

**AGREEMENT FOR USE OF CERTAIN STATE FORESTRY DEVELOPMENT
ACCOUNT FUNDS**

This Agreement is made between: fifteen Oregon Counties (Tillamook, Clatsop, Benton, Clackamas, Columbia, Coos, Douglas, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Polk and Washington), as represented by the Chair of the Council of Forest Trust Land Counties, ("the Counties"), and the State of Oregon, by and through the Oregon Department of Forestry ("ODF"), as represented by the State Forester, ("Forestry").

WHEREAS, there presently exists within the State Forestry Development Account ("SFDA") monies derived from the percentages of revenues set out in ORS 530.110(1)(c) and (2)(d); and

WHEREAS the Oregon Legislature's transfer of \$10 million from the SFDA to the general fund via HB 2148 was the subject of litigation in *Tillamook County v. State of Oregon*, Tillamook County Circuit Court No. 04-2118, Court of Appeals Nos. A130264 and A132265); and

WHEREAS, ORS 530.110(3) limits the use of SFDA monies "exclusively for the redemption of Oregon forest development revenue bonds and payment of interest thereon, for the acquisition, development and management of forestlands and for such other purposes as are necessary in carrying out ORS 530.010 to 530.110"; and

WHEREAS, under Section 7 of SB 994 (2007), ODF has been authorized by statute to use \$3.65 million from the SFDA for ODF's fire protection program, which in part is outside the purposes set forth in ORS 530.110(3); and

WHEREAS, Section 8 of SB 994 (2007) amends ORS 530.110(3) to allow expenditures from the SFDA outside the authorized purposes set forth in ORS 530.110(3), provided that the counties from which the state has acquired lands without cost to the state or pursuant to ORS 530.130 consent in advance in writing; and

WHEREAS, the Counties and the State of Oregon agree to disagree on whether Section 7 of SB 994 (2007), which appropriates \$3.65 million for certain fire protection purposes, requires the consent of the counties, and whether a bilateral agreement is required as part of that consent; and

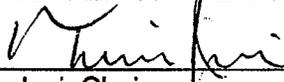
WHEREAS, the Counties and Forestry are desirous of working together toward common goals, in light of the historic relationship between Forestry and the Counties;

NOW THEREFORE, on the basis of the foregoing recitals, the Counties and Forestry mutually covenant and agree as follows:

1. The Counties consent to ODF's use of the \$3.65 million appropriated by Section 7 of SB 994 (2007) for ODF's fire protection program in the 2007-2009 biennium.
2. By entering into this agreement, the Counties and Forestry do not waive their respective positions on the legal issues of whether Section 7 of SB 994 (2007), which appropriates \$3.65 million for certain fire protection purposes, requires the consent of the counties, and whether a bilateral agreement is required as part of that consent.
3. When the State Forester prepares a budget for ODF for the 2009-2011 biennium, ODF's agency budget request forwarded to the Governor will not include any recommendation for using SFDA monies outside the purposes authorized by ORS 530.110(3), without first obtaining the concurrence of the counties.
4. The \$6.4 million appropriated to ODF by HB 2054, described in the accompanying Legislative Fiscal Office (LFO) report as "Package 807," which is identified as "providing one-time resources to offset project costs on timber sales," will be used by ODF only on timber sales furnishing revenues to the Counties. ODF will not use those appropriated funds on Common School Fund timber sales. Equitable revenue distribution to counties will be a decision factor in operational planning.
5. This agreement is effective through the 2007-2009 biennium and expires on June 30, 2009.
6. The signatories below represent that each is authorized to contract on behalf of the Counties and Forestry, respectively.

DATED this 19 day of SEPTEMBER 2007.

ON BEHALF OF THE COUNTIES:



Tim Josi, Chair
Council of Forest Trust Counties

ON BEHALF OF FORESTRY:

Marvin Brown, State Forester
Oregon Department of Forestry