

FTLAC
Advice to Board of Forestry
November 6, 2008

Tim Josi, Chair
Forest Trust Lands Advisory
Committee

Purpose of the lands defined within Oregon's court system

JUDGE ERSTGAARD – April 18, 1984 (Crabtree)

- A trust relationship exists between the parties.
- The state has a fiduciary responsibility to its partners, which are in the nature of a trustee obligation.

SUPREME COURT – December 30, 1986 (Crabtree)

- Enforceable rights were created. "state admits that it 'actively promoted the benefits of county participation in the program.'

JUDGE BARRON – September 12, 2005: (FDF)

- A 70-year history exists where all actions taken by the state have been with the consent of the counties.
- The statutory scheme envisions management of the forestlands to achieve the highest return to the counties.

The State's Duties toward the Counties With
Respect to Forest Trust Lands in Oregon
By Schwabe, Williamson & Wyatt

"The State owes heightened duties toward the Counties":

"Based on Oregon case law, the statutes governing the Forest Trust Lands, the consensual nature of the parties' relationship in the past, and common-law principles governing the attachment of fiduciary obligations."

The State's Duties toward the Counties With
Respect to Forest Trust Lands in Oregon
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"The forest Trust Lands were intended to be held in trust for the Counties."

"Additionally, the purpose of the land grants and the obligations assumed by the State impose trustee duties on the State."

The State's Duties toward the Counties With
Respect to Forest Trust Lands in Oregon
By Schwabe, Williamson & Wyatt

"The State's obligation toward the Counties include the duty of loyalty and the duty to best promote timber production on forest Lands."

If the Board does not take steps to change the FMP as further detailed in the next slide, then the Trust Counties believe the duty of loyalty will not be met.

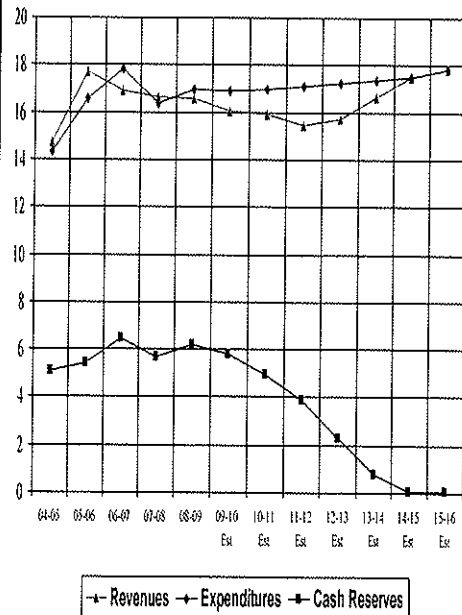
Our position has not changed:

At the CFTLC 4/14/06 meeting:

- The trade-offs embodied within the FMP are too high and don't meet the State's trustee obligation.
- That Structure Based Management needs to be significantly modified in order to meet the social and economic requirements of the GPV Rule, *as established by the 2001 BOF.*
- A responsible FMP would result in a harvest level that was no less than 90% of the maximum allowed under the current Forest Practices Act.

Tillamook County General Fund forecasting

Millions



Why this is so important to us:

- We are faced with laying off 20-30 employees over the next 5 years.
- And we will exhaust our reserves.

This is due primarily to reductions in State Timber Revenue

We have one of the lowest property tax rates in the State

We have no recourse other than cutting services.

In the end we lose family wage jobs in both the public and private sector.

FTLAC is disappointed in the results of the analysis

- Harvest levels do not meet expectations
- Depiction of FMP is troubling
- The inventory adjustment is troubling

This is not the FMP the Trust Counties agreed to.

Harvest levels do not meet expectations

- We welcomed the BOF Nov 07 decision.
- However, the Nov 08 Performance Measure results do not come close to the harvest objectives
- Yet they easily meet structure objectives

This suggests an inappropriate bias in the approach to planning – structure at the expense of revenue.

Depiction of FMP is troubling

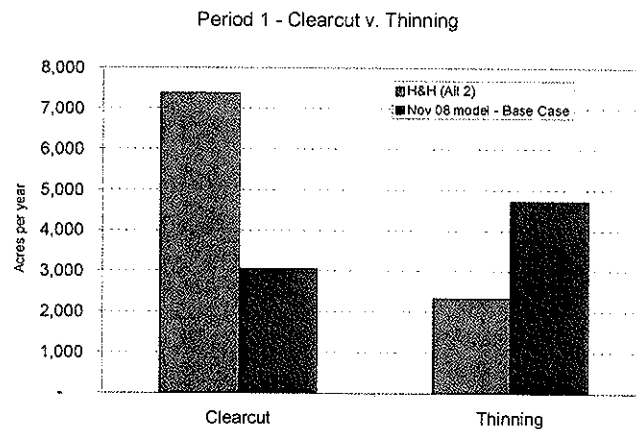
- Base Case is just 144 MMbf
- This is more like Measure 34 than like the FMP
- FTLAC **did not** support a version of SBM that:
 - Establishes large, long term reserves
 - Puts priority on non-revenue uses of State Forest Trust Lands
 - Keeps harvest levels well below the productive potential

Tillamook inventory adjustment is troubling

- ODF has spent millions of dollars to update the inventory
- H&H and this model was designed to use new, more reliable inventory
- Now ODF makes an across the board 33% reduction in outputs.
- That is a decision costing \$5-7 million a year, based on very little data and almost no analysis.

Other aspects of the modeling are troubling

- Thinning v. clear cut
- SNC v. Landscape design



There is little understanding of the fiduciary role of the Forest Trust Lands

- No discussion of Net Present Value of Base Case or PM runs
 - Performance Measure #1 addresses return on asset value consistent with PM #3, which is an increase in revenues by 30-35% within the next 10 years.
 - The return in 2007 was 2%
 - and in 2008 is just 1.6%.
 - We believe the Base Case and the Performance Measure runs will both fall far below a reasonable return of 4 to 6%.

FTLAC advise to the BOF

- Drop the HCP
- All aspects of the FMP must be measured against fiduciary obligations when considering:
 - Designation and role of Landscape Design
 - Species of concern
 - Riparian buffers
 - Downed wood, snags, etc.
 - Structure targets: both short and long term
- Data samples need to be updated
- Model assumptions need to be revised after consultation with the Trust Counties.

FTLAC advice to BOF

- We can't support the Departments recommendations because the trajectory toward the 30-35% revenue target is unobtainable with this FMP.
- Direct ODF to create a workplan to revise the FMP.
 - **That meets the fiduciary responsibility of the Trust Counties.**
- If the BOF is unwilling to do this, then a case needs to be made as to why the Trust should remain intact.

What will FTLAC do?

- Investigate inventory adjustment
- Review modeling procedures & constraints.
- Continue to remind BOF and ODF about fiduciary duties
- Support ODF budget requests for activities that increase revenues to State Forest Trust beneficiaries