.

(a) TRANSFER REQUIRED- Within three years following receipt of a qualifying resolution of assent that satisfies the conditions specified in section 5(a), and provided that the qualifying resolution of assent is filed on or before December 31, 1999, the Secretary of the Interior shall transfer to the State of Oregon all right, title, and interest of the United States in and to all of the real property described in subsection (b), including the resources and water rights associated with such property, if any. The transfer shall also include all data, documents, draft plans, plans, maps, agreements, and all other papers or electronically stored information relating to ownership or management of such real property.

(b) DESCRIPTION OF REAL PROPERTY SUBJECT TO TRANSFER- The real property to be transferred to the State of Oregon under subsection

(a) shall consist of the following:

(1) The Railroad Grant Lands, consisting of all lands revested to the United States pursuant to the Act of June 9, 1916 (39 Stat. 218), but not including the controverted lands.

(2) All lands acquired by the United States after June 9, 1916, including the Wagon Road Grant Lands, and managed within the Department of the Interior by the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a-1181f).

(3) All federally owned lands managed within the Department of the Interior by the Bureau of Land Management, classified as timberland, and lying within one or more of the O&C counties.

(4) The land and structures both owned by the United States in the State of Oregon and utilized, as of the date of enactment of this Act, by the Bureau of Land Management as district or resource area offices or for other administrative purposes in the Bureau of Land Management's Medford District,

Roseburg District, Eugene District, Salem District, Coos Bay District, and the Klamath Resource Area of the Lakeview District.

(5) All office equipment, motor vehicles, and other rolling stock and supplies held in inventory by the Bureau of Land Management as of the date lands are transferred by this Act in the districts and resource areas described in paragraph (b)(4) above and utilized or intended to be utilized by the Bureau of Land Management in the administration, management, or maintenance of lands transferred by this Act.

(c) PREPARATIONS FOR TRANSFER- Beginning on the date of the enactment of this Act, the Secretary shall take all steps necessary to prepare for the land transfer required by subsection (a). Not later than 90 days after such date, the Secretary shall prepare legal descriptions and a map or maps of all real property to be transferred and file such descriptions and maps with the Governor of the State of Oregon. Such descriptions and maps shall be held in the Office of the Governor or in such location designated by the Governor for public review. The Secretary may correct or adjust such descriptions and maps after consultation with the O&C counties and the Governor of the State of Oregon to ensure that such descriptions and maps accurately reflect the lands to be transferred. The Secretary is not required to conduct a survey of any lands prior to transferring such lands under this Act.

(d) EFFECT OF TRANSFER ON SPECIAL REVENUE-SHARING REQUIREMENTS-

If the transfer of lands under subsection (a) is completed prior to October 1, 2003, the O&C counties shall nevertheless continue to receive the special payment amounts under section 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 43 U.S.C. 1181f note) or any amendments thereto through September 30, 2003, but in any event such payments under that Act will cease after payments for fiscal year 2003 are complete.

(e) TIME FOR TRANSFER- The Secretary shall complete the land transfer required by subsection (a) not later than three years after the date on which the Secretary receives a qualifying resolution of assent.

(f) NOTICE OF TRANSFER TO CONGRESS- Upon completion of the land transfer required by subsection (a), the Secretary shall submit to Congress written notice describing the lands subject to the transfer. The notice shall include a copy of the qualifying resolution of assent and a copy of the final legal descriptions and maps prepared under subsection (c).

SEC. 5. QUALIFYING RESOLUTION OF ASSENT.

(a) CONDITIONS PREREQUISITE TO TRANSFER- To satisfy the conditions necessary for transfer of the Railroad Grant Lands, Wagon Road Grant Lands, interspersed federally owned timberlands managed by the Bureau of Land Management, and related property under section 4, the resolution of assent by the legislature of the

State of Oregon must be filed with the Secretary on or before December 31, 1999, and must provide for management by the State of Oregon consistent with the following terms:

(1) That the State of Oregon has taken all steps necessary to receive title to the lands conveyed by this Act, hold such lands in trust for the financial benefit of the O&C counties through sustained-yield timber production, and manage such lands in accordance with such trust obligations and for the benefit of the people of Oregon and of the United States.

(2) That, upon receipt of title, the State of Oregon through its Oregon Board of Forestry and Oregon Department of Forestry or the successors to such Board and Department will manage the lands conveyed by this Act for permanent timber production under the principle of sustained yield for the purpose of contributing to the economic stability of local communities. While providing a permanent source of timber supply, the State of Oregon shall protect watersheds and fisheries, regulate stream flows, provide wildlife habitat and recreational opportunities, and institute a program that provides for blocking up of the lands through trades and other transfers with willing private and other public landowners within the O&C Counties.

(3) That, in managing the lands conveyed by this Act for the purposes set forth in paragraph (2), the State of Oregon will be guided by principles of good stewardship based on the best verifiable scientific information available at the time.

(4) That, prior to January 1, 2004, management by the State of Oregon of the transferred lands shall be pursuant to a State management plan that is consistent with the standards and guidelines of the Northwest Forest Plan adopted on April 13, 1994, or other Federal land management plans in effect at the time of transfer. Beginning January 1, 2004 and thereafter, management by the State of Oregon in accordance with the objectives of this Act will be conducted under a habitat conservation plan developed and approved pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) so as to coordinate with management on lands remaining in Federal ownership.

(5) That a fund has been established in the treasury of the State of Oregon entitled the 'O&C Lands Fund,' into which all gross revenues derived from timber sales or otherwise produced from the lands conveyed by this Act or subsequently exchanged lands are deposited.

(6) That, prior to January 1, 2004, disbursements will be made annually to the O&C counties, with disbursements to individual counties made in the same proportion that each of them has received disbursements of revenues under the Act of

August 28, 1937 (43 U.S.C. 1181a-1181f). Annual disbursements prior to January 1, 2004, to the O&C counties from the O&C Lands Fund shall be the lesser of 50 percent of gross revenues deposited in the O&C Lands Fund or the amount that, when taken together with payments received under section 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 43 U.S.C. 1181f note), the combined total payments are equal to the amount received by the O&C counties under section 13983 of the Omnibus Budget Reconciliation Act of 1993 during the year in which the qualifying resolution of assent is submitted to the Secretary. Prior to January 1, 2004, all of the revenues deposited in the O&C Lands Fund remaining after annual payments to the O&C counties will be utilized by the State of Oregon for management of the lands conveyed by this Act for the purposes set forth in paragraphs (2) and (3).

(7) Beginning January 1, 2004, and thereafter, 50 percent of gross revenues deposited in the O&C Lands Fund will be disbursed annually to the O&C counties, with disbursements to individual counties made in the same proportion that each of them has received disbursements of revenues under the Act of August 28, 1937 (43 U.S.C. 1181a-1181f). Beginning January 1, 2004, and thereafter, the remaining 50 percent of gross revenues deposited in the O&C Lands Fund will be utilized by the State of Oregon for management of the lands conveyed by this Act for the purposes set forth in paragraphs (2) and (3), with any

balance remaining thereafter available to the State for other public purposes at the discretion of the State. Payments to the O&C counties from the O&C Lands Fund shall not serve as a basis for offsetting or reducing payments or revenue distributions by the State to any O&C county under any other State program or legislation.

(8) That the State will accept title subject to all valid existing rights and will assume the obligations of the United States under the terms of any lease, contract, permit, easement, license or other valid binding agreement outstanding between the United States and any other party relating to the lands conveyed by this Act as of the date title is transferred to the State.

(9) That the State will administer a mineral rights program applicable to any person who, as of the date of enactment of this Act has filed an unpatented mining claim, filed a patent application, or received a first-half patent certificate. Patented lands located within lands transferred pursuant to this Act shall not be subject to this Act, except for the protection of access and other such rights as provided for in paragraph 8 of this section. The State program required by this paragraph will insure that surface, subsurface and access rights of unpatented mining claims, potentially eligible

patentees and private patented lands are no less favorable than under Federal law as of January 1, 1996, and that holders of all first-half final patent certificates as of the date of enactment of this Act will be awarded full patents not later than two years after the notice required by section 4, subsection (f) of this Act, and that all unpatented mining claims and patent applications filed as of the date of enactment of this Act will carry the same rights as, and be subject to requirements that are no less favorable to claimants than under Federal law as of January 1, 1996. The State program established pursuant to this paragraph shall recognize all unpatented mining claims filed as of the date of enactment of this Act for so long as the claimant performs assessment work or pays holding fees and meets other requirements, if any, as provided by Federal law as of January 1, 1996. Any fees charged under the State program required by this paragraph shall be paid to the State.

(10) That, in the case of lands conveyed under this Act that are capable of commercial production of timber, the State will not sell, transfer, or otherwise dispose of such lands, except in cases of mineral patents or in trades or exchanges for lands of equal value as timberlands in a program of blocking up to aid in consolidating ownerships to increase the efficiency and effectiveness of management for economic and ecologic purposes.

(11) That the State will continue to manage as parks, campgrounds, and other developed recreation sites and facilities any lands conveyed by this Act that are designated as parks, campgrounds, and other developed recreation sites and facilities as of January 1, 1996.

(12) That, notwithstanding any other provision of this Act, the State of Oregon will reserve from entry for commercial timber production any lands transferred by this Act that are identified in and designated by Federal statute as of January 1, 1996 as areas reserved from entry for commercial timber production including, but not limited to, wild and scenic river areas and wilderness areas.

(13) That the State will, except as may be inconsistent with paragraphs 8 and 9 above, hold the lands conveyed by this Act open and accessible for hunting, fishing, hiking, swimming, boating, trapping, rockhounding and other recreational uses in accordance with applicable State and Federal laws by all the people of the State and of the United States.

(14) That the State has established a program giving preference in employment within the Oregon Department of Forestry to any person employed by the Bureau of Land Management within the State of Oregon as of the date a qualifying resolution of assent is filed with the Secretary and whose employment by the Bureau of Land Management

terminates on or before January 1, 2004 as a result of the land transfer provided for in this Act, and shall grant an interview to any such person who requests one.

(b) Right of Reentry-

(1) Notwithstanding any other provision of law, the United States shall retain a right of reentry until January 1, 2025, in all lands transferred under this Act and held by the State of Oregon.

(2) Such right of reentry of the United States shall ripen if, upon petition for review by nine or more of the O&C counties or upon request for review from the President of the United States, the Secretary determines that the land conveyed by this Act is not being managed in accordance with the conditions specified in subsection (a), and such noncompliance is not cured within two years following such determination. Any determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(3) The ripened right of reentry retained by the United States shall vest and all right, title and interest in lands and other property transferred under this Act shall revert to the United States only if--

(A) the Secretary files a declaration of reentry within three months after the two-year period provided for in subsection (2) with the Governor of the State of Oregon; and

(B) the Secretary records a declaration of reentry in the office of the county recorder in each of the O&C counties within three months after the filing required under paragraph (A) and prior to January 1, 2050.

(4) As a condition of reentry pursuant to subsections (2) and (3), the United States shall manage the lands thereafter for permanent timber production for the benefit of local communities, with revenues derived therefrom to be distributed in the same manner provided for by the Act of August 28, 1937 (43 U.S.C. 1181a-1181f).

(5) Unless exercised and perfected sooner pursuant to subsections (2) and (3), the right of reentry shall expire on January 1, 2050.

SEC. 6. NEW MANAGEMENT PLANS.

(a) If a qualifying resolution of assent has been filed with the Secretary as provided in section 5 of this Act, the Secretary of the Interior and Secretary of Agriculture shall, not later than January 1, 2001, commence preparation of amendments to the Northwest Forest Plan adopted April 13, 1994, or other Federal land management plans in effect as of January 1, 2001, which amendments shall anticipate the transfer of land as required by this Act and subsequent State management, and which amendments shall become effective on January 1, 2004 on lands currently under the Northwest Forest Plan that remain in Federal ownership on and after January

1, 2004.

SEC. 7. SUSPENSION OF LAWS RENDERED OBSOLETE BY TRANSFER OF
RAILROAD GRANT LANDS AND WAGON ROAD GRANT LANDS

(a) DESCRIPTION OF SUSPENDED LAWS; DATE OF SUSPENSION- Provided that the Secretary of Interior has submitted to Congress the notice required by section 4(f), the following laws are suspended effective January 1, 2004, and are of no further force or effect unless and until the right of reentry ripens and vests and title to transferred lands reverts to the United States pursuant to section 5(b) of this Act:

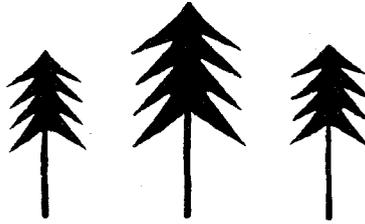
- (1) The Act of August 28, 1937 (43 U.S.C. 1181a-1181f).
- (2) The Act of May 24, 1939 (43 U.S.C. 1181f-1181f-4).
- (3) The Act of June 24, 1954 (43 U.S.C. 1181g-1181i),
concerning the controverted lands.

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February 24, 1997

MAR 03 1998

Ms. Sylvia Baca, Acting Director
Bureau of Land Management
U.S. Department of Interior
1849 C Street N.W.
Washington, DC 20240

Re: Proposed Law Enforcement Rules; RIN 1004-AC30

Dear Ms. Baca:

The Association of O & C Counties, consisting of 17 county governments in western Oregon, has serious reservations regarding the proposed law enforcement regulations published on November 7, 1996 in the Federal Register (61 Fed Reg 57605). We request that adoption be delayed until the BLM completes a more thorough analysis of the proposed rules and they have been reviewed by the House Subcommittee on National Parks, Forests and Lands.

We have considerable doubt about the scope and meaning of many of the proposed rules. Among our many concerns are the following:

1. FLPMA requires "maximum feasible reliance" on local authorities for law enforcement on BLM lands. 43 USC § 1733(c). FLPMA anticipates BLM-administered law enforcement only in the absence of a cooperative agreement or contract with local law enforcement authorities. The proposed rules appear to disregard this statutory requirement and would allow for displacement of local authority at the whim of the BLM. It makes sense for the BLM to provide law enforcement when local authorities are unable or unwilling to do so. It makes no sense at all for the BLM to create its own police force when local authorities are willing and able to do the job. In most cases, BLM law enforcement would increase costs for both the federal government and the local authorities. It would also create jurisdictional confusion and the inevitable turf battles that arise when federal, state and

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local agencies are doing essentially the same job shoulder-to-shoulder. On the whole, we would expect an increase in costs and a decline in the quality of law enforcement.

2. Proposed §§ 8372.0-7 and 9260.7 would extend BLM law enforcement to "activities on or having a clear potential to affect water bodies on or adjacent to BLM lands." This could lead to an extension of BLM law enforcement to private and other non-BLM lands. BLM lands in western Oregon consist of about 2.4 million acres mostly in a "checkerboard" pattern of BLM ownership with interspersed private lands and lands owned by the state and other public, non-BLM entities. Throughout this checkerboard of ownerships run hundreds of rivers and streams. The proposed rules could be construed to extend BLM law enforcement to the surface of all such streams and rivers and to non-BLM ownerships adjacent to such streams and rivers, including entire watersheds many miles upstream from BLM-owned land. We have serious doubts about the BLM's authority to extend its jurisdiction in this fashion. Even if such an extension of federal jurisdiction is authorized, we question the wisdom of extending federal authority into areas traditionally under the jurisdiction of state and local law enforcement.

3. The proposed rules indicate that fines up to \$100,000 are authorized for violations of the proposed rules. The Federal Land Management and Policy Act ("FLPMA"), 43 USC § 1733(a), limits fines to \$1,000, and the proposed rules are proffered under the authority of FLPMA. We therefore question the legal authority of the BLM to impose any fine in excess of \$1,000 for violation of any of its proposed rules.

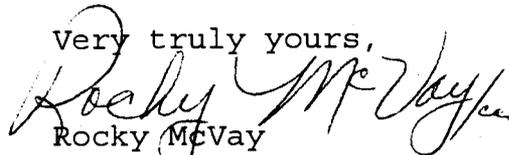
4. Proposed rules § 9262.7(b) and § 9266.25 appear to prohibit the discharge of firearms across or on water bodies. If this is a correct interpretation of the proposed rules, it could effectively eliminate water fowl hunting on BLM lands.

5. Proposed rule § 9265.70 establishes prohibitions on various conduct insofar as the conduct relates to diversion of "water resources owned by or reserved to the U.S." This phrase is undefined, so the scope of this proposed rule is unclear. It is also unclear whether the conduct would be prohibited as a matter of federal law whether it occurs on federal land or upstream on private lands. If the intent is to affect the diversion or transportation of water on non-federal lands, the rule represents a departure from traditional deference to state law concerning water resources.

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The above described issues are representative of the concerns we have. We urge you to delay adoption of the proposed rules and to undertake a more thorough analysis of their impact. We also urge you to reconsider your determinations pursuant to Executive Orders 12612 and 12866 and the Regulatory Flexibility Act. We believe that a careful analysis will demonstrate that the proposed regulations would, in fact, impose new requirements and burdens on small entities. We also believe the proposed rules have serious federalism implications requiring preparation of a Federalism Assessment, and that the proposed rules constitute a significant regulatory action requiring review by OMB.

Very truly yours,



Rocky McVay
Executive Director
Association of O & C Counties

cc: Bureau of Land Management - Administrative Record
Honorable Ron Wyden
Honorable Gordon Smith
Honorable Bob Smith
Honorable Earl Blumenauer
Honorable Peter DeFazio
Honorable Darlene Hooley
Honorable Elizabeth Furse
Honorable James Hansen
Honorable Don Young
Honorable Helen Chenoweth
All Oregon Counties
Association of Oregon Counties
Mr. Peter Green



BOARD OF COMMISSIONERS

Kent Daniels, Commissioner

April 16, 1997

REPRESENTATIVE DARLENE HOOLEY

Dear Representative Hooley:

I greatly appreciated having an opportunity to visit with you when I was in Washington DC last month. As you will remember, I shared with you my concerns regarding the proposed transfer of 2.4 million acres of Federal O&C lands to the State of Oregon, as well as other concerns regarding natural resource issues in our State.

However, from conversations I had with staff of and members of Oregon's Congressional delegation (as well as others), it appears very unlikely new legislation will be introduced regarding the transfer of the O&C lands to the State. I have learned since my return that the Association of O&C Counties is now planning yet another approach. Having absorbed the failure of their attempts to effectuate an outright transfer, the Association is reportedly assembling a team of hand-picked scientists who are expected to argue that more timber can be cut on O&C lands than the scientists who worked on the Federal Forest Plan determined. This approach maintains BLM management of the lands in question (those O&C lands managed by USFS were not included in transfer proposals) and focuses simply on a significant increase in harvest.

I am opposed to any increase in harvest which puts our wildlife, our drinking water supplies, our fishing industry, our recreational industry, and other benefits of the O&C lands at further risk.

I look forward to keeping you informed on these issues as they arise. Please do not hesitate to call on me for additional information.

Sincerely,

Kent Daniels
Benton County Commissioner

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