

Oregon Forest Land Classification Act

Administrative Policy
for
Controlled Burning
in
Western Oregon

Bulletin No. 12



OREGON STATE BOARD OF FORESTRY

N. S. ROGERS, State Forester

Salem, Oregon

1946

**OREGON
FOREST LAND CLASSIFICATION ACT**

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Bulletin No. 12

Prepared under the Direction
of the State Forester

By

HOMER LYON
Reforestation Director

This Bulletin supersedes Administrative Circular
No. 2, December, 1940

OREGON STATE BOARD OF FORESTRY
Salem, Oregon
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FOREWORD

Rapid expansion of the livestock industry in Western Oregon through the use of adaptable cut-over and burned over forest lands has required that a definite policy be established relative to their administration.

The administrative policy contained in this handbook was approved by the Oregon State Board of Forestry at its regular meeting November 30, 1940, and later revised in May, 1946. It will serve as an outline for the guidance of those agencies and individuals engaged in the preparation of suitable forest lands for the grazing of livestock.

The problem of keeping our cut-over lands productive is a serious one. Idle lands produce no tax revenue for the counties nor will they help support our rapidly increasing population. Better utilization of our land resources is imperative if we are to advance economically.

The basic policy outlined in the following pages will serve as a guide for controlled burning on lands classified as grazing lands under authority of the Forest Land Classification Act. This procedure has been practiced in many counties of Oregon and has proven very satisfactory.

N. S. ROGERS
State Forester

I

BACKGROUND OF THE FOREST LAND CLASSIFICATION ACT

In 1937 legislation was enacted to solve a new problem arising from the rapid expansion of the livestock industry in Western Oregon. Under this act, provisions were made to classify forest lands in a manner commensurate with the most practical land use and to effect a working principle between the livestock practices and the forest protection policies.

Ordinarily, the use of fire is prevented and restricted in forested and cut-over areas since it is not compatible with the establishment of a new forest crop. However, under present range development activities, the use of fire in the initial improvement stage on grazing areas appears to be a necessary tool.

As provided by this law, forest land classification committees may be established by the County Court of each county. The Committee consists of five (5) members, three being appointed from local forest and grazing landowners and the fourth and fifth members representing the State Agricultural Experiment Station and the State Board of Forestry respectively. The Committee elects a chairman and secretary from its members and is authorized to initiate such regulations to govern its organization as consistent with the act. The representative of the Board of Forestry usually arranges for the necessary forms, performs the legal work, prepares publication of orders, maps and other details. Interested landowners desiring hearings before the Committee must initiate such action by contacting the chairman of the Committee or the local County Court.

Once established, the Committee investigates and studies all forest land within the County and determines which of such land is suitable primarily for the production of timber, joint forest-grazing use, or suitable primarily for grazing or agriculture.

Forest lands included in each category are listed as follows:

Class 1, or timber class, includes all forest land primarily suitable for the production of timber.

Class 2, or timber and grazing class, includes all forest land primarily suitable for joint use of timber production and the grazing of livestock. This joint use may be either permanent or temporary joint use.

Class 3, or agricultural class, includes all forest land primarily suitable for grazing or other agricultural uses.

The act empowers the Board of Forestry to administer forest laws on lands so classified in a manner consistent with the primary or major use of the land, but does not preclude lowering of protection standards on forest and range lands as established under law by the Board.

The following administrative policy of controlled burning has been initiated by the Forestry Department to effect a cooperative working agreement between forest land owners and livestock interests. Its major objective is designed to return mutual benefits from a long time land use plan.

The policy is not without flaws and will require additions and changes as new land use policies and land classification undertakings begin to exert influences.

II

ADMINISTRATIVE POLICY ON CLASSIFIED AREAS

On classified areas, as provided by the Classification Law, all activities by the State Forester or his designated representatives shall be assigned to the policy of furthering the best possible use of the land, whether classified for timber production, joint grazing-forest use, or dominantly grazing use, and to assist to the extent possible in the improvement of all such classes of land.

The following administrative policy was adopted in 1940 and brought up to date in 1946 as the official guide in regulating the three classes of forest land:

Class 1, or timber class, includes all forest land primarily suitable for the production of timber and reforestation. Such lands pay fire patrol assessments and receive all benefits of forest practice and conservation measures and will be subject to all forest management uses as, tree farms, timber production, permanent cutting areas, stream flow, recreation and scenic values, wildlife refuges, reforestation, etc. Normally, sustained yield units, privately owned forest tracts, state forests and public parks will come within this classification. Such forest areas will contain the tree growing lands necessary to maintain a continuous yield of forest products, furnish employment and supplement the tax base of the local government.

Class 2, or timber and grazing class includes all forest land primarily suitable for joint use for timber production and grazing of livestock. Such use may be either permanent or semi-permanent joint use, or as a temporary joint use during the period between logging and reforestation.

Class 2 land, shall, under this classification, be assessed fire patrol tax, receive protection from fire, be subject to all restrictions that may be necessary

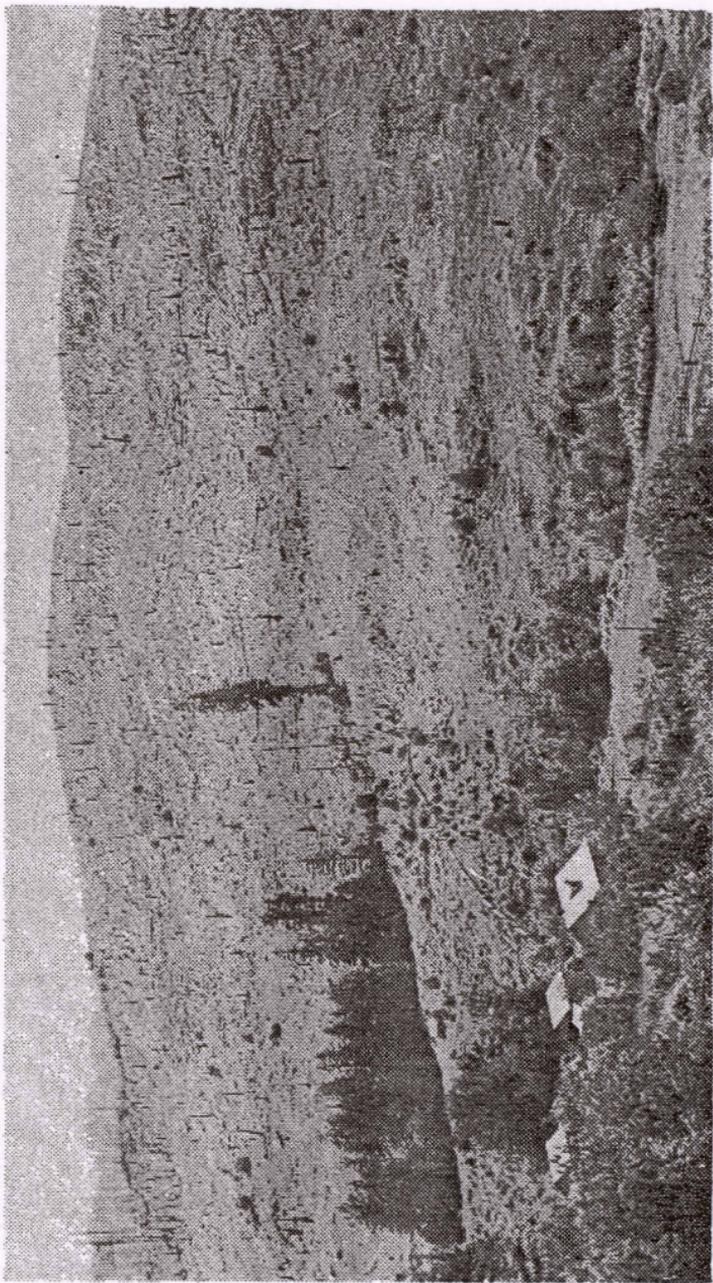
in the matter of issuing burning permits, and shall be guided by such a policy as will benefit equally the use of the land for timber production and the grazing of livestock.

It is generally accepted as practicable that Class 2 lands should include those areas in which a semi-permanent grazing-forest use is desirable as found in immature stands or selectively cut areas where opening of the stand allows forage grasses to be established, or in areas where wood and forage value exist concurrently, and in forest regions where grazing is practiced following logging (interim use) until such time as the ingress of weeds, ferns, brush and reproduction make the area undesirable for further grazing.

Class 3, or agricultural class, shall include forest land primarily suitable for grazing or other agricultural use. Class 3 areas shall receive particular leniency in the regulations governing the use of fire as a tool in range development programs, and shall be assisted to the extent possible by the forest protection agencies in supervising and safeguarding the areas preparatory to the development of adequate seed beds and elimination of ground debris on the forest lands to be used as livestock range.

In various sections, farm woodlands, small tree farms and second growth stands of logs, poles and piling located in grazing areas have been recognized as valuable additions to the range and should be protected from fire. Many of the County Forest Land Classification Committees have officially recognized the value of protecting such woodlands located within grazing areas and have had such resolutions incorporated in their proceedings.

Landowners in Class 3 grazing or agricultural areas shall pay fire patrol assessments, unless specifically declassified as timberland by the Board of Forestry, but may, if thought desirable, organize development or improvement districts, grazing asso-



CLASS 3 GRAZING AREA IN SOUTHERN OREGON. BOTTOM LAND SHOWN IN FOREGROUND IS USED FOR PASTURE IN CONJUNCTION WITH HILL LAND. THIS CUT-OVER LAND HAS DEEP RICH SOIL AND PRODUCES A HEAVY STAND OF GRASS.

ciations or assess themselves for the purpose of providing funds to be used for the cost of regulating fire when used as a tool in range development work.

Policy of Controlled Burning.

For the purpose of establishing a common background, the general operation procedures follow in the administration of associated and closely linked forest laws are discussed briefly in the next paragraphs. Such legal and practical concepts guide operation of the policy of controlled burning.

1. *Grazing Area Defined*—Under this policy, an area of not less than 2,000 acres, legally established as a Class 3 grazing area by the local County Forest Land Classification Committee, as authorized in Chapter IV, Oregon Forest Laws, 1945, and designated by name, and described by legal subdivisions, metes and bounds, or by physical boundaries easily identifiable, such as roads, trails, streams, ridge-tops, etc., shall be recognized and accepted as a Class 3 grazing area. Acreage of Class 3 areas vary. All areas are potential economic units, one of the largest being the Fairview area in Coos County of approximately 20,000 acres. Some smaller areas of 4,000 acres are located in Curry County. Normally, prior to the legal classification of forest lands adaptable to grazing, a recommendation should be forthcoming to this effect from the local land use committee.

2. *Reclassification of Timberland*—The Oregon Forest Laws, Section 107-245, provide that timberland, although constituting a fire menace to itself and adjoining land, which is, in the judgment of the Board of Forestry, susceptible to early agricultural development or not primarily suited for forest crop production, shall not be considered as timber land and therefore not assessed fire protection costs.

It is the opinion of the Attorney-General that the Forest Land Classification Act does not change the obligations of the state forester or of the associations

or owners referred to as imposed by other statutes, unless and until the State Board of Forestry changes the classification of lands from 'timber land', as defined by Section 107-245, in which event land so declassified is removed from the effect of Section 107-244, and any duties of the state forester with relation to same are such as arise pursuant to Chapter IV. (Refer to Opinions of the Attorney-General, April, 1938.)

3. *Responsibility of the Landowner*—The procedure of placing the responsibility upon the landowner for the return of the abnormal fire hazard to normal, on undeveloped livestock ranges, parallels the regulations pertaining to forest operations and the responsibilities the timberland operators bear in their obligation to dispose of their slashings following logging. When this has been done and the hazard is normal once again, the former forest operation areas are also given the same forest protection services as other lands. (Oregon Forest Laws, Section 107-209, 107-222.)

Landowners interested in range development practices through the use of fire to clear and improve their lands have often brought up the objection that the forest protection agencies are unable to provide funds to aid them in carrying on burning operations on their grazing lands.

In this respect, all the facts of the forestry legal set-up have not been clearly explained and have caused considerable confusion to exist in situations which refer directly to (1) lack of an appropriation to administer the Classification Act, and, (2) the forest administrative procedure which directly parallels the responsibilities of the timberland operators.

4. *The Fire Patrol Assessment*—The forest protection act provides in substance, 'the fire patrol assessment is a special policing cost levied upon timberland owners for the purpose of protecting the forest lands of the state from destruction by fire'.

The timberland owners pay for this special police service under the fire patrol law as does the farmer in the rural district who pays road development levies so that he may market his produce with a minimum of effort. The same applies to the gasoline tax. All are earmarked for a specific purpose. (Oregon Forest Laws, Section 107-244.)

Common field practices and aids which may serve to reduce the burning costs and permit the maximum cooperation of all interested individuals and agencies are listed for the benefit of those engaged in range development work.

(a) Labor 'trading' as the old-fashioned 'corn husking bees' has proven highly effective in reducing burning costs in Class 3 areas relative to the control and regulation of range improvement and clearing fires.

(b) Landowners within Class 3 grazing areas which have been specifically declassified as timberland by the Board of Forestry, may, after an elapsed period of not less than one year following classification of the land, and after all range clearing and improvement burning has been accomplished and a permanent grass sod has been established on the area, make application to the state forester for return of the property to the fire patrol assessment basis on the grounds that extensive burning activities and range development have been completed and that the fire hazard, resulting from such development, has been restored to normal. This provision will allow forest and hill land ranges to be returned to the fire patrol status in the event such areas have earlier been declassified by the State Board of Forestry under Section 107-245.

(c) Landowners or their authorized representatives in Class 3 grazing areas will be granted permits to burn during the fire season upon application to the local district warden.

(d) All applications for burning permits should be made by the landowners residing in Class 3 areas to the local county agent or district warden not later than June 1 of the year in which the burning is to be undertaken.

This procedure will allow the district warden or his deputy sufficient time prior to the active burning season to inspect the area to be burned and outline precautions and safeguards to be completed prior to burning. Also, if notified earlier, the fire warden will be in a more favorable position to furnish aid to the burning project as to supervision, etc.

Applications for burning permits to the local District Warden should include:

1. Name of the grazing area in which burning is planned.
2. Legal descriptions of the land to be burned.
3. Total acreage to be burned over.
4. Amount and kind of seed to be sown on the burned area.
5. Approximate day and month contemplated for the burning.
6. Name and address of applicant.

(e) The forester or the warden, in issuing permits to burn on Class 3 areas, shall require the owner or tenant to seed to grass all lands burned over under permit during the current season, and precedent to issuance of the permit, shall require financial assurances from the permittee that the seeding will be carried out. Developed ranges with established grass sod shall be an exception to this condition.

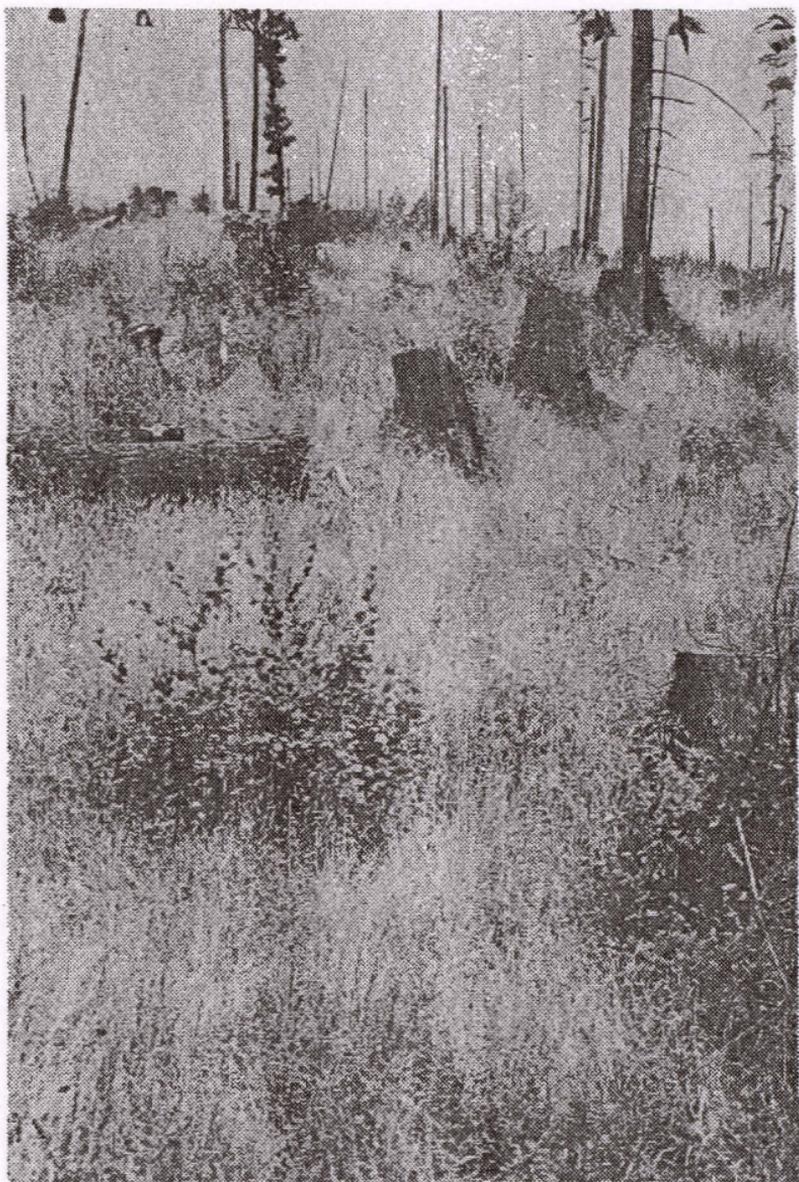
Seeding of Burned Areas. Following a proper burn, the land must be immediately seeded to forage grasses. In this respect, one general rule

is applicable, "do not burn an area larger than can be seeded and do not seed more than the livestock at hand can profitably utilize." Areas which have burned and remain unseeded become covered with a dense growth of inflammable brush and useless annuals. Both these cover types greatly increase the fire hazard as they constitute flashy fuels. Also, unused grazing areas covered with a dense growth of dry grass increase the hazard and may serve to carry fires to valuable ranges and adjacent timberlands. A properly used and managed grazing area will provide an excellent fire-break.

Division of Costs on Class 3 Grazing Areas.

The desirability of obtaining competent personnel to administer grazing areas, supervise burning, issue the necessary permits to burn and care for the area in general, cannot be overlooked. Similarly, neither can the importance of fire-proofing and fire-breaking the boundaries of the grazing area be over-emphasized. Timberlands must be protected from escaped fire originating on grazing areas, and grazing areas, likewise, must be protected from escaped fires originating in timber areas. A standardized policy also providing for the establishment of fire-breaks at strategic locations within Class 3 areas would add materially to the effectiveness of this program.

No funds or appropriations have been assigned for the operation of the Forest Land Classification Act and for that reason rapid development and fire-proofing of grazing areas has been curtailed. Lack of such an appropriation, however, has been largely offset by financial cooperation between the private owners of timber and grazing lands, the counties and the Board of Forestry. Under such cooperative arrangements, the construction of fire-breaks on the exteriors of grazing areas and employment of additional fire wardens for supervision has been successfully effected.



HEAVY STAND OF GRASS IN LANE COUNTY. THIS LAND WILL PRODUCE EITHER GRASS OR NEW FORESTS. PLANS FOR THE USE OF THIS LAND REST WITH THE DESIRES OF THE PRIVATE LANDOWNER.

A. FIRE WARDEN SUPERVISION

The placement of short term fire wardens for duty on or near Class 3 grazing areas is necessary to the residents of the areas for the issuance of burning permits, and to aid in the supervision of burning activities, both of which are necessary functions in range development work.

1. COSTS

Salaries and expenses of short term fire wardens placed on Class 3 grazing areas bounded by patrol paying acreages will be furnished by the State Forester and the association. When conditions warrant it, the forester may appoint short term fire wardens for duty on Class 3 grazing areas bounded by non-patrol paying acreages or non-forest land, and furnish one-half of the salary and expenses; provided, however, that the local county approves of such action and agrees to supply the remaining one-half of the salary and expenses.

B. FIRE-BREAK CONSTRUCTION

It is equally desirable for both public and private interests, that the joint responsibility for financial cooperation between grazers, forest agencies and counties for fire-break construction between forest land and grazing areas, be recognized.

1. COSTS

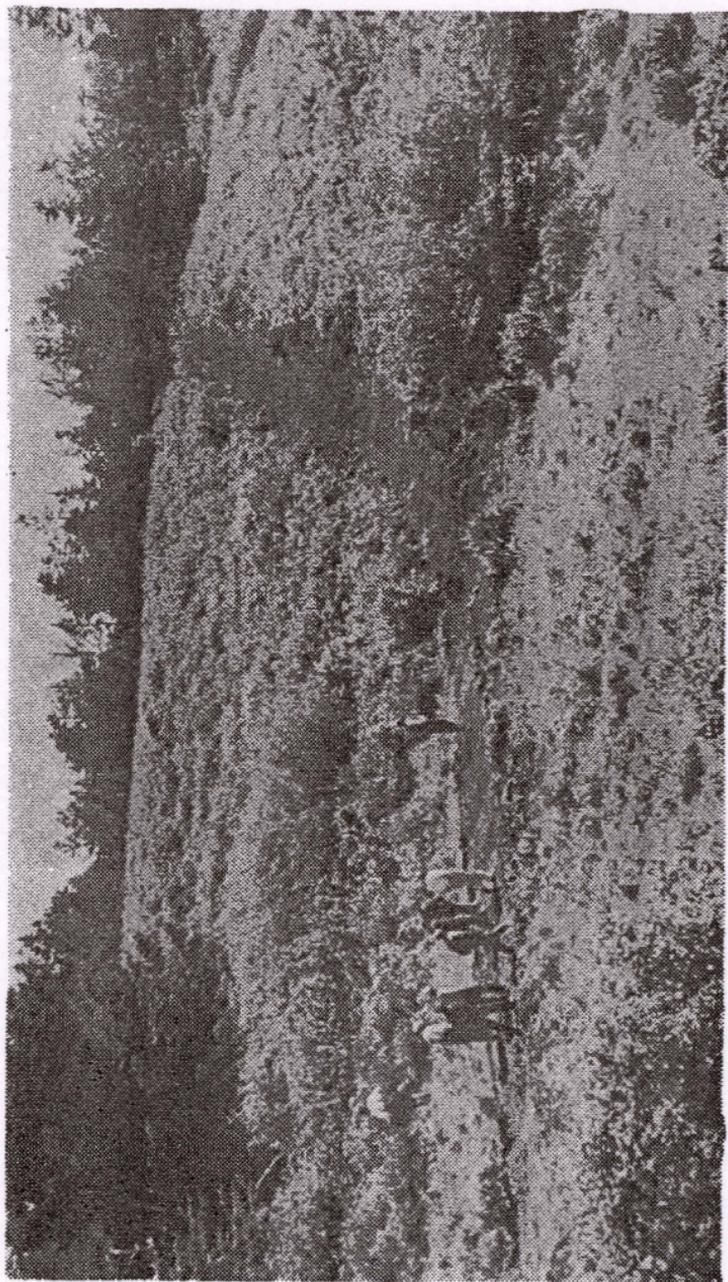
Costs of fire-break construction between adjoining timberlands, areas of high hazard or inflammability, restocking areas, etc., shall be shared upon

the ratio of a 10-40-50 basis, by the county, the forest protection agencies and the residents of the grazing areas, respectively.

For construction of the needed fire-guards and breaks, the following 10-40-50 financial division of costs has been provided:

C. DIVISION OF COSTS (County, State Forester and Landowners)

<i>Participating Member</i>	<i>Responsibility.</i>
1. <i>County</i> (in which grazing area is located)	10 per cent of fire-break construction cost; this portion to consist of either monies, use of heavy equipment, gasoline, oil, etc.
2. <i>Forest Protection Agencies</i> (State Forestry Department, 20% of costs; Private Forest Protective Assn., 20% of cost)	40 per cent of fire-break construction costs; this percentage to consist of either monies, use of heavy equipment, personnel, gasoline, oil, etc., 40% of costs to be divided equally between the forester and the local forest association.
3. <i>Residents of Grazing Area</i> (All owners within the grazing area on which work is to be done)	50 per cent of fire-break construction costs; this percentage to consist of either monies, supplying the operating costs of the construction equipment, as gasoline and oil, or to supply labor to aid in fire-proofing the boundaries of the areas, such as snag felling, swamping, hazard reduction work, etc.



THIS SHOWS TYPICAL FIREBREAK CONSTRUCTED UNDER THE CONTROLLED BURNING POLICY. SUCH BREAKS CONSTRUCTED BEFORE BURNING GREATLY DECREASE THE COSTS OF RANGE CLEARING AND IMPROVEMENT. FIREBREAK SHOWN SEPARATES RANGE LAND FROM REPRODUCTION AREA IN SOUTHERN OREGON.

D. THE DEVELOPMENT OF THE WORK PLAN FOR FIRE-BREAK CONSTRUCTION ON CLASS 3 GRAZING AREAS.

1. *Responsibility for the Development of the Work Plan:*

A preliminary detailed working plan shall be prepared cooperatively by the local District Warden, the secretary of the grazing association in which the work is being contemplated and the local County Agent on all Class 3 grazing areas established in or adjoining regions of hazard, merchantable timber, scenic highway strips, public parks, restocking areas, watersheds or recreational areas, where it is desirable and necessary that fire-breaks and other precautions be required prior to the use of fire as a tool in range development.

This working plan will be presented for consideration, change and approval to each of the agencies named in paragraph C, "Division of Costs". The presentation will be made by the local District Warden, the Secretary of the local grazing association and the local County Agent jointly, not later than June 1, of the year in which the burning is planned.

2. *Completion of the Agreement, Form LC-1. "The Preliminary Work Plan":*

The detailed development of the preliminary work plan must be officially indicated on the agreement Form LC-1, which makes it possible for each of the cooperating agencies; the county, the landowners, the private forest protection agency and the State Forester, to correlate the necessary expenditures which are expected of them for fire-break construction. Such an agreement, setting forth the expenditures and activities of each, designates specifically in advance the contribution of either labor, equipment or money to be furnished by each agency. (Chetco-Winchuck Grazing Area, Curry County, October, 1939; Yellow Creek Grazing Area, Coos County, October, 1944-1945.)

3. *Approval of the Agreement Covering the Preliminary Work Plan:*

Official Approval of the agreement covering the Preliminary Work Plan is then indicated by signatures of the duly authorized representatives of each group; that is, the County Judge, the Secretary of the grazing association, the District Warden and the State Forester. Copies of this agreement, LC-1, should be filed with each participating agency.

4. *Voidance of Agreement by Non-compliance:*

All statements relating to fire-break construction costs rendered to any of the cooperating agencies must follow the procedure as contained in paragraph "Development of the Work Plan" or be regarded as ineligible for either payment or reimbursement. (Chetco-Winchuck Grazing Area, Curry County, Oregon, October 1939; Yellow Creek Grazing Area, Coos County, October 1945.)

5. In order that all the resources of the cooperating agencies be used to the best advantage possible, the work plan must include these required items:

- (a) Map indicating the placement of the proposed fire-breaks.
 1. Break to be constructed.
 2. Natural fire-break to be used.
 3. Maintenance of previously constructed breaks.
- (b) The length of the fire-break construction.
- (c) Approximate number of snag felling man days required.
- (d) Kind and amount of equipment required on the project.
- (e) Approximate number of days required to complete the project. This should include actual working days only.
- (f) Number of acres of grazing land benefited by this plan.

(g) Cost of the entire project.

Breakdown of costs into:

1. Gasoline and oil.
2. Equipment use cost.
3. Hand labor.
4. Transportation.
5. Supplies.

(h) Refer to agreement Form LC-1 for complete details. Important items not listed on the Form LC-1 should be stated in the letter of transmittal to the State Forester.

Procedure for the Collection and Disbursement of Costs for Fire-break Construction on Class 3 Grazing Areas.

1. In the process of preparing the work plan for fire-break construction and fire-proofing the boundaries of the grazing areas, the local district warden, the secretary of the local grazing association and the local county agent will correlate the work plan with the responsibilities their agencies assumed in the "Division of Costs" above, for the collection of monies, equipment use, gasoline, oil, etc.

A. District Warden:

The District Warden shall be responsible for the forest protection agency's percentage of the costs as applicable under this policy, or under whatever procedure the local state unit or association has adopted to provide for this participating percentage.

Under this division of costs, percentage participation is divided as follows:

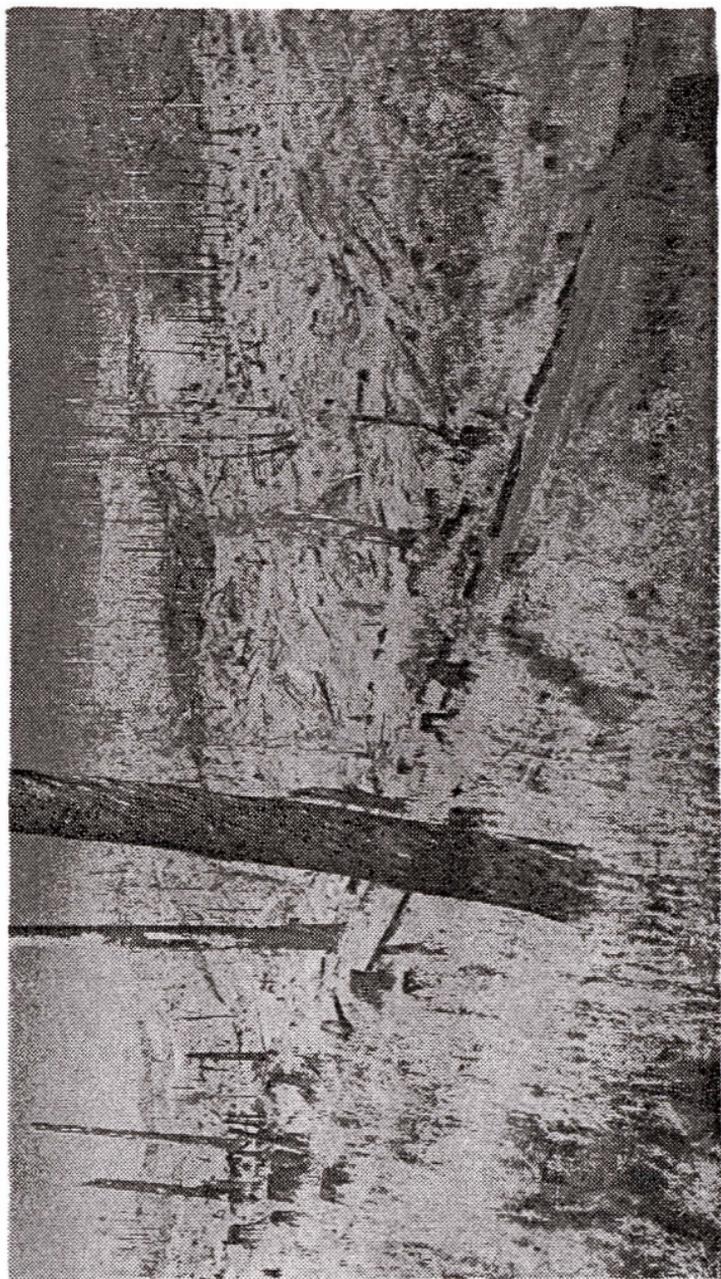
Within State Protective Units:

40 per cent of the costs.

Within Private Association Units:

State Forester: 20% of costs

Association: 20% of costs



TYPICAL CUT AND BURNED OVER FOREST LAND. IF THE SOIL IS FAVORABLE FOR GRASS GROWTH, SUCH AREAS MAY BE GRAZED PRIOR TO THE TIME REPRODUCTION, BRUSH AND OTHER GROWTH MAKES FURTHER GRAZING UNPROFITABLE.

B. County Agent:

Upon the recommendation of the county land-use committee or the local livestock association, the County Agent shall take the initiative in organizing the residents in the grazing areas. The Secretary of the grazing association will collect each co-operator's proportionate share of the fire-break construction costs, or 50%, as provided under "Division of Costs".

This share may be made up by supplying operation costs of the tractor or bulldozer equipment, as gasoline and oil, or by supplying hand labor to aid in snag felling, hazard reduction and other means of fire-proofing the boundaries of the area. Field records of labor furnished should be submitted by the grazing representative to the local District Warden.

C. County Court:

The County Court shall be responsible for the local county's percentage of the fire-break construction costs as provided under this policy. Payment of this 10 per cent proportionate share will be made upon receipt by the court of approved copies of the final Progress Report Form LC-2. Presentation of the approved statements of reimbursements payable shall be made by the State Forester following completion of the project.

- D.** Following completion of the preliminary work plan on Form LC-1, and adequate assurances that the resident's 50% cost share and the forest protection agency's 40% cost share, (or 20-20 ratio according to whether a state or private forest association) will be available for use in carrying out the project, said work plan accompanied by the necessary cost assurances, shall be forwarded to the State Forester.

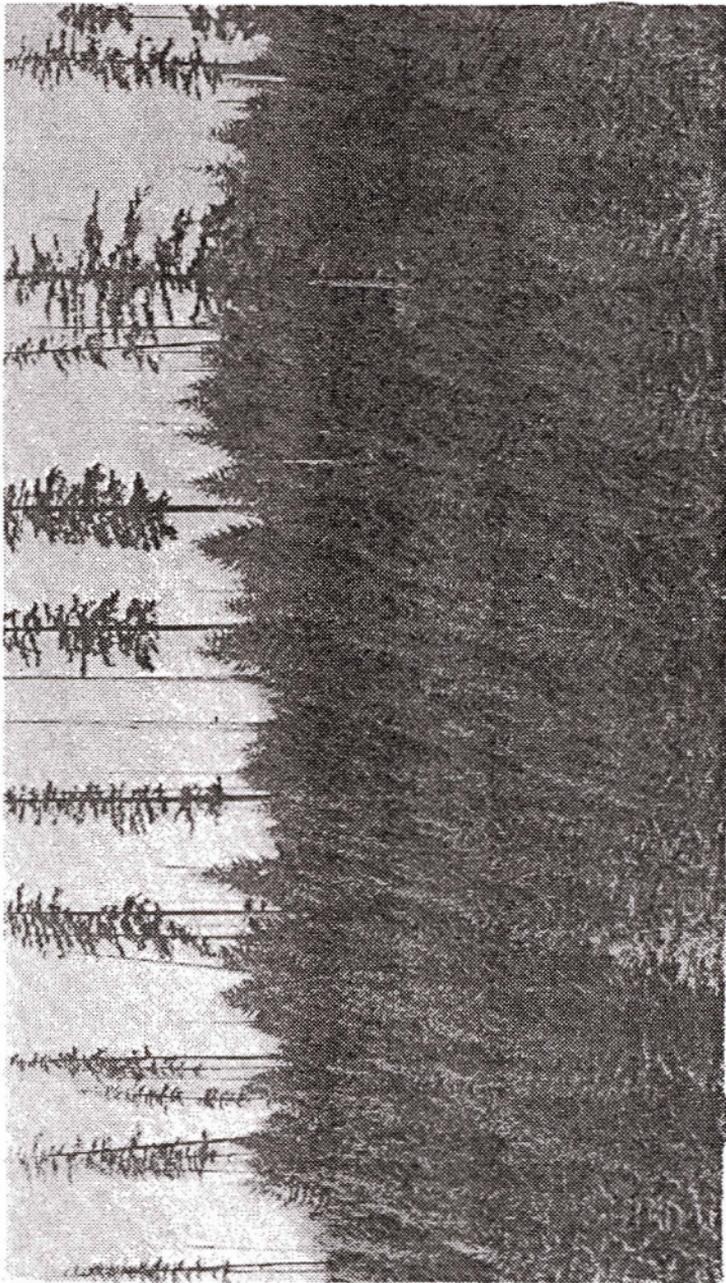
- E. The State Forester, shall, upon receipt of the work plan and subsequent inspection, adjustment and correlation of costs, etc., make the proper assurances for its percentages as provided under the policy's "Division of Costs".
- F. Responsibility for failure of the operation of this plan shall rest upon the member of the policy's "Division of Costs" non-cooperation and omission of their percentage ratio.
2. *Collection and Disbursement of Costs: Form LC-2*

All receipts and payments relative to the adjustment of ratios of costs incurred in fire-break construction shall be allotted on the basis of Agreement Form LC-1, the Preliminary Work Plan and the final report, Form LC-2, Progress Report. Payments and reimbursements will be made upon approval of the cooperating agencies as indicated by the signatures of the duly authorized representatives of each group as required by Form LC-1 and final segregation of amounts as contained on Form LC-2, Progress Report.

3. *Equipment Use Rate Scale*

All estimates covering fire-break construction projects must be computed upon the following cost scale unless otherwise specified:

<i>Trail Builders</i>	
Equipment	Rate per Hour
"20" — "40" cats w/operator	\$4.95
"50" — gas cat w/operator	6.15
"90" — gas cat w/operator	7.20
<i>Transportation</i>	
$\frac{1}{2}$ ton pickup	.06 per mile
$1\frac{1}{2}$ ton truck	.16 per mile
3 ton GMC	.18 per mile
5 ton truck transport	.25 per mile
<i>Labor</i>	
Snag felling, swamping, etc.	.95 per hour



FULL CROWNED SEED TREES LEFT FROM A PREVIOUS LOGGING OPERATION AND THE THRIFTY YOUNG STAND WHICH GREW FROM THE SEEDS OF THE OLDER, TALLER SEED TREES. SUCH TRACTS ARE CLASSIFIED AS CLASS 1 OR TIMBER CLASS.

OREGON STATE BOARD OF FORESTRY
Salem

PROGRESS REPORT

**Completed Work Project, Fire-break
Construction on Grazing Area**

Before any of the cooperating agencies will approve the disbursement or payment of funds, the information requested below must be accurately stated:

1. Name of Grazing Area
2. Length of fire-break constructed (Miles to nearest tenth)
3. Width and length of area on which fire prevention work has been completed (includes swamping, snag felling, etc.)
4. Location of completed fire-break must be indicated on a map—scale $\frac{1}{2}$ inch to the mile—and attached to this progress report when submitted to the state forester.
5. Indicate on the table below, all costs as expended by each of the cooperating agencies. Use standard rates as specified.

DIVISION OF COSTS

Item	Hours or Man- Days	Cost Rate	Miles	Total Costs	County 10%	State Forester 20%	Forest Agency 20%	Resi- dents 50%	Totals
Equipment									
Transp.									
Labor									
Other									
Totals									
*Total to be paid by each Agency:									

*NOTE: Only amounts to be paid are to be written in this space.

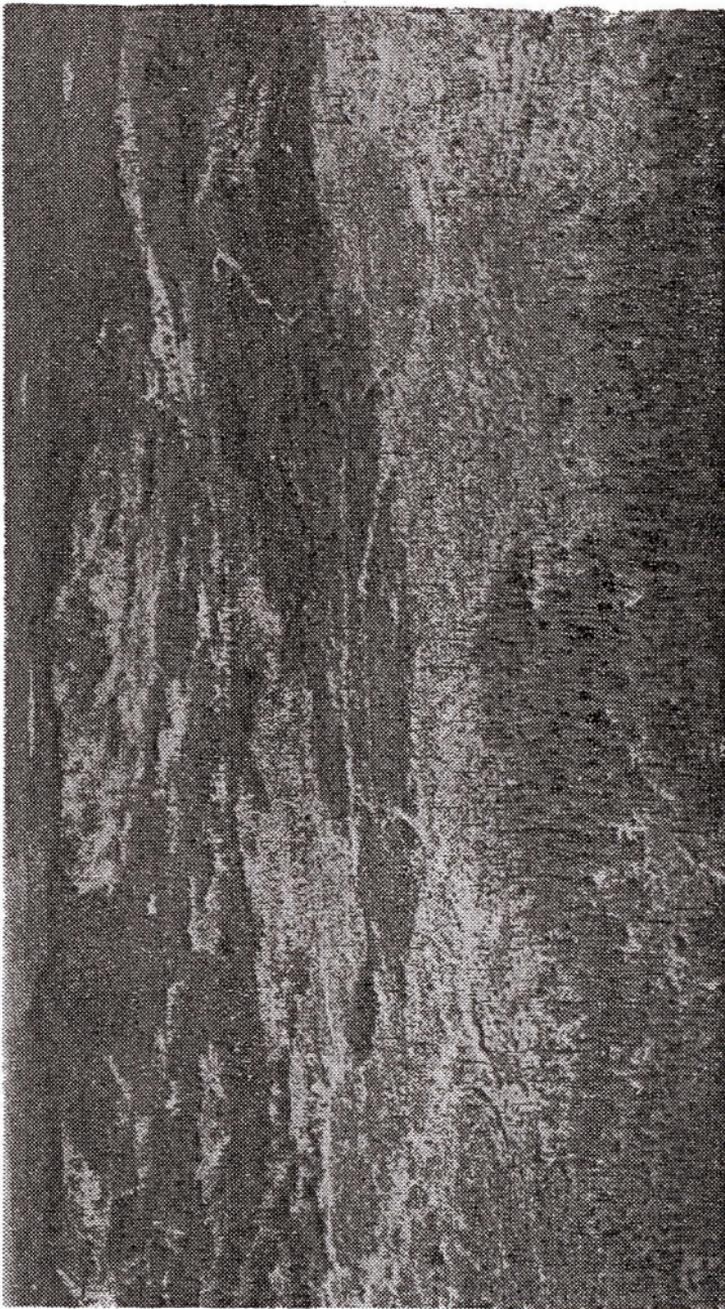
Approved and submitted by: Approved for payment

.....
District Warden

.....
State Forester

Signed at, Oregon, this day of 194....

IMPORTANT: Copies of this completed work project form should be filed with the County Court and private forest protective agency.



THIS SHOWS CUT-OVER AREA WHICH IS GRADUALLY BEING RESTOCKED WITH YOUNG TREES. IF SEED BLOCKS AND SEED TREES HAD BEEN MORE EVENLY DISTRIBUTED, MANY LOST YEARS OF TREE GROWTH WOULD HAVE BEEN PREVENTED. SUCH AREAS AS THIS WITH THIN, RED SOIL, ARE NOT THE BEST FOR GRAZING AND TIMBER PRODUCTION IS THE MOST PROFITABLE USE.

Maintenance Procedure and Costs on Previously Constructed Fire-Guards.

It is important that the forest agencies and the grazing associations should jointly encourage the annual maintenance of previously constructed fire-guards for the purpose of protecting their initial investments and also for the purpose of insuring the retention of valuable fire pre-suppression advantages which the breaks offer.

In this field, it is highly desirable that agreements be reached with organized grazing groups which will facilitate this work. The reason for this interest in break maintenance is apparent inasmuch as controlled burning cannot be entirely completed in any one year, and accidental and escaped fires may originate and spread to either forest or grazing areas at any time during the seasons of the following years whenever the fire hazard becomes intense.

Until such a time as the administrative principles of this policy become more standardized, the maintenance procedure will include the same ratios of joint cost responsibility as contained in the "Division of Costs" as given in Part B, Section II. This may be summarized as follows:

1. Maintenance Procedure:

Use of either state, association or privately owned heavy equipment may be found practical in maintaining fire-breaks contiguous to and in the vicinity of breaks in the process of construction. When new construction is undertaken in the vicinity of older projects, it may be found feasible to remove the annual accumulation of grasses, litter, debris, etc., from the fire-guard.

Proposed projects which consist entirely of maintenance work should be listed on preliminary work plan Form LC-1, with special designation as a "maintenance project". Projects which entail only partial maintenance work may be broken

down on the Form LC-1, segregation being carefully made between new and old work items.

2. *Maintenance Costs:*

All maintenance work, either in whole or in part, will be computed upon the percentage ratio as contained in the section "Division of Costs" as contained in this policy. The Equipment Use Rate Scale will be the basis for costs unless specified otherwise.

3. *Completed Maintenance Projects:*

All completed maintenance work, whether in whole or combined with new work, will be entered for final segregation on Progress Form LC-2.

General Regulations Relative to Burning Permits on all Classified Areas.

Even under the most favorable conditions, the setting of fire is a hazardous undertaking and much care is required in its use. Especially is this true when fire is used as a tool on forest lands to reduce the amount of debris on the ground and to establish a seed bed for forage grasses. To be successful in such a venture the fire must be started when burning conditions are favorable for a 'good' burn. It is at this point that care in its use must be exercised judiciously lest the corresponding dangers and perhaps later damages offset its benefits.

To both the grazier and the forester, then, controlled burning is the one desirable method of burning. The forest protection agencies are willing to assist to the extent possible, financially and as far as personnel is available, in supervising and safeguarding the grazing areas.

In the issuance of the burning permits, the Oregon Forest Laws, common law, and the County Forest Land Classification act provide for various exemptions and responsibilities which the permittee must assume

when controlled burning is undertaken. To be properly protected and advised, the applicant for a burning permit should be informed of his rights and responsibilities. These may be outlined briefly as follows:

1. In fire weather emergencies, all rules and regulations of this policy which provide for leniency and special consideration in the issuance of burning permits on Class 3 grazing areas, are subject to immediate suspension by the State Forester or by official proclamation by the Governor of Oregon.

a. *Exemption Clause:*

Official exemption from any one or both of the above emergency measures may be possible in certain instances where the fire hazard, weather and wind conditions, etc., on favorably located Class 3 grazing areas are such that no benefit or protection is received therefrom and lack of such measures would not create a menace to human life or property. Recommendations to the State Forester for such exemption may be made by the local district warden, at his own discretion entirely, and following a careful survey of local fire and burning conditions on the particular grazing areas. (Oregon Forest Laws, Section 107-210.)

2. The forester or the warden reserves the right to postpone or revoke any burning permit under conditions of extreme fire hazard or upon failure of the permittee to take necessary and adequate precautions. (Oregon Forest Laws, Section 107-209.)
3. As far as the responsibility for damage from fire is concerned, the permittee should be informed on the rulings of 'negligence' as provided by the County Forest Land Classification Law and also by common law, and which reads in substance: "the time may be suitable and the manner prudent, and yet if he (the per-

mittee) be guilty of negligence in taking care of it (the fire), and it spreads and injures the property of another in consequence of such negligence, he is liable in damages for the injury done." (Ref. Cooley, Common Law, Oregon Forest Laws, 1945, Chapter IV, Sections 107-209, 107-211, 107-212, O. C. L. A.)

4. The landowner assumes responsibility for all suppression costs, when through his negligence, his permit fire escapes beyond his control and premises, and outside the boundaries of the grazing area, and if the forester or the warden is required to suppress such a fire, the suppression costs expended by the state, association, or other agency in controlling the fire, shall be paid by the permittee. (Ref. Oregon Forest Laws, Sections 107-211, 107-229.)

NEGLIGENCE

The Forest Protection Act (Sections 107-209; 107-245) was not intended as a codification of the law of negligence. No part of the act is repugnant to the common-law doctrine of negligence and it was not repealed by implication. (Silver Falls Timber Co. v. Eastern & Western Lbr. Co., (1935) 149 Oregon 126 40 Pac. (2d) 703.)

The Forest Protection Act (Secs. 107-209; 107-245) does not define negligence, so conclusion is therefore warranted that courts are to apply to the term its common-law meaning. (Silver Falls Timber Co. v. Eastern & Western Lbr. Co., (1935) 149 Oregon 126 40 Pac. (2d) 703.)

The expenses incurred in protecting property from an invading fire caused by another's negligence have been recoverable in the past without the assistance of any statutory enactments, these being deemed merely items of recoverable damages. (Silver Falls Timber Co. v. Eastern & Western Lumber Co., (1935) 149 Oregon 126 40 Pac. (2d) 703.)

Forest protection standards as established by the Board of Forestry, have as their objectives, the abatement of all fire hazards or influences threatening life or property and the active encouragement, through fire prevention, of sustained yield practices in forest management. In addition, the Forest Protection Act carried out concurrently with practical conservation measures, serves to perpetuate growing forest areas in a manner which will maintain employment and production requirements in the state.

The Forest Land Classification Act, with its related policy of controlled burning, has as its objectives, intelligent use of forest and forest-grazing land over a long period of time, and stabilization of such uses once they have been accurately evaluated and established.

III—APPENDIX

Chapter IV

Forest Land Classification

Section

- 107-401. Definitions.
- 107-402. County classification committees—Members—Appointment and removal—Officers and employees—Regulations—Minutes of meetings—Offices and supplies—Funds—Traveling expenses.
- 107-403. Investigation of forest lands—Determination of adaptability for particular uses.
- 107-404. Classification by committee—Lands included in each class—Procedure—Notice of hearing—Hearing and order—Appeal.
- 107-405. Classification by state forester upon failure of committee to act—Effect thereof.
- 107-406. Policy—Provision in contracts for care of forest lands—Fire control—Burning permits.
- 107-407. Assistance of board of forestry and forester—Supervision of burning on class 2 and 3 lands—Request of owner—Assistants to officers—Refusal of supervision or permit—Liability for damage from burning.
- 107-408. Seeding agreements as condition of supervision of burning on class 2 or 3 lands—Seeding at owner's expense on breach—Lien—Foreclosure.

107-401. Definitions.

As used in this act:

“Forest land” means and includes any forest, woodland, brushland, cut-over land, slashing, chopping or clearing containing any inflammable forest debris; “classification committee” means a county forest land classification committee established under this act; “board” means the state board of forestry; “forester” means the state forester, and “warden” means a fire warden appointed as provided by law. (L. 1937, c. 381, § 1, p. 555.)

Constitutionality—

If any clause, sentence, paragraph, section or part of this act shall, for any reason, be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered. (L. 1937, c. 381, § 10, p. 559.)

An emergency is declared by L. 1937, c. 381, § 11, p. 560.

107-402. County classification committees—Members—Appointment and removal—Officers and employees—Regulations—Minutes of meetings—Offices and supplies—Funds—Traveling expenses.

(a) The county court of each county containing forest land may, in its discretion, establish a county forest land classification committee of five (5) persons, of whom one (1) shall be appointed by the state board of forestry, one (1) by the director of the state agricultural experiment station, and three (3) by the county court. Of the members appointed by the county court, one (1) shall be an owner of forest land and one (1) shall be an owner of grazing land. Each of the agencies named shall file with the state board of forestry the names of its appointee or appointees, and thereupon the persons so named shall constitute the classification committee for the county involved. Each member of such committee shall, at all times, be subject to removal and replacement by the appointing agency, effective upon the filing with the board by that agency of written notice of the removal and the name of the new member.

(b) Said committee shall elect from among its members a chairman and a secretary and may elect or employ such other officers, and such agents and employees, as it may deem advisable. It shall adopt reasonable regulations and bylaws governing its organization and proceedings and the performance of its functions under this act, and shall keep written minutes of all its meetings.

(c) The county court may, in its discretion, provide for said classification committee and its employees such offices, furniture, supplies, fuel and light, and may appropriate to said committee's use under this act such county funds not otherwise appropriated as the county court may deem to be necessary for the proper performance of said committee's functions under this act. The members of

said committee shall receive no compensation for their services thereon but the county court may, in its discretion, reimburse them for traveling expenses incurred in attending meetings of the committee or otherwise performing their functions under this act. (L. 1937, c. 381, § 2, p. 555.)

107-403. Investigation of forest lands—Determination of adaptability for particular uses.

Upon establishment of a classification committee under this act, it shall, as rapidly as possible, investigate and study all forest land within its county and determine which of such land is suitable primarily for the production of timber, which of such land is suitable primarily for joint use for timber production and the grazing of livestock, and which of such land is suitable primarily for grazing or other agricultural use. Such determination shall take into consideration climate, topography, elevation, rainfall, soil conditions, roads, availability of school facilities, extent of fire hazards, recreation needs, scenic values, and other physical, economic and social factors and conditions relating to the land involved. (L. 1937, c. 381, § 3, p. 555.)

107-404. Classification by committee—Lands included in each class—Procedure—Notice of hearing—Hearing and order—Appeal.

(a) Upon the basis of such investigation and determination the classification committee shall classify all forest land within its county, as follows:

Class 1, or timber class, shall include all forest land primarily suitable for the production of timber.

Class 2, or timber and grazing class, shall include all forest land primarily suitable for joint use for timber production and the grazing of livestock, as a permanent or semi-permanent joint use, or as a temporary joint use during the interim between logging and reforestation.

Class 3, or agricultural class, shall include all forest land primarily suitable for grazing or other agricultural use.

(b) (Preliminary classification—Notice of hearing.) The classification committee first shall make and adopt a preliminary classification and, upon completion thereof, shall cause notice thereof to be published for two (2) consecutive weeks in a newspaper of general circulation in that county and to be posted in three (3) public places within that county, which notice shall state the time and place of hearing or receiving objections, remonstrances or suggestions as to such proposed classification and the place where a statement of said preliminary classification may be inspected.

(c) (Hearing—Proceedings—Order.) Said committee thereafter shall hold a public hearing at the time and place stated in said notice, or at such other time and place as the same may then be adjourned to, to receive from any interested persons objections, remonstrances or suggestions relating to the proposed classification. Following such hearing the committee may make such changes in the preliminary classification as it may find to be proper, and thereafter shall make its final classification. All action by a classification committee in classifying or reclassifying forest land shall be by formal written order which shall include a statement of findings of fact on the basis of which the order is made. Such order shall include a map showing the classifications or reclassifications made. The original of said order shall be filed immediately with the county clerk of that county, who shall maintain the same available for public inspection, and a copy of said order certified by the secretary of said committee shall be delivered to the state board of forestry. The classification committee shall reclassify any land classified hereunder whenever such reclassification shall be justified by changed conditions.

(d) (Appeal.) Any owner of forest land classified under this act who is adversely affected by such classification may, within thirty (30) days following the date of the order making such classification, appeal therefrom to the circuit court of the county in which that land is situated. Such appeal shall be taken by filing a notice of appeal with the county clerk and serving a copy of said notice of appeal upon the secretary of the classification committee, or, if said classification was made by the state forester, as provided in this act, in lieu of a classification by a classification committee, then such notice of appeal shall be served upon the forester. Such appeal shall be tried by the circuit court as a suit in equity. (L. 1937, c. 381, § 4, p. 556.)

107-405. Classification by state forester upon failure of committee to act—Effect thereof.

In the event no classification of forest land is made as in this act provided by a classification committee within a county in which such land is situated, within six (6) months after the effective date of this act, the state board of forestry may, in its discretion, authorize the forester to proceed to make the study, investigation and determinations and to make the preliminary and final classifications of such land which are in this act provided to be made by a classification committee, and in the manner herein provided for such committee, including formal written order and finding of fact, and such classifications by the forester shall have the same force and effect as though made by a classification committee for that county; provided, however, that such classifications made by the forester shall cease to be effective if and when replaced by classifications made pursuant to this act by the appropriate classification committee. (L. 1937, c. 381, § 5, p. 557.)

107-406. Policy—Provisions in contracts for care of forest lands — Fire control — Burning permits.

All forest and fire laws relating to forest land classified pursuant to this act, and all rules and regulations promulgated under said laws, shall be so administered as best to promote the primary use for which that land is classified under this act. Any contract by the state board of forestry or the state forester with any other agency for the care of any such forest land shall provide that the care thereof shall be in accord with the provisions of this act relating to that land. As to all forest land classified in class 1, it shall be the policy of the board, the forester and all wardens to give primary consideration to timber production and reforestation, in preference to grazing or agricultural uses, not excluding, however, recreation needs or scenic values; as to all forest land classified in class 2, to give equal consideration and value to timber production and the development or maintenance of grazing, either as a temporary use for the interim between logging and reforestation or as a permanent or semi-permanent joint use; as to all forest land classified in class 3, to give primary consideration to the development of grazing or agriculture, in preference to timber production; and the forester and wardens shall control fires, issue or refuse to issue burning permits, and supervise or refuse to supervise burning, on forest land classified pursuant to this act, in accordance with the aforesaid policy as it applies to the land involved. (L. 1937, c. 381, § 6, p. 557.)

Collateral References—

Obligations of state forester relative to forest lands classified under chapter 4, see Opinions of the Attorney-General, 1936-1938, p. 559.

**107-407. Assistance of board of forestry and forester
—Supervision of burning on class 2 and
3 lands—Request of owner—Assistants
to officers—Refusal of supervision or permit—Liability for damage from burning.**

The state board of forestry and the state forester shall assist to the extent possible in the development for grazing or agricultural uses of all forest land classified pursuant to this act for said uses, including the burning of brush or other inflammable material for the purpose of removing a fire hazard to timber, homes, farms or other property, or to any city, or for the purpose of preparing seed beds, or for the purpose of removing obstructions to or interference with the proper seeding or agricultural or grazing development or use of that land. Upon request of the owner or the agent of the owner of any forest land classified pursuant to this act as in class 2 or 3, the forester or his warden shall supervise burning operations thereon for any of the aforesaid purposes, the owner or his agent to supply such assistance as the forester or warden may require while there is danger of the fire spreading, but not to exceed ten (10) men. The forester or his warden shall, however, have full authority to refuse to supervise burning or to issue any burning permit when such burning would create an unwarranted hazard. When any burning for any of the aforesaid purposes on forest land classified as class 2 or 3 is started under the supervision of and supervised by the forester or a warden, the owner or the agent of the owner of that land shall not be liable for property damage resulting from that burning unless said damage be caused directly by his own personal negligence. (L. 1937, c. 381, § 7, p. 558.)

**107-408. Seeding agreements as condition of supervision of burning on class 2 or 3 lands—
Seeding at owner's expense on breach—
Lien—Foreclosure.**

The forester or warden may, in his discretion, as a condition precedent to supervising any burning of class 2 or 3 lands, as provided in section 107-407, require the owner or his agent in control of the land involved to agree in writing to seed properly the land over which the burning operation is to be conducted, with such seed or seed mixtures as may be suitable for that area. In the event of failure by that owner or his agent to seed said property in accordance with such agreement, the county court of that county may cause such seeding to be done and the costs thereof may be recovered by that county court from said owner or his agent by legal action. Said cost shall constitute a lien upon the land seeded. A written statement and notice of such lien, describing the land and stating the amount of said cost shall be certified under oath by the county court and filed in the office of the county clerk within ninety (90) days following the completion of reseed-ing. Such lien may be foreclosed within six (6) months after such filing by suit, in the manner provided by law for foreclosure of liens for labor and material. (L. 1937, c. 381, § 8, p. 558.)

Cross references. Foreclosure of liens, see section 9-501 et seq. ——— Mechanics' liens, see section 67-109.

FOREST PROTECTION DISTRICTS IN OREGON

Clackamas-Marion Fire Patrol Association

Geo. Bunke, District Warden.....Molalla

Central Oregon State Forest Protective Unit

F. M. Henderson, District Warden.....Sisters

Linn Fire Patrol Association

M. E. Crawford, District Warden.....Lebanon

Walker Range Patrol Association

J. H. Haner, District Warden.....Lapine

N. W. Oregon Forest Protective District

Edward Schroeder, District Warden.....Forest Grove

Lincoln County Fire Patrol Association

Geo. Melum, District Warden.....Toledo

N. E. Oregon State Forest Protective District

Miles Compton, District Warden.....La Grande

Western Lane Forest Protective Association

H. R. Oglesby, District Warden.....Veneta

Klamath Forest Protective Association

Hal Ogle, District Warden.....Klamath Falls

Douglas Forest Protective Association

Fred L. Southwick, District Warden.....Roseburg

S. W. Oregon State Forest Protective District

Frank Hamilton, District Warden.....Medford

S. W. Oregon State Forest Protective District

J. H. Kincaid, Assistant District Warden....Grants Pass

Polk County Fire Patrol District

H. L. Hammond, District Warden.....Dallas

Eastern Lane County Fire Patrol Association

Jacob Smith, District Warden.....Eugene

Coos County Fire Patrol Association

Keith Young, District Warden.....Coos Bay