



Oregon

Kate Brown, Governor

Public Wi-Fi logon: LandsDSL

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregon.gov/dsl

State Land Board

STATE LAND BOARD

October 16, 2018

10:00 am – 12:00 pm

Oregon Department of State Lands

Land Board Room

775 Summer St NE

Salem, Oregon

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

AGENDA

Consent Items

1. Request for approval of the minutes of the August 14, 2018, State Land Board meeting.
2. ODOT bridge Easement – Schooner Creek
3. ODOT bridge easement – John Day River

Action Items

4. Easement Rulemaking
5. Coos County filled land sale
6. Clarification of Callan's annual report

Informational Items

7. Trust Property Reports
8. Goble Update

Continued on next page

9. Chetco Pilot Filled Lands Update
10. Oregon Consensus Report
11. RFI Forest Management Update
12. Other

Livestream available at: <https://www.youtube.com/channel/UCQA7FHTWwl-gjJkQeYPJ1IA>

This meeting will be held in a facility that is accessible for persons with disabilities. If you need assistance to participate in this meeting due to a disability, please notify Arin Smith at (503) 986-5224 or arin.n.smith@state.or.us at least two working days prior to the meeting.

Public Testimony - The State Land Board places great value on information received from the public. The Board accepts both oral and written comments on **consent and action agenda items only**.

When providing testimony, please:

- Provide written summaries of lengthy, detailed information
- Recognize that substance, not length, determines the value of testimony or written information
- Endorse rather than repeat the testimony of others

Written comments may be submitted before or during the meeting for consideration by the Board. To speak at the meeting, you must sign in on the sheet provided at the information table located near the meeting room's entrance. The standard time limit is three minutes for each individual. The Board cannot accept testimony on a topic for which a public hearing has been held and the comment period has closed.

From: [RICHARDSON Dennis * SOS](#)
To: [Governor Brown * GOV](#); [READ Tobias](#); [WALKER Vicki](#)
Cc: [CUMMINGS Leslie * SOS](#); [ELZINGA Stephen * SOS](#); [MINER Jason * GOV](#); [MANN Ryan](#); [RYAN Bill](#); [STRAIGHT Jean](#)
Subject: Land Board Meeting
Date: Monday, October 15, 2018 5:37:02 PM

**DENNIS
RICHARDSON**
Secretary of State



900 Court St NE,
Suite 136
Salem, OR 97301
(503) 986-1500

Governor Brown, Treasurer Read, and Director Walker,

I am incredibly grateful to serve the people of Oregon as their Secretary of State and work with you on the Land Board. We are doing important work together.

Despite my cancer treatment, I remain focused on the core functions of my office and am working with my executive leadership team daily to provide direction.

In order to focus my time and energy, I have decided to reduce public appearances. Under Section 5, Article VIII of the Oregon Constitution and ORS 177.040, my Deputy Secretary of State will attend Land Board meetings and vote on my behalf for the duration of my cancer treatment. My Governmental and Legal Affairs Director will continue to serve as Land Board Assistant. I have instructed them to continue prioritizing my longstanding focus on the Land Board's constitutional and moral obligation to improve management of our public lands and generate more education funding for our kids and grandkids. We need to do all we can to invest in smaller class sizes, more school days, expanded career training, more highly-qualified teachers, and provide a fair shot for a bright future to all Oregon children.

Sincerely,

Dennis

P.S. In order to ensure full transparency, I'm asking Director Walker to include this email in the October 16 public meeting materials.



Oregon

Kate Brown, Governor

Department of State Lands

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Salem, OR 97301-1279

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www.oregon.gov/dsl

State Land Board

The State Land Board (Board) met in regular session on August 14, 2018, in the Land Board Room at the Department of State Lands, 775 Summer Street NE, Salem, Oregon.

Kate Brown
Governor

Present were:

Kate Brown
Dennis Richardson
Tobias Read

Governor
Secretary of State (by telephone)
State Treasurer

Dennis Richardson
Secretary of State

Tobias Read
State Treasurer

Land Board Assistants

Jason Miner
Steve Elzinga
Ryan Mann

Governor's Office
Secretary of State's Office (by telephone)
State Treasurer's Office

Department Staff

Vicki Walker Bill Ryan Jean Straight Ali Ryan-Hansen
Chris Castelli Arin Smith Anne Friend

Department of Justice

Matt DeVore

Governor Brown called the meeting to order at 10:00 a.m. The topics discussed, and the results of those discussions are listed below. To view the Land Board meeting in its entirety, please visit our YouTube page: <https://www.youtube.com/watch?v=tyYtufuxT7c>

CONSENT AGENDA

1. Request for approval of the minutes of the June 12, 2018, State Land Board meeting.

10:03 a.m.

Director Vicki Walker briefly described the items on the consent agenda.

Treasurer Read made a motion to approve the consent agenda.

Secretary Richardson seconded that motion.

There were no objections to this motion. The consent agenda was approved at 10:03 a.m.

Action Items

2. Amended Budget Request

10:03 a.m.

Director Walker briefly described package 115, an addition to DSL's budget submission at the June meeting.

Treasurer Read made a motion to approve agenda item 2.
Secretary Richardson seconded that motion.
The action item was approved at 10:06 a.m.

3. South Redmond Tract

10:06 a.m.

Director Walker made a request for approval to continue the planning process on the South Redmond Tract by submitting applications to expand the Urban Growth Boundary and for Annexation of the property into the jurisdiction of the City of Redmond, and by applying Large Lot Industrial zoning designation to the property. Request for approval to partition two parcels from the larger parcel for a land exchange with Deschutes County and a land sale to Oregon Military Department.

10:17 a.m.

Director Walker introduced George Endicott, Mayor of the City of Redmond who briefly addressed the Board.

Questions were taken from Governor Brown.

Director Walker then recognized those involved in the project and a representative from the Military Department briefly addressed the Board.

Treasurer Read made a motion to approve agenda item 3.
Secretary Richardson seconded that motion.
The action item was approved at 10:21 a.m.

A short recess was taken for photos.

Informational Items

4. Update on Request for Information (RFI) for Forest Land Management

10:35 a.m.

Director Walker gave a short update on the public information gathering process to look at options and alternatives for the management of state forest lands.

5. Other

10:37 a.m.

Director Walker gave short updates on the following items:

- Elliott State Forest update
- Elliott State Forest Tour
- Bend Tour – Rangeland and Communication site
- UP Auction update

Governor Brown adjourned the meeting at 11:00 a.m.

Kate Brown, Governor

Vicki L. Walker, Director



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

State Land Board

Regular Meeting

October 16, 2018

Agenda Item 2

SUBJECT

Approval of a perpetual easement for the bridge crossing on Highway 101 over Schooner Creek in the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 34 of Township 07 South, Range 11 West of Willamette Meridian in Lincoln County, Oregon.

ISSUE

Whether the State Land Board should approve a request from Oregon Department of Transportation (ODOT) for a perpetual easement to construct and maintain the bridge crossing Schooner Creek on Highway 101.

AUTHORITY

Article VIII, Section 5 of the Oregon Constitution; requiring the Land Board to “manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.”

ORS 273.171; relating to the responsibilities and authority of the Director for the administration of the department.

OAR 141-122-0010 to 141-122-0120; establishing procedures for granting easements and rights-of-way on trust and non-trust lands and requiring Land Board approval of easements granted in perpetuity.

PUBLIC INVOLVEMENT

The application was not circulated for public comment since the bridge is an existing structure. Local approval for the project would have been granted prior to original construction.

BACKGROUND

This is a bridge preservation project. The Schooner Creek Bridge was constructed between 1930 and 1949, and has significant corrosion, cracking and concrete spalling. The primary purpose of this project is to make structural repairs and provide cathodic protection to the bridge. Minor roadway work is included to match into existing conditions.

Compensation is required as this easement falls within Lincoln City's city limits, as displayed in Appendix A. Compensation was determined pursuant to OAR 141-122-0070 (7)(c) and totals \$100.

RECOMMENDATION

The Department of State Lands recommends that the State Land Board approve the permanent easement to Oregon Department of Transportation 61061-EA to construct, maintain and operate a bridge over and across Schooner Creek, on Highway 101, Lincoln County, Oregon.

APPENDICES

- A. Map
- B. Draft Easement for 61061-EA

State of Oregon
Department of State Lands



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXHIBIT A:

Waterway Easement 61061-EA
T07S, R11W Section 34
Schooner Creek, Lincoln County

2016 Aerial Photo

This map depicts the approximate location and extent of a Department of State Lands Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

0 50 100



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet
State of Oregon
Department of State Lands
775 Summer St NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL
Date: 6/26/2018



STATE OF OREGON
Department of State Lands

EASEMENT NO. 61061-EA
S&S Bridge

The STATE OF OREGON, by and through its Department of State Lands, GRANTOR, for and in consideration of \$ 100.00, hereby grants to GRANTEE,

NAME of GRANTEE:	ADDRESS:
Oregon Department of Transportation	455 Airport Rd. SE, Building A Salem, OR 97301

an easement and right to construct, maintain, operate and replace a bridge over, upon, and across the following particularly described property situated in Lincoln County, Oregon, more particularly described as follows:

A parcel of land lying in Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon; the said parcel being all state-owned submerged and submersible land within Schooner Creek lying below the line of Mean Low Tide on the North and lying below the line of Mean High Tide on the South, and lying Easterly of the West right of way line, said line being parallel with and 30.00' Westerly of the L1 center line of the Oregon Coast Highway and lying Westerly of the East right of way line, said line being parallel with and 70.00' Easterly of the L2 center line of the Oregon Coast Highway, said center lines are described as follows:

L1 Center Line:

Beginning at Engineer's center line Station 1077+ 71.30, said Station being 720.08 feet North and 532.32 feet East of the North quarter corner of Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon;

thence South 49°14'22" East 1368.40 feet;

thence on a 477.47 foot radius curve right (the long chord of which bears South 21°56'22" East 437.9 feet) 455.00 feet;

thence South 5°21'38" West 486.30 feet;

thence on a 477.47 foot radius curve to the right (the long chord of which bears South 16°40'08" West 187.25 feet) 188.47 feet to Engineer's center line Station 1102+69.47.

L2 Center Line:

Beginning at Engineer's center line Station 1079+75.95, said Station being 579.94 feet

North and 693.96 feet East of the North quarter corner of Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon;

thence South 49°29'11" East 1031.50 feet;

thence on a spiral curve right (the long chord of which bears South 46°19'14" East 199.76 feet) 200.00 feet;

thence on a 603.11 foot radius curve right (the long chord of which bears South 32°46'41" East 151.35 feet) 151.75 feet;

thence on a spiral curve right the long chord of which bears South 1°27'44" East 746.68 feet) 760.00 feet to Engineer's center line Station 1101+19.20 back equals 1101+ 16.80 ahead;

thence South 10°31'49" West 183.20 feet to Engineer's center line Station 1103+00.

Bearings are based upon Oregon Coordinate Reference System (OCRS), Oregon Coast Zone, NAD83(2011), Epoch 2010.

Containing 0.79 acres or 34,621 square feet, more or less, and as shown on the attached Exhibit A.

TO HAVE AND TO HOLD the same unto GRANTEE in perpetuity, subject to the following conditions:

1. GRANTOR has the right to grant additional easements within the area authorized by this easement subject to the provisions of the administrative rules governing the granting of easements.
2. GRANTEE shall obtain prior written approval from GRANTOR prior to:
 - a) Changing the type of use authorized by this easement;
 - b) Expanding the number of authorized developments or uses;
 - c) Changing the authorized area; and/or
 - d) Permitting other persons to utilize the easement for uses and developments requiring separate written authorization by GRANTOR pursuant to the administrative rules governing the granting of easements or other GRANTOR requirements.
3. The easement area shall remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or GRANTOR.

4. GRANTOR and/or its authorized representative(s) shall have the right to enter into and upon the easement area at any time for the purposes of inspection or management.
5. Except as expressly authorized in writing by the Department, GRANTEE shall not:
 - a) Cut, destroy or remove, or permit to be cut, destroyed or removed any vegetation, or
 - b) Remove any sand and gravel, or other mineral resources for commercial use or sale, that occur in the easement area except as expressly authorized in writing by GRANTOR.

Routine right-of-way maintenance including vegetation trimming shall be allowed.

6. GRANTEE shall compensate GRANTOR for the fair market value of any commercially valuable timber or sand and gravel resources in the easement area that must be removed during or after placement of the authorized use, or which cannot be developed because of the authorized use.
7. GRANTEE shall conduct all operations within the easement area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, GRANTEE shall reclaim disturbed lands to a condition satisfactory to GRANTOR.
8. GRANTEE shall obtain a surety bond in the amount of \$N/A to ensure compliance with the terms and conditions of this easement.
9. The right to use this easement shall automatically terminate if it, or the development authorized by GRANTOR, is not used within five (5) consecutive years of the date this easement was granted, pursuant to the provisions of the administrative rules governing the granting of easements.
10. Unless otherwise approved in writing by GRANTOR, GRANTEE shall remove all cables, pipes, conduits, roads, and other developments placed by GRANTEE on the easement, and shall restore the surface of the easement area to a condition satisfactory to GRANTOR within one (1) year following termination of use or expiration of this easement.
11. GRANTEE shall inspect the condition of the area authorized by this easement and the developments authorized by this easement on a frequency of: Annually.
12. GRANTOR shall have the right to stop operation of the use authorized by this easement for noncompliance with the conditions of this easement, the provisions of the administrative rules governing the granting of easements, and/or any lawful requirement by a regulatory agency of this STATE.

13. If this easement authorizes the use of state-owned submerged and/or submersible land:
 - a) Construction in navigable waters shall conform to the standards and specifications set by the U.S. Army Corps of Engineers and the U.S. Coast Guard for the use authorized by this easement.
 - b) Any blasting which may be necessary, or in-water placement, maintenance, or repair of the authorized use shall be performed according to the laws of this STATE, including strict adherence to Oregon Department of Fish & Wildlife in-water work windows.
14. GRANTEE shall pay to GRANTOR the current market value, as determined by GRANTOR, for any unnecessary and non-approved damages to state-owned lands caused by construction or maintenance of the easement.
15. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the easement area or STATE by the assessing agency.
16. GRANTEE shall use the authorized easement area only in a manner or for such purposes that assure fair and non-discriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender or national origin.
17. This easement is freely transferable. However, no transfer may increase the burden on the easement area or detract from the value of the underlying state-owned land.

[remainder of page intentionally left blank]

This easement does not convey an estate in fee simple of the lands used for a right-of-way. This grant is for an easement only, and title remains in the State of Oregon.



STATE OF OREGON, acting by and through its Department of State Lands

DSL Authorized Signature/Printed Name

Date

STATE OF OREGON)
)ss
County of Marion)

This foregoing instrument was acknowledged before me this ____ of _____, 20 , by _____, the _____ of the Department of State Lands.

Signature
My commission Expires _____, 20__.

CERTIFICATE OF APPROVAL OF CONVEYANCE
(ORS 93.808)

THE OREGON DEPARTMENT OF TRANSPORTATION, Grantee, hereby approves and accepts, pursuant to ORS 93.808, the grant of an interest in real property from THE DEPARTMENT OF STATE LANDS, Grantor, as described in the instrument to which this Certificate is attached.

A copy of this Certificate may be affixed to, and recorded with, the instrument described above.

DATED this 2 day of July, 2018.

Oregon Department of Transportation
Grantee

By: [Signature]

Name: John Boals

Title: DOT Region 2 ROW Manager

STATE OF OREGON)
) ss.
County of MARION)

On this 2ND day of JULY, 2018, before me personally appeared JOHN BOALS, who being duly sworn stated that he/she is the REG 2 ROW MANAGER of OR DEPT. OF TRANSPORTATION, Grantee, and acknowledged the foregoing instrument to be the voluntary act of said Grantee and that he/she executed the foregoing instrument under authority granted by said Grantee.

[Signature]
NOTARY PUBLIC FOR OREGON
My commission Expires: OCTOBER 8, 2021

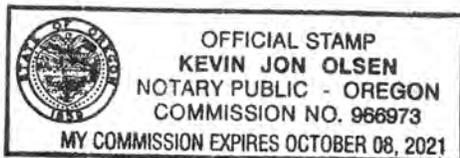


EXHIBIT A - Page 1 of 1

File 9373001

Drawing 1R-4-1285

January 9, 2018

Parcel 1 – Permanent Easement for Highway Right of Way Purposes

A parcel of land lying in Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon; the said parcel being all state-owned submerged and submersible land within Schooner Creek lying below the line of Mean Low Tide on the North and lying below the line of Mean High Tide on the South, and lying Easterly of the West right of way line, said line being parallel with and 30.00' Westerly of the L1 center line of the Oregon Coast Highway and lying Westerly of the East right of way line, said line being parallel with and 70.00' Easterly of the L2 center line of the Oregon Coast Highway, said center lines are described as follows:

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L2 Center Line:

Beginning at Engineer's center line Station 1079+75.95, said Station being 579.94 feet North and 693.96 feet East of the North quarter corner of Section 34, Township 7 South, Range 11 West, W.M., Lincoln County, Oregon; thence South 49°29'11" East 1031.50 feet; thence on a spiral curve right (the long chord of which bears South 46°19'14" East 199.76 feet) 200.00 feet; thence on a 603.11 foot radius curve right (the long chord of which bears South 32°46'41" East 151.35 feet) 151.75 feet; thence on a spiral curve right (the long chord of which bears South 1°27'44" East 746.68 feet) 760.00 feet to Engineer's center line station 1101+19.20 back equals 1101+16.80 ahead; thence South 10°31'49" West 183.20 feet to Engineer's center line Station 1103+00.

Bearings are based upon Oregon Coordinate Reference System (OCRS), Oregon Coast Zone, NAD83(2011), Epoch 2010.

This parcel of land contains 34,621 square feet, more or less.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

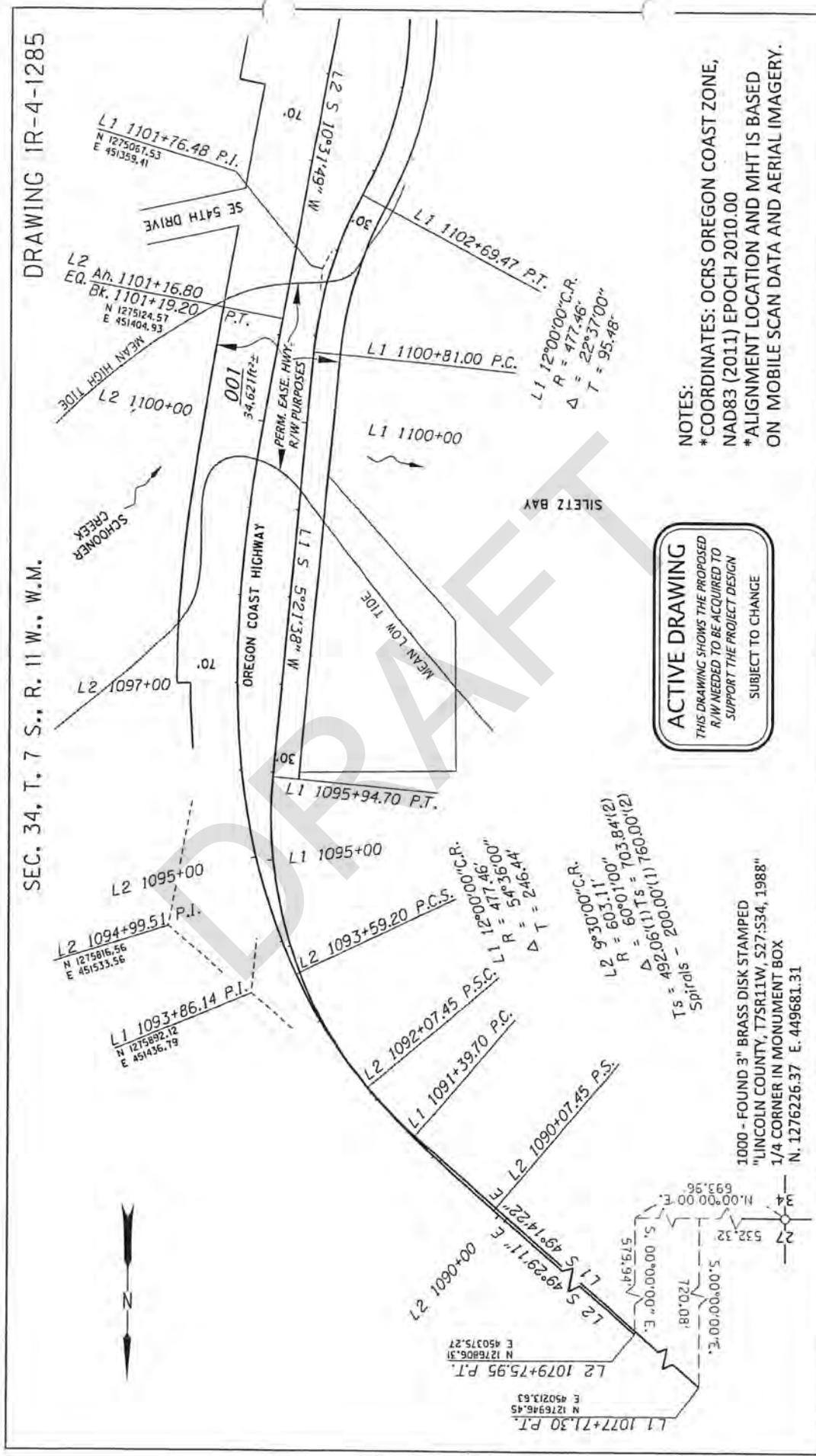
DIGITALLY SIGNED Jan 10 2018 3:33 PM

OREGON
DECEMBER 6, 2013
ANDREW MICHAEL MILLER
79372

RENEWAL DATE: 12/31/2018

DRAWING IR-4-1285

SEC. 34, T. 7 S., R. 11 W., W.M.



ACTIVE DRAWING
 THIS DRAWING SHOWS THE PROPOSED R/W NEEDED TO BE ACQUIRED TO SUPPORT THE PROJECT DESIGN
 SUBJECT TO CHANGE

NOTES:
 * COORDINATES: OCRS OREGON COAST ZONE, NAD83 (2011) EPOCH 2010.00
 * ALIGNMENT LOCATION AND MHT IS BASED ON MOBILE SCAN DATA AND AERIAL IMAGERY.

1000 - FOUND 3" BRASS DISK STAMPED
 "LINCOLN COUNTY, T75R11W, S27-534, 1988"
 1/4 CORNER IN MONUMENT BOX
 N. 1276226.37 E. 449681.31

SECTION		REVISION HISTORY	
Section	US101; SCHOOONER CREEK	CAD File Name	S18599_RET01.DGN
Highway	OREGON COAST	Scale	1" = 100'
County	LINCOLN	Date	JAN. 2018
Purpose	DSL EASEMENT	Proj. No.	9373
		NAME	DESCRIPTION

OREGON DEPARTMENT OF TRANSPORTATION
Exhibit A
RIGHT OF WAY DRAWING



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXHIBIT A:

**Waterway Easement 61061-EA
T07S, R11W Section 34
Schooner Creek, Lincoln County**

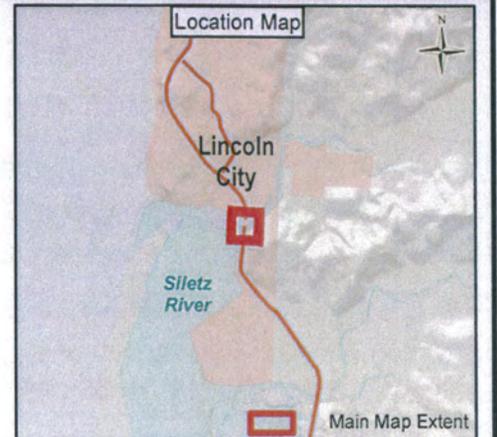
2016 Aerial Photo

This map depicts the approximate location and extent of a Department of State Lands Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

0 50 100



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet
State of Oregon
Department of State Lands
775 Summer St NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL
Date: 6/26/2018





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Kate Brown

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Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

State Land Board

**Regular Meeting
October 16, 2018
Agenda Item 3**

SUBJECT

Request approval to grant a perpetual easement for a bridge crossing the John Day River, in Section 32 of Township 07 South, Range 19 East of the Willamette Meridian in Wheeler and Wasco Counties.

ISSUE

Whether the State Land Board should approve a request from the Oregon Department of Transportation (ODOT) for a perpetual bridge easement crossing the John Day River.

AUTHORITY

Article VIII, Section 5 of the Oregon Constitution; requiring the Land Board to “manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management.”

ORS 273.171; relating to the duties and authority of the Director.

OAR 141-122-0010 to 141-122-0120; establishing procedures for granting easements and rights-of-way on trust and non-trust lands and requiring Land Board approval of easements granted in perpetuity.

BACKGROUND

The existing ODOT bridge has been in place since 1975. This bridge, the Clarno Bridge, is the only ODOT bridge crossing within DSL’s proprietary jurisdiction in Wasco and

Wheeler Counties. ODOT is seeking a permanent easement and has completed the required bridge survey.

This crossing is not within any city limits; therefore, pursuant to OAR 141-122-0060(7)(c), does not require any compensatory payment.

PUBLIC INVOLVEMENT

The application was circulated to adjoining property owners, various city, state and federal resource and permitting agencies, and tribal entities. No significant comments were received from the circulation.

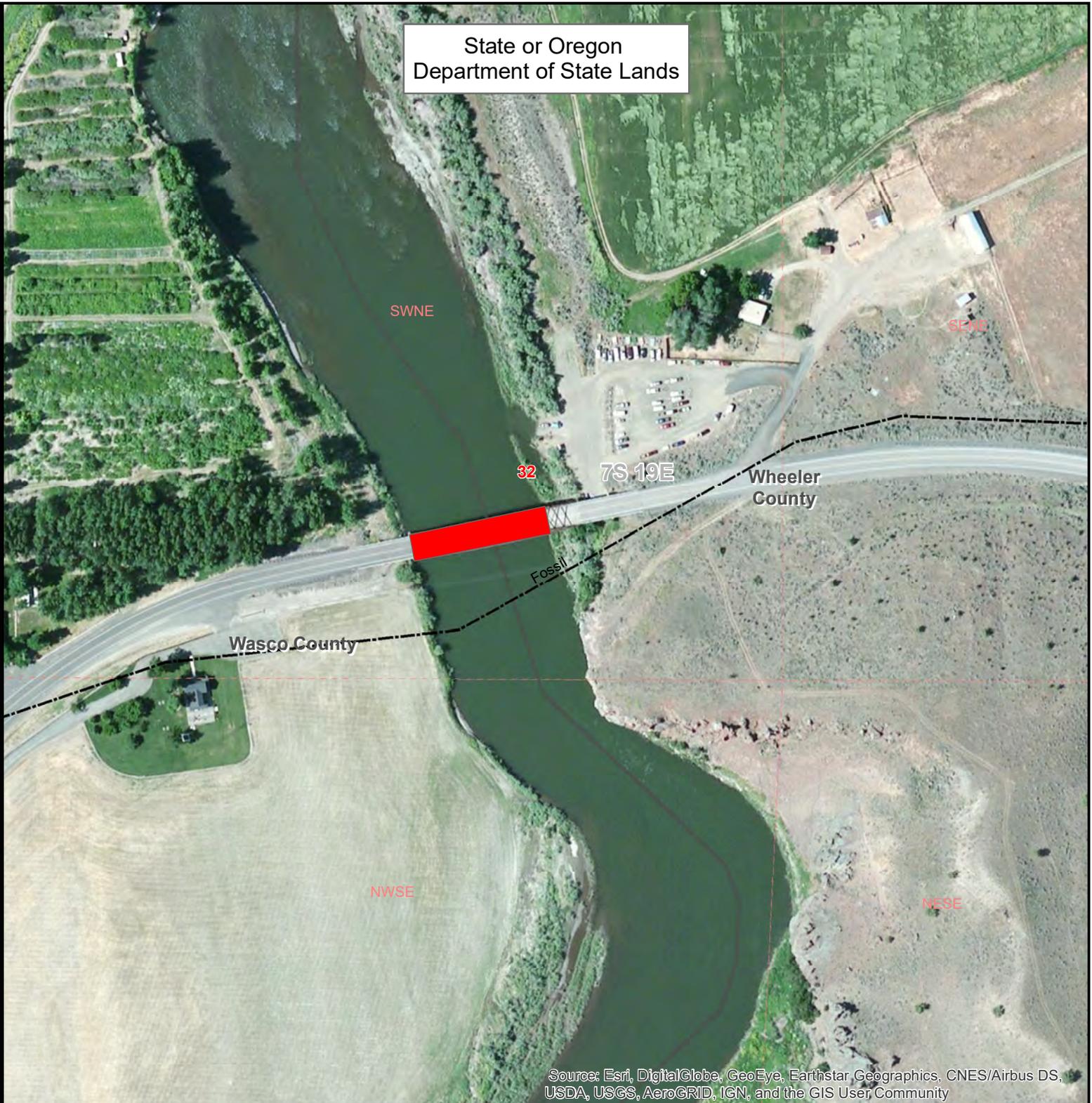
RECOMMENDATION

The Department recommends that the State Land Board approve the perpetual easement 60756-EA to the Oregon Department of Transportation for the bridge crossing to maintain and operate the bridge and cables for right of way purposes on, over, under or across the John Day River.

APPENDICES

- A. Map
- B. Draft Easement 60756-EA

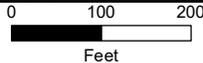
State or Oregon
Department of State Lands



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

EXHIBIT A

Easement Application 60756-EA
R.M. 110 John Day River
ODOT Bridge at Clarno
Wasco County



Map Projection:
Oregon Statewide Lambert
Datum NAD83
International Feet

State of Oregon
Department of State Lands
775 Summer St NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL
Date: 12/19/2017



Legend

 Clarno_Bridge

This map depicts the approximate location and extent of a Department of State Lands Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

STATE OF OREGON
Department of State Lands

EASEMENT NO. 60756-EA
Bridge Crossing

The STATE OF OREGON, by and through its Department of State Lands, GRANTOR, for and in consideration of \$0.00 hereby grants to GRANTEE,

NAME of GRANTEE:
State of Oregon, by and through its
Department of Transportation

ADDRESS:
4040 Fairview Industrial Dr. SE MS #2
Salem, OR 97302-1142

an easement and right to construct, maintain, operate and replace a bridge over, upon, and across the following particularly described property situated in Wheeler and Wasco Counties, Oregon, more particularly described as follows:

A parcel of land lying in the SW1/4NE1/4 of Section 32, Township 7 South, Range 19 East, Willamette Meridian, Wasco and Wheeler Counties, Oregon and being a portion of that property lying between the ordinary high water lines of the John Day River; the said parcel being that portion of said property lying between lines at right angles to the center line of the relocated Shaniko – Fossil Highway Highway at Engineer’s Stations 124+17.00 and 128+00.00 and included in a strip of land 100.00 feet in width, lying on the Southerly side of said center line.

ALSO that portion of said property lying between line at right angles to the center line of the relocated Shaniko – Fossil Highway Highway at Engineer’s Stations 124+17.00 and 128+00.00 and included in a strip of land 80.00 feet in width, lying on the Southerly side of said center line.

The centerline of the relocated Shaniko – Fossil Highway is described as follows:

Beginning at Engineer’s center line Station 114+15.33 P.O.T., said station being 310.07 feet North and 2,860.56 feet West of the East quarter corner of Section 32, Township 7 South, Range 19 East, Willamette Meridian; thence North 37° 08’08” East 9.69 feet; thence on a spiral curve right (the long chord of which bears North 40°07’58” East 299.67 feet) 300.00 feet; thence on a 955.54 foot radius curve right (the long chord of which bears North 57°51’40” East 388.57 feet) 391.30 feet; thence on a spiral curve right (the long chord of which bears North 75°35’22” East 299.67 feet) 300.0 feet; thence North 78°35’13” East 463.68 feet to Engineer’s center line Station 128+80.00 P.O.T., on said center line.

Bearings are based upon the Oregon State Plane Coordinate System, North Zone 3601, NAD 83(2011) Epoch 2010.00.

This parcel of land contains 40,614 square feet, more or less.
and as shown on the attached Exhibit "A".

This description is used to establish the approximate location and extent of the area subject to this Department of State Lands authorized use. All locations, bearings, and distances were developed in the Oregon Coordinate Reference System Standard; Oregon Statewide Lambert Conformal Conic, NAD 1983, International Feet, GRS 1980 Spheroid.

TO HAVE AND TO HOLD the same unto GRANTEE in perpetuity, subject to the following conditions:

1. GRANTOR has the right to grant additional easements within the area authorized by this easement subject to the provisions of the administrative rules governing the granting of easements.
2. GRANTEE shall obtain prior written approval from GRANTOR prior to:
 - a) Changing the type of use authorized by this easement;
 - b) Expanding the number of authorized developments or uses;
 - c) Changing the authorized area; and/or
 - d) Permitting other persons to utilize the easement for uses and developments requiring separate written authorization by GRANTOR pursuant to the administrative rules governing the granting of easements or other GRANTOR requirements.
3. The easement area shall remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or GRANTOR.
4. GRANTOR and/or its authorized representative(s) shall have the right to enter into and upon the easement area at any time for the purposes of inspection or management.
5. Except as expressly authorized in writing by the Department, GRANTEE shall not:
 - a) Cut, destroy or remove, or permit to be cut, destroyed or removed any vegetation, or
 - b) Remove any sand and gravel, or other mineral resources for commercial use or sale, that occur in the easement area except as expressly authorized in writing by GRANTOR.

Routine right-of-way maintenance including vegetation trimming shall be allowed.

6. GRANTEE shall compensate GRANTOR for the fair market value of any commercially valuable timber or sand and gravel resources in the easement area

that must be removed during or after placement of the authorized use, or which cannot be developed because of the authorized use.

7. GRANTEE shall conduct all operations within the easement area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, GRANTEE shall reclaim disturbed lands to a condition satisfactory to GRANTOR.
8. GRANTEE shall obtain a surety bond in the amount of \$N/A to ensure compliance with the terms and conditions of this easement.
9. The right to use this easement shall automatically terminate if it, or the development authorized by GRANTOR, is not used within five (5) consecutive years of the date this easement was granted, pursuant to the provisions of the administrative rules governing the granting of easements.
10. Unless otherwise approved in writing by GRANTOR, GRANTEE shall remove all cables, pipes, conduits, roads, and other developments placed by GRANTEE on the easement, and shall restore the surface of the easement area to a condition satisfactory to GRANTOR within one (1) year following termination of use or expiration of this easement.
11. GRANTEE shall inspect the condition of the area authorized by this easement and the developments authorized by this easement on a frequency of: as needed.
12. GRANTOR shall have the right to stop operation of the use authorized by this easement for noncompliance with the conditions of this easement, the provisions of the administrative rules governing the granting of easements, and/or any lawful requirement by a regulatory agency of this STATE.
13. If this easement authorizes the use of state-owned submerged and/or submersible land:
 - a) Construction in navigable waters shall conform to the standards and specifications set by the U.S. Army Corps of Engineers and the U.S. Coast Guard for the use authorized by this easement.
 - b) Any blasting which may be necessary, or in-water placement, maintenance, or repair of the authorized use shall be performed according to the laws of this STATE, including strict adherence to Oregon Department of Fish & Wildlife in-water work windows.
14. GRANTEE shall pay to GRANTOR the current market value, as determined by GRANTOR, for any unnecessary and non-approved damages to state-owned lands caused by construction or maintenance of the easement.

15. GRANTEE shall pay all assessments that may be legally charged on public lands which are levied against the property subject to this easement, whether or not such assessments have been levied against the easement area or STATE by the assessing agency.
16. GRANTEE shall use the authorized easement area only in a manner or for such purposes that assure fair and non-discriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender or national origin.
17. If a crossing listed in this easement is later found to have a valid easement from the GRANTOR, then the easement with the latest expiration date will be the “prevailing easement.”
18. This easement is freely transferable. However, no transfer may increase the burden on the easement area or detract from the value of the underlying state-owned land.

DRAFT

This easement does not convey an estate in fee simple of the lands used for a right-of-way. This grant is for an easement only, and title remains in the State of Oregon.



STATE OF OREGON, acting by and through its Department of State Lands

DSL Authorized Signature/Printed Name

Date

STATE OF OREGON)
) ss
County of Marion)

This foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, the _____ of the Department of State Lands.

Signature
My commission Expires _____, 20__.

**CERTIFICATE OF APPROVAL OF CONVEYANCE
(ORS 93.808)**

State of Oregon, by and through its Department of Transportation, Grantee, hereby approves and accepts, pursuant to ORS 93.808, the grant of an interest in real property from State of Oregon, by and through its Department of State Lands, Grantor, as described in the instrument to which this Certificate is attached.

A copy of this Certificate may be affixed to, and recorded with, the instrument described above.

DATED this ____ day of _____, 20__.

State of Oregon, by and through its
Department of Transportation,
Grantee

By: _____

Name: _____

Title: _____

STATE OF OREGON)
) ss
County of _____)

On this _____ day of _____, 20__, before me personally appeared _____, who being duly sworn stated that he/she is the _____ of Oregon Department of Transportation, Grantee, and acknowledged the foregoing instrument to be the voluntary act of said Grantee and that he/she executed the foregoing instrument under authority granted by said Grantee.

NOTARY PUBLIC FOR OREGON
My commission Expires: _____



Oregon

Kate Brown, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

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www.oregonstatelands.us

State Land Board

Kate Brown

Governor

State Land Board

Regular Meeting

October 16, 2018

Agenda Item 4

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

SUBJECT

Request for adoption of changes to the administrative rules governing the granting of easements on state-owned Trust and Non-Trust Land (OAR 141-122-0010 to OAR 141-122-0130). Separate OAR 141-122 into two rule divisions: 1. OAR 141-122 – Rules for Granting Easements on Trust Lands; and 2. OAR 141-123 – Rules for Granting Easements on Non-Trust Lands.

ISSUE

Whether the State Land Board should adopt the above referenced changes to (OAR 141-122).

AUTHORITY

Oregon Constitution, Article VIII, Section 5

ORS Chapter 183; Administrative procedures and rules of state agencies.

ORS Chapter 273; State Lands Generally.

ORS Chapter 274; Submerged and Submersible Lands.

OAR 141-122; Rules for Granting Easements on Trust and Non-Trust Land.

BACKGROUND

On June 22, 2011, the State Land Board authorized the Oregon Department of State Lands (Department) to amend its rules for granting easements on Trust and Non-Trust Land.

The purpose of the rulemaking effort was to:

- Separate Division 122 rules into two rule divisions: 1. Division 122 – Rules for Granting Easements on Trust Lands; and 2. Division 123 – Rules for Granting Easements on Non-Trust Lands.
- Accommodate statutory, and rule changes that have occurred in the past several years,
- Update the general provisions section to reflect the current practices of the Department,
- Complete rule language changes recommended by the Oregon Department of Justice,
- Review and update the administrative procedures for reviewing and issuing easements, and
- Review compensation for easements

PUBLIC INVOLVEMENT

Rules Advisory Committee (RAC)

A RAC was convened in January of 2018 to review and make comments on the proposed amendments and changes to the rules. Members of the RAC consisted of:

- Steve Walti, NW Natural Gas
- Brendan J. McCarthy, Portland General Electric
- Kevin Arnold, Comcast
- Ryan Brown Oregon Department of Transportation
- Brian Worley, Association of Oregon Counties
- Samantha Ridderbusch, Century Link
- Jerome Rosa, Oregon Cattleman's Association
- Brandon Hignite, Central Lincoln PUD
- Erin Doyle, League of Oregon Cities

- Laurie Wimmer, Oregon Education Association
- Joy Vaughn, Oregon Department of Fish and Wildlife
- Patrick Harrington, Idaho Power Company
- Clark Balfour, Special Districts Association of Oregon
- Jim Palmer, Pacific Power

The RAC met four times over a period of four months as they assisted the Department in preparing a draft rule for public comment.

Public Notice

A Notice of Proposed Rulemaking Hearing was sent to current easement holders that are up for renewal in two years, interested parties and stakeholders, and posted on the Department's website. Furthermore, the Statement of Need and Fiscal Impact required by the Oregon Secretary of State was sent to the Rules Advisory Committee for their review and comment as well as posted on the agency website.

Public Hearings

The Department held three public hearings on the proposed rules. The hearings were held in Ontario on August 21, 2018, Bend on August 22, 2018, and Salem on August 28, 2018.

RECOMMENDATION

The Department recommends that the Land Board adopt the proposed changes to the administrative Rules for Granting Easements on Trust Land (OAR 141-122- 0010 to 141-122-0130) and Rules for Granting Easements on Non-Trust Land (OAR 141-123-0010 to 141-123-0120).

APPENDICES

- A. Final Easement Rules for Land Board Consideration
- B. Notice of Proposed Rulemaking including Statement of Need and Fiscal Impact, and Draft Easement Rules for Review and Public Comment
- C. Public comments received and DSL responses

DEPARTMENT OF STATE LANDS

DIVISION 122

RULES FOR GRANTING EASEMENTS ON TRUST LAND

141-122-0010

Purpose and Applicability

(1) These rules:

(a) Govern the granting of easements on state-owned Trust land as specified herein.

(b) Do not apply to the:

(A) Granting of easements for State owned submerged and submersible lands administered under OAR 141-123 (Rules for Granting Easements on Non-Trust Land)

(B) Granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea, an activity governed by OAR 141-083 (Rules For Granting Easements For Fiber Optic And Other Cables On State-Owned Submerged and Submersible Land Within The Territorial Sea);

(C) Granting of authorizations for hydroelectric projects on state-owned Trust Land, an activity governed by OAR 141-087 (Hydroelectric Projects);

(D) Dedication of roads or rights of way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or

(E) Existing valid easements or right of ways granted, by the Department or State Land Board, prior to the adoption of these rules.

(c) Require prior authorization for all uses described under OAR 141-122-0010(2) and (3) unless otherwise exempt from easement under the provisions of OAR 141-122-0010(4) of these rules.

(d) Contain specific provisions relating to the granting of easements by:

(A) The Department and the Oregon State Forester on Common School Forest Land; and

(B) The Department to persons who have or will place a structure or facility on state-owned Trust Land necessary to take water for which they have a right to use the water.

(2) Unless otherwise exempt under the provisions of OAR 141-122-0010(4) of these rules, developments and uses of state-owned land subject to easement include, but are not limited to the following:

(a) Water, gas, electric and communication service lines (including fiber optic cables) and associated equipment such as pumping stations, transformers and meters;

(b) Innerducts and conduits for cables (regardless of whether they contain a cable or are in use);

(c) Water supply pipelines, ditches, canals, and flumes;

- (d) Drainage and irrigation works;
 - (e) Sewer, storm, and cooling water lines, including storm water outfalls and other outfalls;
 - (f) Bridges, skylines, and logging lines;
 - (g) Railroad and light rail track, bridges, stations, depots, and other related facilities;
 - (h) Roads and trails of all types;
 - (i) Overhead transportation lines (for example, skylines, tramways, logging lines, etc.);
 - (j) Storage of materials (for example, sand, gravel, dredge spoils, etc.); and
 - (k) Other encroachments.
- (3) The Department Director may determine that other uses and developments similar to those specified in OAR 141-122-0010(2) are also subject to authorization by, or exempted from an easement and these rules.
- (4) An easement is not required for uses or developments on Trust Land that would require an easement under these rules if the person undertaking the use or owning the development has obtained a valid authorization from the Department pursuant to the provisions of OAR 141-110 (Management and Leasing of Rangeland Forage); OAR 141-125 (Authorizing Special Uses on State-Owned Land), provided the proposed use or development is located on the land which is subject of the authorization, is incidental to the specific use that is the subject of the authorization, and does not result in an additional burden on the land.
- (5) A person who is exempt from obtaining an easement under the provisions of OAR 141-122-0010(4) may apply to obtain an easement, and the Department may authorize an easement even though none is required under these rules. The application shall be processed in accordance with OAR 141-122-0050.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0020

General Provisions

- (1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management."
- (2) In addition to the constitutional mandate described in OAR 141-122-0020(1), the Department is required to manage its Trust Land to maximize revenue to the Common School Fund over the long term.
- (3) The Department shall follow the guiding principles and resource-specific management prescriptions contained in the Real Estate Asset Management Plan, and consider the comments received from federal, state, and local

governments and interested persons when determining whether to authorize or condition an easement on state-owned land.

(4) All uses of state-owned land must conform to applicable local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws.

(5) No applicant or grantee is allowed to request from any government agency a change in the zoning for, or approved uses of, state-owned land without first applying to, and receiving written approval from the Department.

(6) The Department shall not grant an easement if:

(a) As a result of its circulation for public comment of the application for easement as described in OAR 141-122-0050(4) it determines that the proposed use or development would unreasonably impact uses or developments proposed or already in place within the requested area; or

(b) If the proposed use or development is inconsistent with local, state, or federal laws; or

(c) If the proposed use or development is inconsistent with these rules; or

(d) If the proposed use or development has unacceptable impacts on public health, safety or welfare, or would result in the loss of, or damage to natural, historical, cultural or archaeological resources; or

(e) If the proposed use or development is prohibited by a State Land Board or Department-adopted area closure, use restriction, or area management plan (such as the Lower Willamette River Management Plan; or a Total Maximum Daily Load Implementation Plan); or

(f) If the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).

(7) The Department shall:

(a) Recognize all valid easements of record on land acquired by the Department as disclosed at the time of acquisition; and

(b) Honor any provisions contained in existing valid easements granted by the Department if the Holder of the easement has complied with all terms and conditions of the easement and applies to the Department for a new easement as prescribed in these rules.

(8) Except as provided in OAR 141-122-0010(4) and OAR 141-122-0100, any person wanting to use or place a development on state-owned land subject to an easement must obtain a written authorization in the form of an easement from the Department prior to beginning the use or placing the development.

Additionally, an easement is required for any use or development that encroaches on state-owned land regardless of its height above or below, or manner of crossing the state-owned land.

(9) Unless otherwise exempt by these rules, each individual use of, or development placed on, state-owned land constitutes a separate discrete activity subject to:

(a) An easement specifically authorizing only that individual use or development; and

(b) Payment of compensation as required in these rules.

(10) The Department may, at its discretion, deny an easement if the applicant's financial status or past business practices, or both, indicate that the applicant may not:

(a) Be able to fully meet the terms and conditions of an easement offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-122-0020.

(11) The Department may, at its discretion, deny an easement if the applicant is out of compliance with the terms of any authorization issued, or is subject to any enforcement or corrective action, by the Department.

(12) An easement cannot be established on Department-managed land by adverse possession regardless of the length of time the use or development has been in existence.

(13) The Department may:

(a) Conduct field inspections to determine if the uses and developments in place on state-owned land are authorized by, or conform with, the terms and conditions of an easement and, if not;

(b) Pursue whatever remedies are available under law and OAR 141-122-0130 to ensure that unauthorized uses subject to an easement on state-owned land are either brought into compliance with the requirements of these rules or removed.

(14) Pursuant to the provisions of ORS 530.490(2) and (3), the Oregon State Forester may issue easements on Common School Forest Land in accordance with these rules (OAR 141-122-0100) and those adopted by the Oregon State Board of Forestry.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0030

Definitions

(1) "Applicant" is any person applying for an easement.

(2) "Appraised Value" means an estimate of current market value of the property (not including improvements) as of a specific date, prepared by a qualified independent appraiser in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards.

(3) "Authorized Area" is the area of state-owned land defined in the easement for which a use is authorized.

(4) "Cable" means a conductor of electricity or light with insulation, or a combination of conductors insulated from one another within a single jacket or sheath.

(5) "Circuit" means a system of conductors through which an electric current is intended to flow. A single pole or transmission tower may support one or more circuits, each of which may consist of up to four separate conductors.

(6) "City" means a city incorporated under ORS 221.020 through 221.100.

- (7) "City Limits" refers to the boundaries of a city incorporated under ORS 221.020 through 221.100.
- (8) "Common School Forest Land" is Trust Land that has been designated or "certified" by the State Land Board and the Oregon Board of Forestry for management by the Oregon Department of Forestry under contract between the State Forester and the State Land Board as allowed in ORS 530.450 through 530.520.
- (9) "Communication Line" is any cable including fiber optic cable which transmits electronic information, telephone or television signals or other data.
- (10) "Comparative Compensatory Payment" is the amount of money paid to owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant.
- (11) "Compensation" or "Compensatory Payment" is the amount of money, or something of equal value, paid or provided for an easement to the Department for the use of Department-managed land.
- (12) "Conduit" is a pipe that protects cables from damage. It may be buried or used in above-ground applications such as bridge crossings. Innerducts may be installed within a conduit to facilitate individual cable installation.
- (13) "Deflector" is a structural barrier such as a groin or jetty projecting into a waterway to divert flow away from and prevent eroding sections of the banks of a waterway.
- (14) "Department" means the Department of State Lands.
- (15) "Development" is any structure or physical facility (for example, each cable, innerduct, innerduct and cable, conduit, conduit and cable, pipeline, electrical line, communication line, bridge, road, fence, ditch, reservoir, or easement-associated building) on state-owned land subject to, or authorized by an easement granted by the Department.
- (16) "Director" means the Director of the Department of State Lands or designee.
- (17) "Domestic Use" means the use of water for human consumption and household purposes that is necessary for the sustenance of an individual, family unit or household. Domestic use may also include water used by an individual family unit or household for heating or cooling purposes.
- (18) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the Holder other than those specifically granted in the easement authorization.
- (19) "Easement for Conservation Purposes" is a type of easement granted by the Department that limits uses to protect the property for conservation values, such as fish and wildlife habitat or other ecosystem processes. The easement for conservation purposes is conveyed by the Department when the applicant is not

eligible to hold a Conservation Easement or otherwise does not conform to ORS 271.715 to 271.775.

(20) "Encroachment" is an unauthorized development or use, such as, but not limited to a structure, fill, or pile of aggregate, that overlaps on, or otherwise occupies or restricts the full use of state-owned land. An encroachment may be a pipe, conduit, or other structure that has been abandoned in place. An encroachment may also occur when the Holder of an easement granted by the Department extends their use outside of the area authorized by that easement or adds a use or development not authorized.

(21) "Erosion Control Structures" mean revetments, attenuators, deflectors, retaining walls, riprap and other structures placed adjacent to or on State Trust Land

(22) "Fiber Optic Cable" means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light.

(23) "Gas Lines and Associated Fixtures" are the pipelines and required compressor and gate stations, valves, meters, regulators, relief stacks, marker posts, rectifiers, and all other related fixtures and equipment necessary to deliver natural gas from the point of origin to the user.

(24) "Governmental Body" means an agency of the Federal Government, the State of Oregon, and every political subdivision thereof as defined in ORS 271.005.

(25) "Holder" means any person who holds a current authorization from the Department for the use of state-owned lands.

(26) "Individual Use" or "Individual Development" is each separate use of, or development placed on state-owned land.

(27) "Innerduct" is tubing that not only protects fiber optic and other types of cables, but also facilitates their installation. It is often placed inside a conduit, or may be buried directly into the ground

(28) "Intake" is a location or structure through which something is taken in, e.g. water in a channel or pipe from a body of water.

(29) "Irrigation" or "Irrigation Use" means the artificial application of water to crops or plants by controlled means to promote growth or to nourish crops or plants. Examples of irrigation uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course play field or vineyard.

(30) "Market Value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and assuming neither is under undue duress.

(31) "Miscellaneous Development" means any development placed upon, over or across state land that is not already defined in these rules (e.g. mailboxes, monitoring wells, Helipads)

(32) "Non-Trust Land" is land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and

submerged and submersible land [(*land below ordinary high water*)] under navigable and tidally influenced waterways.

(33) "Outfall" is the point of a drain where it discharges to an area of land or body of water.

(34) "Owner" means a person or legal entity that has a property interest in a structure or land

(35) "Permanent Easement" is a type of easement that is issued in perpetuity.

(36) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.

(37) "Public Trust Use(s)" means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect and enhance those uses. Examples of Public Trust Uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating.

(38) "Real Estate Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets.

(39) "Real Market Value for Land" means the current market value of the property (not including improvements) assigned to the land within the tax lot, adjacent riparian tax lot, or comparable tax lot by the county tax assessor.

(40) "Right of Way" is the legal right, established by grant, to pass along a specific route through grounds or property belonging to another.

(41) "Right to Use Water" is a water right permit, water right certificate, or a proposed or final order approving a water right permit granted by the Oregon Water Resources Department, or court decree evidencing a water right, authorizing a person to take and use a specific quantity of water for a specific use or uses from a specific location under specific terms and conditions.

(42) "Roadway" means a road, driveway or any other development for the use of a vehicle.

(43) "State Land" or "State-Owned Land" is land owned by the State and managed by the Department or its agents and includes Trust Land and Non-Trust Land.

(44) "State Land Board" means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.

(45) "Structure or Facility Necessary for the Use of Water" means the pipelines and required stands, pumps, wiring, fish screens, and similar equipment necessary to convey water from the point of diversion to the place of use.

(46) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(47) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(48) "Trust Land" is land granted to the state upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

(49) "Use" means an activity on state-owned lands that requires an easement under these rules.

(50) "Utility" means water, waste water, gas, electric or communication service lines, fixtures and other related facilities.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0040

Easement Application Requirements

(1) Except as provided by OAR 141-122-0010(4) (Purpose and Applicability) and 141-122-0100 (Easements Issued on Common School Forest Land), any person wanting to use state-owned land for any of the purposes described in OAR 141-122-0010(2) and (3) must:

(a) Apply to the Department for the easement using a form provided by the Department; and

(b) Submit a non-refundable application fee as provided in OAR 141-122-0040(3) payable to the Department to cover the administrative costs of processing the application and issuing the authorization. When applying for an easement for a structure or facility necessary for the use of water as described in OAR 141-122-0105, a person may submit to the Department a copy of their application to the Department of Water Resources for a right to use water in lieu of using the Department's easement application form.

(2) Unless otherwise exempt under the provisions of OAR 141-122-0010(4) (Purpose and Applicability), each individual use of, or development placed on state-owned land must be authorized by a separate easement specifically authorizing only that use or development.

(a) With regard to a conduit, regardless of the number of innerducts or fiber optic cables contained within the conduit, each cable or innerduct is considered an individual use subject to authorization by an easement.

(b) With regard to electric power transmission lines, one transmission line with one or more circuits will constitute an individual use subject to authorization by an easement. Additional parallel transmission lines owned by the same entity with one or more circuits may be included in the same individual use so long as such parallel lines are located within the designated boundaries of the easement.

(3) The application fee for all easements is as follows:

(A) Utility Easements \$750

(B) All Other Trust Land Easements: \$1,500.00

- (C) Application fee for all structures or facilities necessary for the use of water on submerged land subject to an easement is \$125.
- (4) A single easement application form may be used to request:
 - (a) Multiple easements required for a single pipeline, cable, or similar use or development which cross one or more parcels of state-owned land
 - (b) An easement for all state, county or city-owned bridges within a single county, or
 - (c) An easement for one or more identical uses or developments which cross the same parcel of state-owned land or state-owned waterway, for example, two parallel pipelines.
- (6) An easement application for a conduit must include a cross-sectional drawing that shows the proposed use and the remaining conduit space available for future use.
- (7) A fully completed application must be submitted to the Department at least 90 calendar days prior to the proposed use or placement of a development subject to a term easement on state-owned land, unless otherwise allowed by the Director in writing
- (8) A fully completed application must be submitted to the Department at least 120 calendar days prior to the proposed use or placement of a development that is eligible for a permanent easement on state-owned land, unless otherwise allowed by the Director in writing.
- (9) Any person holding a valid easement (other than a permanent easement) granted by the Department prior to the adoption of these rules who wants to continue holding the authorized area following the expiration of the easement for a use subject to easement must:
 - (a) Apply to the Department for a new easement and pay the required application fee 180 calendar days prior to the expiration of the easement as provided in OAR 141-122-0040(1), unless otherwise allowed by the Director in writing; and
 - (b) Pay the compensatory payment required by OAR 141-122-0060 at such time that the Department has reviewed and approved the easement application request pursuant to OAR 141-122-0050(9) and (10).

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0050

Easement Application Review and Approval Process

(1) Department staff may require a meeting to discuss a proposed project and use before performing an application completion review. This meeting may be in person or through other means acceptable to the Department. The Department

may invite other government entities and affected stakeholders to take part in an application meeting.

(2) Upon receipt of an application, and the completion of an application meeting if necessary, the Department will determine whether it is complete. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.

(3) If a rejected application is resubmitted within 120 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed.

(4) If determined by the Department to be complete, the application will be circulated to affected local, state, and federal agencies; Holders of valid authorizations granted by the Department in the requested area; and other interested parties including federally recognized tribal governments and ports for review and comment. As a part of this review, the Department will specifically request comments concerning:

(a) The presence, type and location of state or federal listed threatened and endangered species (including candidate species), and archeological and historic resources within the requested area which may be disturbed by the proposed use;

(b) Whether the proposed easement use:

(A) Conforms with other local, state, and federal law and rules;

(B) Conforms with the local comprehensive land use plan and zoning ordinances;

(C) Conforms with the general provisions described in OAR 141-122-0020 of these rules; and

(D) Would unreasonably impact uses or developments proposed or already in place within the requested area.

(5) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed use. The Department shall make paper or electronic copies of an application available to any person upon request.

(6) The Department may waive the circulation requirement described in OAR 141-122-0050(4) if:

(a) The use or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented in the easement application;

(b) The application is for an easement associated with the right to use water and the Water Resources Department is conducting or has conducted a public interest review sufficient to make the determinations required by OAR 141-122-0050(4) or,

(c) The application is for an easement for an energy facility that has been granted a site certificate by the Energy Facility Siting Council under ORS 469.300 et seq. and OAR 345-022, et seq. (Regulation of Energy Facilities), in which case the Department will accept the findings and conclusions of the Energy Facility Siting Council in evaluating the easement application over Trust Land.

- (7) An applicant for an easement may be required to amend their application at any time to address issues, concerns, or information needs identified by the Department or other commenters.
- (8) After receipt of agency and public comment concerning the proposed use, the Department will determine, and advise the applicant in writing if:
- (a) Changes to the requested easement area are necessary to respond to agency or public comment;
 - (b) Additional information is required from the applicant, including but not limited to a survey of:
 - (A) State or federal listed threatened and endangered species (including candidate species) within the requested area; or
 - (B) Archaeological and historic resources within the requested area.
 - (c) The request is denied. Applicants will be given the opportunity to revise their proposed project if the Department denies the request; or
 - (d) The easement will be granted with specific terms and conditions.
- (9) If the Department decides to grant the easement, the written notification will also indicate:
- (a) The amount of compensation pursuant to the requirements of OAR 141-122-0060 that the applicant must remit to the Department to obtain the authorization;
 - (b) Any surety bond or other guarantees of performance in an amount required by the Department pursuant to the provisions of OAR 141-122-0070(12); and
 - (c) The easement terms and conditions.
- (10) The Department will not grant an easement to an applicant until it has received all fees and compensation specified in these rules, and evidence of a surety bond or other guarantees of performance (if required). However, the Department, at its discretion, may grant a provisional easement prior to receipt of compensation due for removal of timber, sand and gravel, or other natural resources in the easement area if the market value of those resources is based on actual receipts from their sale.
- (11) The Director may refer unusual or controversial easement applications to the State Land Board for review and approval.
- (12) If requested by the Department, an applicant must present evidence to the Department prior to placing the use or development that they have obtained:
- (a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use or development; and
 - (b) Any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to undertake the use or development.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0060
Compensation

(1) Except as provided in OAR 141-122-0060(3), the Department will, prior to granting an easement, require an applicant to submit to the Department a compensatory payment for each individual crossing or use of state-owned land in the greatest of:

(a) 100 percent of the market value of the area requested for the easement if it is on, over or above state-owned upland for uses as defined in OAR 141-122-0010(2) and (3). Market value is either:

(A) Real market value as determined by the county tax assessor for DSL parcel impacted and the benefitting tax lot(s); or

(B) An appraised value that is acceptable to the Department and that has been prepared by a qualified state-certified appraiser.

(b) Minimum compensation fee as follows:

(A) Utilities: \$3,500.00

(B) Roadways: \$2,500.00

(C) Miscellaneous Development: \$1,000.00

(2) If required by the Department, applicants must also submit to the Department a payment in an amount to be determined by the Department for the market value of any commercially valuable timber, sand and gravel, or other natural resources in the easement area which must be removed during or after placement of the proposed use, or which cannot be developed because of the easement use. Such payment shall be due at a date to be determined by the Department.

(3) The Department may, in lieu of a cash compensatory payment, negotiate a non-cash compensatory payment equivalent to or greater than the compensation required under OAR 141-122-0060(1).

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0070

General Easement Terms and Conditions

(1) Easements shall be offered by the Department for the minimum area and term determined by the Department to be required for the requested use or development. Unless otherwise authorized by the Director, the minimum width of an easement shall be no less than 15 feet.

(2) The applicant shall have ninety (90) calendar days from the date of offer to execute an easement with the Department. The Department may revoke the offer after ninety calendar days, at which time the applicant may re-apply for an easement in accordance with OAR 141-122-0040.

(3) The Department may grant additional easements which, as determined by the Department, do not substantially interfere with other authorized easements within a given area.

(4) Easements shall be offered for a term no longer than thirty (30) years unless otherwise authorized by the Director.

- (5) The Department may, upon request of the applicant, grant permanent easements only for structures or facilities necessary for the use of water as provided in OAR 141-122-0105.
- (6) Requests for permanent easements shall be taken to the State Land Board for review and approval.
- (7) An easement granted by the Department will generally be to a specific person for a specific use, location, and term. The Holder of an easement must apply to and obtain prior written approval from the Department as provided in OAR 141-122-0040 prior to:
- (a) Changing the authorized use;
 - (b) Transfer of ownership;
 - (c) Expanding the number of authorized developments or uses;
 - (d) Changing the authorized area; or
 - (e) Permitting other persons to utilize the authorized area for uses and developments requiring separate authorization by the Department (for example, attachment of cables, conduits, or pipes under a bridge already authorized by an easement).
- (8) State-owned land authorized for a specific use by an easement will remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or the Department. An easement Holder may request the Department to partially restrict or close an easement area to partial or total public use if it can be demonstrated to the Department that:
- (a) Public entry on the area encumbered by the easement could cause damage to the use of, or development placed on the authorized area; or
 - (b) The use of the authorized area could cause harm to the public.
- (9) The Department or its authorized representative(s) shall have the right to enter into and upon the authorized easement area at any time for the purposes of inspection or management.
- (10) Routine right of way maintenance including, but not limited to vegetation trimming and the application of state-approved herbicides will be allowed as specified by the easement conditions. However, except as expressly authorized in writing by the Department, an easement Holder will not otherwise remove any sand, gravel, or other mineral or natural resources within the authorized area for commercial use or sale.
- (11) The Holder of an easement must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, disturbed lands shall be reclaimed as specified by the Department.
- (12) The Holder of an easement must maintain all buildings, pipelines, cables, and other developments or items placed in or on state-owned land in a good state of repair.
- (13) Applicants for an easement may be required to obtain:
- (a) Insurance, bond or other guarantees of performance required by the Department in the exercise of its reasonable discretion if, in the opinion of the

Department, the use constitutes a risk to other users of the area, to public safety, or to the State of Oregon, or if required by Oregon state law. The Department may:

(A) Request that the applicant for, or the Holder of an easement provide information concerning the use or development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use, and

(B) Require that the State of Oregon be named as an additional insured party in any such policy.

(b) A surety bond in an amount to be determined by the Department to ensure that the easement Holder will perform in accordance with all terms and conditions of the authorization; or a cash deposit in an amount equal to the amount required for a surety bond.

(14) Easement Holders must inspect the condition of the easement area and the developments placed on it on a frequency to be determined by the Department in consultation with the easement Holder and other interested parties.

(15) Unless otherwise agreed to in writing in the easement, the Holder of an easement which does not have a permanent term must terminate all use, and remove any or all developments or uses placed within the easement area upon expiration or cancellation of the easement. If the Holder of the easement refuses to terminate their use or remove their developments, the Department may remove them and charge the Holder for doing so.

(16) The Holder of an easement must indemnify the State of Oregon and the Department against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area resulting from the actions or negligence of the easement Holder.

(17) A term easement exempt from any fees may be subject to the future imposition by the Department of a consideration payment, and/or usage fee to be established by the State Land Board as authorized by law.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0080

Transfer of Easements

(1) An easement in good standing is transferable. Prior written consent of the Department is required prior to any transfer of the easement. No transfer may increase the burden on the estate or detract from the value of the underlying state land.

(2) The Holder of an easement wanting to transfer their easement must submit to the Department:

(a) Notice of proposed transfer on a form provided by the Department at least 60 calendar days prior to the date that the transfer is to occur; and

(b) Non-refundable transfer processing fee of \$1,000.00 payable to the Department.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0090

Termination of an Easement

(1) The Department may terminate any easement:

(a) If there is no use of, or development placed on the easement area for five consecutive years;

(b) If the easement is for a structure or facility necessary for the use of water on state-owned land and the associated right to use water is cancelled by the Oregon Water Resources Department or abandoned by the easement Holder.

Upon such termination, the Department will notify the easement Holder in writing using the last known address reported by the easement Holder to the Department. This notification will state that the easement has terminated, and

that the easement Holder will have 30 calendar days from the date of the notice to respond in writing to the Director why the easement should be reinstated. The Director will notify the easement Holder in writing of his/her decision within 60 calendar days of receipt of the request for reinstatement of the easement; or

(c) If the Holder of the easement fails to comply with these rules or the terms and conditions of the easement, or violates other laws covering the use of their authorized area, the Department will notify the Holder of the easement in writing of the default and demand correction within a specified time frame. If the Holder of an easement fails to correct the default within the time frame specified, the Department may:

(A) Modify or terminate the easement; or

(B) Invoke other remedies as provided in OAR 141-122-0130.

(2) Notwithstanding the provision of OAR 141-122-0090(1), the Department will not terminate a term easement if the Holder of the easement is ready, but unable to commence the requested use within the five-year period due to their inability to obtain other required authorizations within the five-year period.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0100

Easements Issued on Common School Forest Land

(1) The Oregon State Forester may issue an easement not to exceed a term of ten years [temporary easements] on certified Common School Forest Land in accordance with applicable statutes and administrative rules.

(2) Such easements may be issued by the Oregon State Forester for uses such as, but not limited to:

- (a) Use of roads for forest management purposes;
 - (b) Constructing, improving and/or maintaining temporary roads, including spur roads;
 - (c) Constructing landing sites to deck timber;
 - (d) Use of stumps and/or trees for guide lines and tail holds;
 - (e) Extracting sand, gravel, or quarry rock for the improvement, construction or maintenance of state-owned roads; and
 - (f) Use of existing roads for forest management purposes.
- (3) Any person wanting to obtain an easement on certified Common School Forest Land must apply directly to the Oregon Department of Forestry.
- (4) Any person wanting to obtain an easement on Common School Forest Land for the uses or developments described in OAR 141-122-0010(2) and (3), must apply to the Department pursuant to these rules.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0105

Easements For Structures and Facilities Necessary for the Use of Water

- (1) An easement is required for all structures and facilities placed on Trust Land managed by the Department that are necessary for the use of water.
- (2) An application received by the Department for an easement for a structure or facility necessary for the use of water will be processed pursuant to the provisions of OAR 141-122-0050 and 141-122-0060 (as applicable) of these rules.
- (3) The Department will allow a person to include up to three water pipelines and associated fixtures per lot of record on their application for an easement.
- (4) An easement issued by the Department under this section will have the same term as that of the associated right to use the water as determined by the Oregon Water Resources Department. Land Board approval will not be required for an easement granted under this section.
- (5) The Department may enter into an agreement with the Oregon Water Resources Department to consolidate the processing of easements for structures or facilities necessary for the use of water with the processing of a right to use water.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0110

Unauthorized Uses and Penalties

- (1) Uses and developments not authorized by an easement issued by the Department, or by another agency as a valid existing right of record on land

acquired by the Department, constitute a trespass and must be removed as directed unless otherwise authorized in writing by the Department.

(2) In addition to any other penalties provided or permitted by law, the use or placement of any development on state-owned land without the required Department authorization as described in these rules, or which is otherwise not in compliance with these rules, will constitute a trespass and be prosecuted pursuant to governing law.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0120

Reconsideration of Decision

An applicant or any person adversely affected by the issuance or denial of an easement by the Department may request the Director or the State Land Board, depending on which entity made the decision, to reconsider the decision. A request for reconsideration must be filed in compliance with ORS 183.482 or 183.484.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-122-0130

Enforcement Actions; Civil Penalties and Other Remedies

(1) The Department may:

(a) Conduct field inspections to determine if uses of, and developments on, Trust Lands are authorized by, or conform with the terms and conditions of an easement and, if not,

(b) Pursue whatever remedies are available under law to ensure that any use that is in violation of the terms or conditions of an easement is either brought into compliance with the requirements of these rules or other applicable law, or removed.

(2) In addition to any other penalty or sanction provided by law, for uses subject to an easement located on Trust Lands, the Director may assess a civil penalty of not more than \$1,000 per day of violation for the following:

(a) Violations of any provision of OAR 141-122 or ORS 273 or 274; or

(b) Violations of any term or condition of a written authorization granted by the Department under ORS 273 and 274.

(3) The Director will give written notice of a civil penalty incurred under OAR 141-122-0130(2) by registered or certified mail to the person incurring the penalty.

The notice will include, but not be limited to the following:

(a) The particular section of the statute, rule or written authorization involved;

(b) A short and clear statement of the matter asserted or charged;

- (c) A statement of the party's right to request a hearing within 20 calendar days of the notice;
 - (d) The time allowed to correct a violation; and
 - (e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.
- (4) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-122-0130(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.
- (5) In imposing a penalty under OAR 141-122-0130 of these rules, the Director will consider the following factors as specified in ORS 274.994:
- (a) The history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;
 - (b) Any prior violations of statutes, rules, orders and authorizations pertaining to Trust lands, or submerged and submersible lands;
 - (c) The impact of the violation on Trust Land.
 - (d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.
- (6) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-122-0130 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.
- (7) If a civil penalty is not paid as required by OAR 141-122-0130, interest will accrue at the maximum rate allowed by law from the date first due.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

DEPARTMENT OF STATE LANDS

DIVISION 123

RULES FOR GRANTING EASEMENTS ON NON-TRUST LAND

141-123-0010

Purpose and Applicability

(1) These rules:

(a) Govern the granting and renewal of easements on state-owned Non-Trust land as specified herein.

(b) Do not apply to the:

(A) Granting of easements for State-Owned Trust lands under OAR 141-122 (Rules for Granting Easements on Trust Land)

(B) Granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea, an activity governed by OAR 141-083 (Rules for Granting Easements for Fiber Optic and Other Cables on State-Owned Submerged and Submersible Land Within the Territorial Sea);

(C) Granting of authorizations for hydroelectric projects on state-owned Non-Trust Land, an activity governed by OAR 141-087 (Hydroelectric Projects);

(D) Granting of authorizations for remediation and habitat restoration activities governed by OAR 141-145 (Rules Governing the Management of State-Owned Submerged and Submersible Land Subject to Remediation and Habitat Restoration Activities);

(E) Granting of authorizations for leases, licenses and registrations for structures on and uses of state-owned submerged and/or submersible lands governed by OAR 141-082 (Rules Governing the Management Of, And Issuing of Leases, Licenses and Registrations for Structures On, And Uses of State-Owned Submerged and Submersible Land).

(F) Dedication of roads or rights-of-way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or

(G) Existing valid easements or right of ways granted, by the Department of State Lands (Department) or State Land Board, prior to the adoption of these rules.

(c) Require prior authorization for all uses described under OAR 141-123-0010(2) and (3) unless otherwise exempt from easement under the provisions of OAR 141-123-0010(4) of these rules.

(d) Contain specific provisions relating to the granting of easements by the Department to persons who have or will place a structure or facility on state-owned Non-Trust Land necessary to take water for which they have a right to use.

(2) Unless otherwise exempt under the provisions of OAR 141-123-0010(4) of these rules, developments and uses of state-owned Non-Trust Land subject to easement include, but are not limited to the following:

- (a) Water, gas, electric and communication service lines (including fiber optic cables) and associated equipment such as pumping stations, transformers and meters;
- (b) Innerducts and conduits for cables (regardless of whether they contain a cable or are in use);
- (c) Water supply pipelines, ditches, canals, and flumes;
- (d) Drainage and irrigation works;
- (e) Sewer, storm, and cooling water lines, including storm water outfalls and other outfalls;
- (f) Bridges, skylines, and logging lines;
- (g) Railroad and light rail track, bridges, stations, depots, and other related facilities;
- (h) Roads and trails of all types;
- (i) Overhead transportation lines (for example, tramways, etc.);
- (j) Storage of materials (for example, sand, gravel, dredge spoils, etc.); and
- (k) Other encroachments
- (l) Erosion control structures, dikes, levees, and tide-gates.

(3) The Department Director may determine that other uses and developments similar to those specified in OAR 141-123-0010(2) are also subject to authorization by, or exempted from, an easement and these rules.

(4) An easement is not required:

(a) For uses or developments on state-owned Non-Trust Land that would require an easement under these rules if the person undertaking the use or owning the development has obtained a valid authorization from the Department pursuant to the provisions of OAR 141-082 (Leasing And Registration Of Structures On, And Uses Of State-Owned Submerged And Submersible Lands); OAR 141-145 (Authorizations For Remediation And Habitat Restoration Activities); or OAR 141-125 (Authorizing Special Uses On State-Owned Land), provided the proposed use or development is located on the land which is subject of the authorization, is incidental to the specific use that is the subject of the authorization, and does not result in an additional burden on the land; or

(b) For any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if the below conditions apply:

(A) The withdrawal is authorized by a valid right to use the water; and

(B) The water is used exclusively for irrigation or domestic use.

(c) For water, gas, electric and communication lines physically attached to and supported by county or state-owned bridges that cross state-owned waterways which are located outside of city limits. If the water, gas, electric and communication lines are located within a city, or cross a state-owned waterway within a city, they are subject to easement unless otherwise exempt by these rules.

(5) A person who is exempt from obtaining an easement under the provisions of OAR 141-123-0010(4) may apply to obtain an easement and the Department

may authorize an easement even though none is required under these rules. The application shall be processed in accordance with OAR 141-123-0050.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0020

General Provisions

(1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management."

(2) The Department shall follow the guiding principles and resource-specific management prescriptions contained in the Real Estate Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition an easement on state-owned land.

(3) All tidally influenced and title navigable waterways (referred to as state-owned submerged and submersible land) have been placed by the Oregon State Legislature under the jurisdiction of the State Land Board and the Department, as the administrative arm of the State Land Board.

(4) All references in these rules to "state-owned submerged and submersible land" include state-owned submerged lands or submersible lands or both.

(5) State-owned submerged and submersible land is managed to ensure the collective rights of the public to fully use and enjoy this resource for commerce, navigation, fishing, recreation, and other public trust values. These rights are collectively referred to as "public trust rights".

(6) All uses of state-owned land must conform to applicable local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws.

(7) No applicant or grantee is allowed to request from any government agency a change in the zoning for, or approved uses of, state-owned land without first applying to and receiving written approval from the Department.

(8) The Department shall not grant an easement if:

(a) As a result of its circulation for public comment of the application for easement as described in OAR 141-123-0050(4) it determines that the proposed use or development would unreasonably impact use or developments proposed or already in place within the requested area; or

(b) If the proposed use or development is inconsistent with local, state, or federal laws; or

(c) If the proposed use or development is inconsistent with these rules; or

(d) If the proposed use or development has unacceptable impacts on public health, safety or welfare, or would result in the loss of, or damage to natural, historical, cultural or archaeological resources, as determined by the Department;

or

(e) If the proposed use or development is prohibited by a State Land Board or Department-adopted area closure, use restriction, or area management plan (such as the Lower Willamette River Management Plan; or a Total Maximum Daily Load Implementation Plan); or

(f) If the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).

(9) The Department may, at its discretion, deny an easement if the applicant's financial status or past business practices, or both, indicate that the applicant may not:

(a) Be able to fully meet the terms and conditions of an easement offered by the Department; or

(b) Use the land applied for in a way that meets the provisions of OAR 141-123-0020.

(10) The Department may, at its discretion, deny an easement if the applicant is out of compliance with the terms and conditions of any previous authorization issued, or is subject to any enforcement or corrective action, by the Department.

(11) The Department shall:

(a) Recognize all valid easements of record on land acquired by the Department as disclosed at the time of acquisition; and

(b) Honor any renewal provisions contained in existing valid easements granted by the Department if the Holder of the easement has complied with all terms and conditions of the easement and applies to the Department for a new easement as prescribed in these rules.

(12) Except as provided in OAR 141-123-0010(4) and OAR 141-123-0100(2), any person wanting to use or place a development on state-owned land subject to an easement must obtain a written authorization in the form of an easement from the Department prior to beginning the use or placing the development.

Additionally, an easement is required for any use or development that encroaches on state-owned land regardless of its height above or below, or manner of crossing the state-owned land.

(13) Unless otherwise exempt by these rules, each individual use of, or development placed on, state-owned land constitutes a separate discrete activity subject to:

(a) An easement specifically authorizing only that individual use or development; and

(b) Payment of compensation as required in these rules.

(14) An easement cannot be established on Department-managed land by adverse possession regardless of the length of time the use or development has been in existence.

(15) The Department may:

(a) Conduct field inspections to determine if the uses and developments in place on state-owned land are authorized by, or conform with, the terms and conditions of an easement and, if not;

(b) Pursue whatever remedies are available under law and OAR 141-123-0120 to ensure that unauthorized uses subject to an easement on state-owned land are either brought into compliance with the requirements of these rules or removed.
Stat. Auth.: ORS 273.045
Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0030

Definitions

- (1) "Applicant" is any person applying for an easement.
- (2) "Appraised Value" means an estimate of current market value of the property (not including improvements) as of a specific date, prepared by a qualified independent appraiser in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards.
- (3) "Authorized Area" is the area of state-owned land defined in the easement for which a use is authorized.
- (4) "Cable" means a conductor of electricity or light with insulation, or a combination of conductors insulated from one another within a single jacket or sheath.
- (5) "Circuit" means a system of conductors through which an electric current is intended to flow. A single pole or transmission tower may support one or more circuits, each of which may consist of up to four separate conductors.
- (6) "City" means a city incorporated under ORS 221.020 through 221.100.
- (7) "City Limits" refers to the boundaries of a city incorporated under ORS 221.020 through 221.100.
- (8) "Communication Line" is any cable including fiber optic cable which transmits electronic information, telephone or television signals or other data.
- (9) "Comparative Compensatory Payment" is the amount of money paid to owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant.
- (10) "Compensation" or "Compensatory Payment" is the amount of money paid or something of equal value provided for an easement to the Department for the use of Department managed land.
- (11) "Conduit" is a pipe that protects cables from damage. It may be buried or used in above-ground applications such as bridge crossings. Innerducts may be installed within a conduit to facilitate individual cable installation.
- (12) "Deflector" is a structural barrier such as a groin or jetty projecting into a waterway to divert flow away from and prevent eroding sections of the banks of a waterway.
- (13) "Department" means the Department of State Lands.
- (14) "Development" is any structure or physical facility (for example, each cable, innerduct, innerduct and cable, conduit, conduit and cable, pipeline, electrical

line, communication line, bridge, road, fence, ditch, reservoir, or easement-associated building) on state-owned land subject to or authorized by an easement granted by the Department.

(15) "Director" means the Director of the Department of State Lands or designee.

(16) "Domestic Use" means the use of water for human consumption and household purposes that is necessary for the sustenance of an individual, family unit or household. Domestic use may also include water used by an individual family unit or household for heating or cooling purposes.

(17) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the Holder other than those specifically granted in the easement authorization.

(18) "Easement for Conservation Purposes" is a type of easement granted by the Department that limits uses to protect the property for conservation values, such as fish and wildlife habitat or other ecosystem processes. The easement for conservation purposes is conveyed by the Department when the applicant is not eligible to hold a Conservation Easement or otherwise does not conform to ORS 271.715 to 271.775.

(19) "Encroachment" is an unauthorized development or use, such as, but not limited to a structure, fill, or pile of aggregate, that overlaps on, or otherwise occupies or restricts the full use of state-owned land. An encroachment may be a pipe, conduit, or other structure that has been abandoned in place. An encroachment may also occur when the Holder of an easement granted by the Department extends their use outside of the area authorized by that easement or adds a use or development not authorized.

(20) "Erosion Control Structures" mean revetments, attenuators, deflectors, retaining walls, riprap and other structures placed adjacent to, or on Non-Trust Land.

(21) "Fiber Optic Cable" means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light.

(22) "Gas Lines and Associated Fixtures" are the pipelines and required compressor and gate stations, valves, meters, regulators, relief stacks, marker posts, rectifiers, and all other related fixtures and equipment necessary to deliver natural gas from the point of origin to the user.

(23) "Governmental Body" means an agency of the Federal Government, the State of Oregon, and every political subdivision thereof as defined in ORS 271.005.

(24) "Holder" means any person who holds a current authorization from the Department for the use of state-owned lands.

(25) "Individual Use" or "Individual Development" is each separate use of, or development placed on state-owned land.

(26) "Innerduct" is tubing that not only protects fiber optic and other types of cables, but also facilitates their installation. It is often placed inside a conduit or may be buried directly into the ground.

- (27) "Intake" is a location or structure through which something is taken in, e.g. water in a channel or pipe from a body of water.
- (28) "Irrigation" or "Irrigation Use" means the artificial application of water to crops or plants by controlled means to promote growth or to nourish crops or plants. Examples of irrigation uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course play field or vineyard.
- (29) "Market Value" Means the most probable price, as of a specified date, in cash, or in terms equivalent to cash for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and assuming neither is under undue duress.
- (30) "Maximum Value Per Square Foot" means the highest price per square foot that the Department may use in determining compensation for easements.
- (31) "Multiple-Use Easement" means an authorization issued for a single conduit, through which additional uses may be embedded.
- (32) "Non-Trust Land" is land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land [*(land below ordinary high water)*] under navigable and tidally influenced waterways.
- (33) "Outfall" is the point of a drain where it discharges to an area of land or body of water.
- (34) "Owner" means a person or legal entity that has a property interest in a structure or land
- (35) "Permanent Easement" is a type of easement that is issued in perpetuity.
- (36) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.
- (37) "Public Trust Use(s)" means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect, and enhance those uses. Examples of Public Trust uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating.
- (38) "Real Estate Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets.
- (39) "Real Market Value" for land means the current market value of the property (not including improvements) assigned to the land within the tax lot, adjacent riparian tax lot, or comparable tax lot by the county tax assessor.
- (40) "Right of Way" is the legal right, established by grant, to pass along a specific route through grounds or property belonging to another.
- (41) "Right to Use Water" is a water right permit, water right certificate, or a proposed or final order approving a water right permit granted by the Oregon Water Resources Department, or court decree evidencing a water right,

authorizing a person to take and use a specific quantity of water for a specific use or uses from a specific location under specific terms and conditions.

(42) "Roadway" means a road, driveway, or any other development for the use vehicles or other traffic.

(43) "Rip-Rap" means crushed rock or concrete placed on the bank of a waterway or lake to prevent or reduce erosion of the bank.

(44) "Single-Use Easement" means an authorization for a crossing with an individual use.

(45) "State Land" or "State-Owned Land" is land owned by the State and managed by the Department or its agents and includes Trust Land and Non-Trust Land.

(46) "State Land Board" means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.

(47) "Structure or Facility Necessary for the Use of Water" means the pipelines and required stands, pumps, wiring, fish screens, and similar equipment necessary to convey water from the point of diversion to the place of use.

(48) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(49) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.

(50) "Trust Land" is land granted to the state upon its admission into the Union or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

(51) "Use" means an activity on state-owned lands that requires an easement under these rules.

(52) "Utility" means water, waste water, gas, electric, or communication service lines, fixtures and other related facilities.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0040

Easement Application Requirements

(1) Except as provided by OAR 141-123-0010(4) (Purpose and Applicability) and 141-123-0100 (**Easements for Structures and Facilities Necessary for the Use of Water**), any person wanting to use state-owned land for any of the purposes described in OAR 141-123-0010(2) and (3) must:

(a) Apply to the Department for the easement using a form provided by the Department; and

(b) Submit a non-refundable application fee as provided in OAR 141-123-0040(3) payable to the Department to cover the administrative costs of processing the

application and issuing the authorization. When applying for an easement for a structure or facility necessary for the use of water as described in OAR 141-123-0100, a person may submit to the Department a copy of their application to the Department of Water Resources for a right to use water in lieu of using the Department's easement application form.

(2) Unless otherwise exempt under the provisions of OAR 141-123-0010(4) (Purpose and Applicability), each individual use of, or development placed on state-owned land must be authorized by a separate easement specifically authorizing only that use or development.

(a) With regard to a conduit, regardless of the number of innerducts or fiber optic cables contained within the conduit, each cable or innerduct is considered an individual use subject to authorization by an easement.

(b) With regard to electric power transmission lines, one transmission line with one or more circuits will constitute an individual use subject to authorization by an easement. Additional parallel transmission lines owned by the same entity with one or more circuits may be included in the same individual use so long as such parallel lines are located within the designated boundaries of the easement.

(3) Except as provided by OAR 141-123-0100 (**Easements for Structures and Facilities Necessary for the Use of Water**) and OAR 141-123-0040(4), the application fee for all term easements is \$750; the application fee for all structures or facilities necessary for the use of water on submerged land subject to an easement is \$125.

(4) There is no application fee for water, gas, electric or communication service lines across non-trust lands outside of city limits.

(5) A single easement application form may be used to request:

(a) An easement for a single pipeline, cable, or similar use or development which crosses one or more parcels of state-owned land.

(b) An easement for all state, county or city-owned bridges within a single county, or

(c) An easement for one or more identical uses or developments which cross the same parcel of state-owned land or state-owned waterway, for example, two parallel pipelines.

(6) An easement application for a conduit must include a cross-sectional drawing that shows the proposed use and the remaining conduit space available for future use.

(7) A fully completed application must be submitted to the Department at least 90 calendar days prior to the proposed use or placement of a development subject to a term easement on state-owned land unless otherwise allowed by the Director in writing,

(8) A fully completed application must be submitted to the Department at least 120 calendar days prior to the proposed use or placement of a development that is eligible for a permanent easement on state-owned land, unless otherwise allowed by the Director in writing.

(9) Any person holding a valid easement (other than a permanent easement) granted by the Department prior to the adoption of these rules who wants to

continue holding the authorized area following the expiration of the easement for a use subject to easement must:

(a), Apply to the Department for a new easement and pay the required application fee 180 calendar days prior to the expiration of the easement as provided in OAR 141-123-0040(1), unless otherwise allowed by the Director in writing; and

(b) Pay the compensatory payment required by OAR 141-123-0060 at such time that the Department has reviewed and approved the easement application request pursuant to OAR 141-123-0050 (9) and (10).

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0050

Easement Application Review and Approval Process

(1) Department staff may require a meeting to discuss a proposed project and use before performing an application completion review. This meeting may be in person or through other means acceptable to the Department. The Department may invite other government entities and affected stakeholders to take part in an application meeting.

(2) Upon receipt of an application, and the completion of an application meeting if necessary, the Department will determine whether it is complete. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.

(3) If a rejected application is resubmitted within 120 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed.

(4) If determined by the Department to be complete, the application will be circulated to affected local, state, and federal agencies; Holders of valid authorizations granted by the Department in the requested area; and other interested persons including federally recognized tribal governments and ports for review and comment. As a part of this review, the Department will specifically request comments concerning:

(a) The presence, type and location of state or federal listed threatened and endangered species (including candidate species), and archeological and historic resources within the requested area which may be disturbed by the proposed use;

(b) Whether the proposed easement use:

(A) Conforms with other local, state, and federal law and rules;

(B) Conforms with the local comprehensive land use plan and zoning ordinances;

(C) Conforms with the general provisions described in OAR 141-123-0020 of these rules; and

(D) Would unreasonably impact uses or developments proposed or already in place within the requested area.

- (5) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed use. The Department shall make paper copies of an application available to any person upon request.
- (6) The Department may waive the circulation requirement described in OAR 141-123-0050(4) if:
- (a) The use or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented in the easement application;
 - (b) The application is for an easement associated with the right to use water and the Water Resources Department is conducting or has conducted a public interest review sufficient to make the determinations required by OAR 141-123-0050(4); or
 - (c) The application is for an easement for an energy facility that has been granted a site certificate by the Energy Facility Siting Council under ORS 469.300 et seq. and OAR 345-022, et seq. (Regulation of Energy Facilities), in which case the Department will accept the findings and conclusions of the Energy Facility Siting Council in evaluating the easement application over Non-Trust Land.
- (7) An applicant for an easement may be required to amend their application at any time to address issues, concerns, or information needs identified by the Department or others that provided comments.
- (8) After receipt of agency and public comment concerning the proposed use, the Department will determine, and advise the applicant in writing if:
- (a) Changes to the requested easement area are necessary to respond to agency or public comment;
 - (b) Additional information is required from the applicant, including but not limited to a survey of:
 - (A) State or federal listed threatened and endangered species (including candidate species) within the requested area; or
 - (B) Archaeological and historic resources within the requested area.
 - (c) The request is denied. Applicants will be given the opportunity to revise their proposed project if the Department denies the request; or
 - (d) The easement will be granted with specific terms and conditions.
- (9) If the Department decides to grant the easement, the written notification will also indicate:
- (a) The amount of compensation pursuant to the requirements of OAR 141-123-0060 that the applicant must remit to the Department to obtain the authorization;
 - (b) Any surety bond amount required by the Department pursuant to the provisions of OAR 141-123-0070(13); and
 - (c) The easement terms and conditions.
- (10) The Department will not grant an easement to an applicant until it has received all fees and compensation specified in these rules, and evidence of a surety bond (if required). However, the Department, at its discretion, may grant a provisional easement prior to receipt of compensation due for removal of timber,

sand and gravel, or other natural resources in the easement area if the fair market value of those resources is based on actual receipts from their sale.

(11) The Director may refer unusual or controversial easement applications to the State Land Board for review and approval.

(12) If requested by the Department, an applicant must present evidence to the Department prior to placing the use or development that they have obtained:

(a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use or development; and

(b) Any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to undertake the use or development.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0060

Compensation

(1) Except as provided in OAR 141-123-0060(11) and (12), the Department will, prior to granting an easement, require an applicant not otherwise exempt under OAR 141-123-0060(6) or as provided in OAR 141-123-0060(10) to submit to the Department a compensatory payment for each individual crossing or use of state-owned land in an amount equal to the greatest of:

(a) For submerged and submersible lands, compensation is based on 33 1/3 percent of the market value of the adjacent riparian tax lots for uses described in OAR 141-123-0010(2) and (3). Market value is either:

(A) An appraised value that is acceptable to the Department; or

(B) The Real Market value of the adjacent riparian tax lots.

(b) \$500; or

(c) The highest Comparative Compensatory Payment.

(2) For all single-use easements on, over, above, or below state submersible or submerged lands, the value per square feet derived from the real market value of the adjacent riparian tax lot(s) shall not exceed the Maximum Value per Square Foot. The Statewide Maximum Value Per Square Foot is \$11.93 starting July 1, 2018 and shall increase each year on July 1st by three percent

(3) For all multiple-use easements on, over, above, or below state submersible or submerged lands, compensation is based upon the real market value of the adjacent riparian tax lot(s) and is not limited by the Statewide Maximum Value per Square Foot.

(4) For each new individual use, proposed to be embedded in existing conduit authorized by the Department prior to January 1, 2019, compensation is required and the Statewide Maximum Value per Square Foot shall apply.

(5) For each new individual use, proposed to be embedded in existing conduit authorized by the Department after January 1, 2019, no additional compensation is required.

(6) The following types of easements located on Non-Trust Land are exempt from the mandatory compensatory payment to the Department specified in OAR 141-123-0060(1):

- (a) State and county-owned bridges located outside of city limits.
- (b) Gas, electric and communication line easements located outside of city limits, as allowed by ORS 758.010.
- (c) Water ditches; water supply pipes; and water supply mains up to a maximum width of 25 feet on each side of the center line, as allowed by ORS 273.761.
- (d) Sanitary pressure mains and storm water pipes and storm water outfalls up to a maximum width of 25 feet on each side of the center line, as allowed by ORS 273.761.
- (e) Any structure or facility necessary for the use of water crossing or situated on state-owned submersible land, as allowed by ORS 274.040(3) if:

- (A) The withdrawal is authorized by a valid right to use the water; and
- (B) The water is used exclusively for irrigation or domestic use.

(7) There is granted to all persons constructing railways built after February 21, 1891, within the boundaries of the state, and to their successors and assigns as allowed by ORS 273.751:

- (a) A right of way through any unimproved state lands, of the width of 100 feet, being 50 feet in width on each side of the center line of the road.
- (b) All necessary grounds for stations, depots, shops, side tracks, turntables and water stations, not exceeding 10 acres in any one place, upon payment to the state of the sum therefor as fixed by the Department of State Lands.
- (c) The right to take, from the lands of this state adjacent to the route lines of the road, material necessary for the construction of the roads.
- (d) The right to construct and maintain railroad bridges over any navigable waters in this state. All bridges crossing navigable waters shall be subject to such regulations, restrictions and compensation as may be fixed by the department and shall be so constructed as not unnecessarily to interfere with navigation.

(8) Compensatory payments shall be required at the rate specified in OAR 141-123-0060(1) for that part of an easement for the uses specified in OAR 141-123-0060(2) and (3) which exceeds the maximum widths or acreages indicated, or occurs on:

- (a) Trust Land (under OAR 141-122), or
- (b) Other land not exempt from a mandatory compensatory payment.

(9) If required by the Department, applicants must also submit to the Department a payment in an amount to be determined by the Department for the fair market value of any commercially valuable timber, sand and gravel, or other natural resources in the easement area which must be removed during or after placement of the proposed use, or which cannot be developed because of the easement use. Such payment shall be due at a date to be determined by the Department.

(10) The Department may, in lieu of a cash compensatory payment, negotiate a non-cash compensatory payment equivalent to or greater than the compensation required under OAR 141-123-0060(1).

(11) Notwithstanding the provisions of OAR 141-123-0060(1), for state, county and city-owned bridges crossing a state-owned waterway on Non-Trust Land, the required compensation will be:

(a) No compensation for a 30-year easement if none of the bridges listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.

(b) \$100 for a 30-year easement if any bridge listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.

(c) \$100 for a permanent easement for each state, county or city-owned bridge crossing state-owned land if it is located in a city.

(12) Notwithstanding the provisions of OAR 141-123-0060(1), for People's Utility Districts (PUD) structures crossing a state-owned waterway on Non-Trust Land, the required compensation will be:

(a) No compensation for a 30-year easement if the structures are not located within a city.

(b) \$100 for a 30-year easement if the structures are located within a city.

(13) If in the process of calculating compensation, the assessed value is found to be depressed due to the presence of hazardous substances or some other extenuating circumstance(s) as determined by the Department, another comparable upland tax lot shall be selected by the Department as the basis for calculating the compensation. The applicant may suggest a comparable tax lot or may appeal the Department's selection to the Director.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0070

General Easement Terms and Conditions

(1) Easements shall be offered by the Department for the minimum area and term determined by the Department to be required for the requested use or development. Unless otherwise authorized by the Director, the minimum width of an easement shall be no less than 15 feet.

(2) The applicant shall have ninety (90) calendar days from the date of offer to execute an easement with the Department. The Department may revoke the offer after ninety calendar days, at which time the applicant may re-apply for an easement in accordance with OAR 141-123-0040.

(3) The Department may grant additional easements which, as determined by the Department, do not substantially interfere with other authorized easements within a given area.

(4) Easements shall be offered for a term no longer than thirty (30) years, unless otherwise authorized by the Director.

(5) The Department may, upon request of the applicant, grant permanent easements only for the following uses of state-owned land:

- (a) State, county and city-owned bridges if the application contains a full surveyed legal description for each bridge and the appropriate compensation required by these rules; and
- (b) Structures or facilities necessary for the use of water as provided in OAR 141-123-0100.
- (6) Requests for permanent easements shall be taken to the State Land Board for review and approval.
- (7) An easement granted by the Department will generally be to a specific person for a specific use, location, and term. The Holder of an easement must apply to and obtain prior written approval from the Department as provided in OAR 141-123-0040 prior to:
 - (a) Changing the authorized use;
 - (b) Transfer of ownership;
 - (c) Expanding the number of authorized developments or uses;
 - (d) Changing the authorized area; or
 - (e) Permitting other persons to utilize the authorized area for uses and developments requiring separate authorization by the Department (for example, attachment of cables, conduits, or pipes under a bridge already authorized by an easement).
- (8) State-owned submerged and submersible land must remain open to Public Trust Uses unless a restriction is approved by the Department or other agencies with jurisdiction over navigation or public safety.
 - (a) Notwithstanding the provisions of Division 88, a Holder may close all or a portion of the authorized area to Public Trust Uses, or restrict Public Trust Uses within all or a portion of the authorized area, provided the closure or restriction is:
 - (A) Reasonably necessary to protect persons and property from harm arising from Holder's authorized use of the submerged and submersible land;
 - (B) Limited in duration; and
 - (C) Limited in scope.
 - (b) If the proposed closure or restriction is wholly or partially within the navigation channel of the waterway as established by the United States Coast Guard, or is located in such a way as to increase traffic in or otherwise impact use of the navigation channel, Holder shall consult with the United States Coast Guard, the Oregon Marine Board and any applicable port prior to implementing the closure or restriction. Holder must comply with all requirements imposed by the United States Coast Guard and the Oregon Marine Board.
 - (c) The Holder must provide written notice to the Department no less than fourteen (14) days prior to the implementation of any closure or restriction. The written notice must identify the need for and the scope, and duration of the closure or restriction, and must certify that Holder has consulted and received approval from the United States Coast Guard and the Oregon Marine Board regarding the closure or restriction.
 - (d) The Department, in its sole discretion, may at any time require Holder to terminate or modify the closure or restriction. The Department, in its sole discretion, may at any time require the closure or restriction to be established pursuant to OAR 141-088.

(9) The Department or its authorized representative(s) shall have the right to enter into and upon the authorized easement area at any time for the purposes of inspection or management.

(10) Routine right-of-way maintenance including, but not limited to vegetation trimming and the application of state-approved herbicides will be allowed as specified by the easement conditions. However, except as expressly authorized in writing by the Department, an easement Holder will not otherwise remove any sand, gravel, or other mineral or natural resources within the authorized area for commercial use or sale.

(11) The Holder of an easement must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, disturbed lands shall be reclaimed as specified by the Department.

(12) The Holder of an easement must maintain all buildings, pipelines, cables, and other developments or items placed in or on state-owned land in a good state of repair.

(13) Applicants for an easement may be required to obtain:

(a) Insurance, bond or other guarantees of performance required by the Department in the exercise of its reasonable discretion if, in the opinion of the Department, the use constitutes a risk to other users of the area, to public safety, or to the State of Oregon, or if required by Oregon state law. The Department may:

(A) Request that the applicant for, or the Holder of an easement provide information concerning the use or development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use, and

(B) Require that the State of Oregon be named as an additional insured party in any such policy.

(b) A surety bond in an amount to be determined by the Department to ensure that the easement Holder will perform in accordance with all terms and conditions of the authorization; or a cash deposit in an amount equal to the amount required for a surety bond.

(14) Easement Holders must inspect the condition of the easement area and the developments placed on it on a frequency to be determined by the Department in consultation with the easement Holder and other interested parties.

(15) Unless otherwise agreed to in writing in the easement, the Holder of an easement which does not have a permanent term must terminate all use and remove any or all developments or uses placed within the easement area upon expiration or cancellation of the easement. If the Holder of the easement refuses to terminate their use or remove their developments, the Department may remove them and charge the Holder for doing so.

(16) The Holder of an easement must indemnify the State of Oregon and the Department against any claim or costs arising from or related to a release of a

hazardous substance on or from the authorized area resulting from the actions or negligence of the easement Holder.

(17) A term easement that is exempt from fees may be subject to the future imposition by the Department of a consideration payment, and/or usage fee to be established by the State Land Board as authorized by law.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0080

Transfer of Easements

(1) An easement in good standing is transferable. Prior written consent of the Department is required prior to any transfer of the easement. No transfer may increase the burden on the estate or detract from the value of the underlying state land.

(2) The Holder of an easement wanting to transfer their easement must submit to the Department:

(a) Notice of proposed transfer on a form provided by the Department at least 60 calendar days prior to the date that the transfer is to occur; and

(b) Non-refundable transfer processing fee of \$750 payable to the Department.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0090

Termination of an Easement

(1) The Department may terminate any easement:

(a) If there is no use of, or development placed on the easement area for five consecutive years;

(b) If the easement is for a structure or facility necessary for the use of water on state-owned submerged and submersible land and the associated right to use water is cancelled by the Oregon Water Resources Department or abandoned by the easement Holder. Upon such termination, the Department will notify the easement Holder in writing using the last known address reported by the easement Holder to the Department. This notification will state that the easement has terminated, and that the easement Holder will have 30 calendar days from the date of the notice to respond in writing to the Director why the easement should be reinstated. The Director will notify the easement Holder in writing of his/her decision within 60 calendar days of receipt of the request for reinstatement of the easement; or

(c) If the Holder of the easement fails to comply with these rules or the terms and conditions of the easement, or violates other laws covering the use of their authorized area, the Department will notify the Holder of the easement in writing of the default and demand correction within a specified time frame. If the Holder

of an easement fails to correct the default within the time frame specified, the Department may:

(A) Modify or terminate the easement;

(B) Invoke other remedies as provided in OAR 141-123-0120.

(2) Notwithstanding the provision of OAR 141-123-0090(1), the Department will not terminate a term easement if the Holder of the easement is ready, but unable to commence the requested use within the five-year period due to their inability to obtain other required authorizations within the five-year period.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0100

Easements for Structures and Facilities Necessary for the Use of Water

(1) Except as otherwise provided in OAR 141-123-0100(2), an easement is required for all structures and facilities placed on Non-Trust Land managed by the Department that are necessary for the use of water.

(2) An easement is not required for those parts of structures and facilities necessary for the use of water placed on state-owned submerged and submersible land managed by the Department if the:

(a) Owner of the structures and facilities holds a valid right to use the water, and

(b) Water is used exclusively for domestic and/or irrigation purposes.

(3) Persons who own, use, have placed, intend to place, or have the legal authority to represent the owners or users of structures and facilities necessary for the use of water subject to an easement must apply to the Department for an easement on a form provided by the agency. The applicant must include with the application a non-refundable application fee in the amount of \$125 payable to the Department to cover the administrative costs of processing the application and issuing the easement.

(4) An application received by the Department for an easement for a structure or facility necessary for the use of water will be processed pursuant to the provisions of OAR 141-123-0050 and 141-123-0060 (as applicable) of these rules.

(5) The Department will allow a person to include up to three water pipelines and associated fixtures per lot of record on their application for an easement.

(6) An easement issued by the Department under this section will have the same term as that of the associated right to use the water as determined by the Oregon Water Resources Department. Land Board approval will not be required for an easement granted under this section.

(7) The Department may enter into an agreement with the Oregon Water Resources Department to consolidate the processing of easements for structures or facilities necessary for the use of water with the processing of a right to use water.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0105

Unauthorized Uses and Penalties

(1) Uses and developments not authorized by an easement issued by the Department, or by another agency as a valid existing right of record on land acquired by the Department, constitute a trespass and must be removed as directed unless otherwise authorized in writing by the Department.

(2) In addition to any other penalties provided or permitted by law, the use or placement of any development on state-owned land without the required Department authorization as described in these rules, or which is otherwise not in compliance with these rules, will constitute a trespass and be prosecuted pursuant to governing law.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0110

Reconsideration of Decision

An applicant or any person adversely affected by the issuance or denial of an easement by the Department may request the Director or the State Land Board, depending on which entity made the decision, to reconsider the decision. A request for reconsideration must be filed in compliance with ORS 183.482 or 183.484.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

141-123-0120

Enforcement Actions; Civil Penalties and Other Remedies

(1) The Department may:

(a) Conduct field inspections to determine if uses of, and developments on, in or over state-owned submerged and submersible land are authorized by, or conform with the terms and conditions of an easement and, if not,

(b) Pursue whatever remedies are available under law to ensure that any use that is in violation of the terms or conditions of an easement is either brought into compliance with the requirements of these rules or other applicable law, or removed.

(2) In addition to any other penalty or sanction provided by law, for uses subject to easement located on state-owned submerged and submersible land, the Director may assess a civil penalty of not more than \$1,000 per day of violation for the following:

(a) Violations of any provision of OAR 141-123 or ORS 273 or 274; or

(b) Violations of any term or condition of a written authorization granted by the Department under ORS 273 and 274.

(3) The Director will give written notice of a civil penalty incurred under OAR 141-123-0120(2) by registered or certified mail to the person incurring the penalty.

The notice will include, but not be limited to the following:

(a) The particular section of the statute, rule or written authorization involved;

(b) A short and clear statement of the matter asserted or charged;

(c) A statement of the party's right to request a hearing within 20 calendar days of the notice;

(d) The time allowed to correct a violation; and

(e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.

(4) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-123-0120(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.

(5) In imposing a penalty under OAR 141-123-0120 of these rules, the Director will consider the following factors as specified in ORS 274.994:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes, rules, orders and authorizations pertaining to submerged and submersible land or Trust lands;

(c) The impact of the violation on public trust uses of commerce, navigation, fishing and recreation; and

(d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.

(6) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-123-0120 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.

(7) If a civil penalty is not paid as required by OAR 141-123-0120, interest will accrue at the maximum rate allowed by law from the date first due.

Stat. Auth.: ORS 273.045

Stats. Implemented: ORS 273.761, ORS 274.040, ORS 274.720, ORS 376.620, ORS 530.050, ORS 530.490 & ORS 758.010

OFFICE OF THE SECRETARY OF STATE
DENNIS RICHARDSON
SECRETARY OF STATE

LESLIE CUMMINGS
DEPUTY SECRETARY OF STATE



Appendix B

ARCHIVES DIVISION
MARY BETH HERKERT
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 141
DEPARTMENT OF STATE LANDS

FILED
07/31/2018 2:17 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amending and adopting rules for Easements on Trust and Non-trust Lands

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/31/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Anne Friend
503-986-5245
anne.m.friend@state.or.us

775 Summer Street NE
Suite 100
Salem, OR 97301

Filed By:
Anne Friend
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 08/21/2018
TIME: 4:00 PM - 6:00 PM
OFFICER: Nancy Pustis
ADDRESS: Clarion Inn, Lewis and Clark
Room
1249 Tapadera Ave
Ontario, OR 97914

DATE: 08/22/2018
TIME: 4:00 PM - 6:00 PM
OFFICER: Nancy Pustis
ADDRESS: Deschutes County Road
Department
61150 SE 27th St
Bend, OR 97702

DATE: 08/28/2018
TIME: 4:00 PM - 6:00 PM
OFFICER: Gary Cooper
ADDRESS: Department of State Lands
Building, Land Board Room
775 Summer Street NE
Salem, OR 97301

NEED FOR THE RULE(S):

- Accommodate statutory, and rule changes that have occurred in the past several years,
- Update the general provisions section to reflect the current practices of the Department,
- Complete rule language changes recommended by the Oregon Department of Justice,
- Review and update the administrative procedures for reviewing and issuing easements, and
- Review compensation for easements

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

ORS Chapter 273 (available at the Oregon State Legislature's website), ORS Chapter 274 (available at the Oregon State Legislature's website), ORS Chapter 376 (available at the Oregon State Legislature's website), draft rules were generated and reviewed by the agency's rulemaking advisory committee (available on at <https://bit.ly/2OsV2KB>) and OAR 141-122 (available at the Department of State Lands website)

FISCAL AND ECONOMIC IMPACT:

OAR 141-122 and OAR-141-123

The Department does not anticipate any additional administrative costs to the state with the changes to these rules. This includes administering the application process, working with the applicant and affected stakeholders through

issues, drafting all required authorizations, compliance monitoring, legal defense of agency decisions, and State Land Board review and approval as needed.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

OAR 141-122

It is anticipated that these rules will have a minimal fiscal impact on state agencies, units of local government and members of the public with an interest in the granting of easements on state-owned submerged and submersible land. We do not expect the revision of these rules to require any other governmental agencies to engage in rulemaking or to adopt subsequent code or ordinance.

OAR 141-123

It is anticipated that these rules will have a minimal fiscal impact on state agencies, units of local government and members of the public with an interest in the granting of easements on state-owned submerged and submersible land. We do not expect the revision of these rules to require any other governmental agencies to engage in rulemaking or to adopt subsequent code or ordinance.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

OAR 141-122

It is anticipated that these rules will not have any significant fiscal impacts on small businesses, however, compensation could increase in some cases. There may also be some indirect costs to small business that utilize the services of larger companies that acquire easements. These costs could increase given that there may be increases to large companies acquiring easements, as well as in some cases companies may pay less under these rules than they did under previous rules.

OAR 141-123

It is anticipated that these rules will not have any significant fiscal impacts on small businesses, since compensation in most cases will be lower. There may also be some indirect costs to small business that utilize the services of larger companies that acquire easements. These costs should remain flat or go down due to the fact that companies acquiring easements should pay less under these rules than they did under previous rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

OAR 141-122

There is no expected increase in reporting, recordkeeping and other administrative activities, including professional services for the small business.

OAR 141-123

There is no expected increase in reporting, recordkeeping and other administrative activities for the small business.

c. Equipment, supplies, labor and increased administration required for compliance:

OAR 141-122

There is no expected increase in equipment, supplies, labor or administration for small business

OAR 141-123

There is no expected increase in equipment, supplies, labor or administration for the Department or the regulated public.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

OAR 141-122

The Rulemaking Advisory Committee (RAC) included representatives from businesses and groups most likely to be impacted by easement rule changes. Some of the affected stakeholders included, but are not limited to, Oregon Education Association, Association of Oregon Counties, Oregon Cattleman’s Association, League of Oregon Cities, Lincoln County PUD, and Special Districts Association. RAC members have been instrumental in the development of these revised rules. The RAC members evaluated how they thought that small businesses may be impacted, though it would be rare for a small business to be impacted.

OAR 141-123

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Following is a list of contacts that were asked to participate on the RAC and declined or did not respond:

1. Oregon Peoples Utility Districts Association (OPUDA)
2. Oregon School Employees Association (OSEA)
3. League of Women Voters
4. The Nature Conservative
5. Willamette Partnership
6. Coalition of Oregon Land Trusts
7. Wetlands Conservancy
8. Legislative Commission on Indian Services (Tribes)

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

141-122-0010, 141-122-0020, 141-122-0030, 141-122-0040, 141-122-0050, 141-122-0060, 141-122-0070, 141-122-0080, 141-122-0090, 141-122-0100, 141-122-0105, 141-122-0110, 141-122-0120, 141-122-0130, 141-123-0010, 141-123-0020, 141-123-0030, 141-123-0040, 141-123-0050, 141-123-0060, 141-123-0070, 141-123-0080, 141-123-0090, 141-123-0100, 141-123-0105, 141-123-0110, 141-123-0120

AMEND: 141-122-0010

RULE SUMMARY: Removed References to non-trust lands, now addressed in 141-123

CHANGES TO RULE:

141-122-0010

Purpose and Applicability ¶¶

(1) These rules:¶¶

(a) Govern the granting and renewal of easements on state-owned Trust and Non-Trust land as specified herein.¶¶

(b) Do not apply to the:¶¶

- (A) Granting of easements for State owned submerged and submersible lands administered under OAR 141-123 (Rules for Granting Easements on Non-Trust Land)¶
- ~~(B) Granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea, an activity governed by OAR 141-083 (Rules For Granting Easements For Fiber Optic And Other Cables On State-Owned Submerged and Submersible Land Within The Territorial Sea);¶~~
- ~~(BC) Granting of authorizations for hydroelectric projects on state-owned Trust and Non-Trust Land, an activity governed by OAR 141-087; (Hydroelectric Projects); ¶~~
- ~~(CD) Dedication of roads or rights-of-way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or¶~~
- ~~(DE) Existing valid easements granted or right of ways granted, by the Department or State Land Board, prior to the adoption of these rules.¶~~
- (c) Require prior authorization for all uses described under OAR 141-122-0010(2) and (3) unless otherwise exempt from easement under the provisions of OAR 141-122-0010(4) of these rules.¶
- (d) Contain specific provisions relating to the granting of easements by: ¶
- (A) The Department and the Oregon State Forester on Common School Forest Land; and¶
- (B) The Department to persons who have or will place a structure or facility on state-owned ~~Non-Trust Land~~ necessary ~~for the use of water~~ to take water for which they have a right to use the water.¶
- (2) Unless otherwise exempt under the provisions of OAR 141-122-0010(4) of these rules, developments and uses of state-owned land subject to easement include, but are not limited to the following:¶
- (a) Water, gas, electric and communication service lines (including fiber optic cables) and associated equipment such as pumping stations, transformers and meters;¶
- (b) Innerducts and conduits for cables (regardless of whether they contain a cable or are in use);¶
- (c) Water supply pipelines, ditches, canals, and flumes;¶
- (d) Drainage and irrigation works;¶
- (e) Sewer, storm, and cooling water lines, including storm water outfalls and other outfalls;¶
- (f) Bridges, skylines, and logging lines;¶
- (g) Railroad and light rail track, bridges, stations, depots, and other related facilities;¶
- (h) Roads and trails of all types;¶
- (i) Overhead transportation lines (for example, skylines, tramways, logging lines, etc.);¶
- (j) Storage of materials (for example, sand, gravel, dredge spoils, etc.); and¶
- ~~(k) Other encroachments; and.¶~~
- ~~(l) Erosion control structures, dikes, levees, and tidegates.¶~~
- ~~(3) The The Department Director may determine that other uses and developments similar to those specified in OAR 141-122-0010(2) are also subject to authorization by, or exempted from an easement and these rules.¶~~
- ~~(4) An easement is not required:¶~~
- ~~(a) F for uses or developments on either Trust or Non-Trust Land that would require an easement under these rules if the person undertaking the use or owning the development has obtained a valid authorization from the Department pursuant to the provisions of OAR 141-082 (Leasing and Registration of Structures on, and Uses of State-Owned Submerged and Submersible Lands); 141-110 (Management and Leasing of Rangeland Forage); or OAR 141-125 (Authorizing Special Uses on State-Owned Land), provided the proposed use or development is located on the land which is subject of the authorization, is incidental to the specific use that is the subject of the authorization, and does not result in an additional burden on the land; or¶~~
- ~~(b) For any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if:¶~~
- ~~(A) The withdrawal is authorized by a valid right to use the water; and¶~~
- ~~(B) The water is used exclusively for irrigation or domestic use; or¶~~
- ~~(c) For water, gas, electric and communication lines physically attached to and supported by county or state-owned bridges that cross state-owned waterways which are located outside of city limits. If the water, gas, electric and communication lines are located within a city, or cross a state-owned waterway within a city, they are subject~~

~~to easement unless otherwise exempt by these rules.~~¶

(5) A person who is exempt from obtaining an easement under the provisions of OAR 141-122-0010(4) may apply to obtain an easement, and the Department may authorize an easement even though none is required under these rules. The application shall be processed in accordance with OAR 141-122-0050.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0020

RULE SUMMARY: Clarified the Departments constitutional mandate in managing Trust lands, added provision allowing Department to deny an easement if applicant is subject of existing enforcement action.

CHANGES TO RULE:

141-122-0020

Policies ¶

(1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management." ¶

(2) In addition to the constitutional mandate stipulated described in OAR 141-122-0020(1), the Department is required to manage its Trust Land to ensure that full market value is obtained from any use of this asset, maximize revenue to the Common School Fund over the long term. ¶

(3) The Department ~~wi~~shall follow the guiding principles and resource-specific management prescriptions contained in the Real Estate Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition an easement on state-owned land. ¶

(4) ~~The Department will manage~~All uses of state-owned submerged and submersible land to ensure the collective rights of the public to fully use and enjoy this resource for commerce, navigation, fishing, recreation, and other related public purposes consistent~~land must conform to applicable local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws.~~ ¶

(5) No applicant or grantee is allowed to request from any government agency a change in the zoning for, or approved uses of, state-owned land without first applying to, and receiving written ~~applicable federal and state laws~~approval from the Department. ¶

(56) The Department ~~wi~~shall not grant an easement if: ¶

(a) As a result of its circulation for public comment of the application for easement as described in OAR 141-122-0050(~~34~~) it determines that the proposed use or development would unreasonably impact uses or developments proposed or already in place within the requested area; or ¶

(b) ~~The easement is in an area the Department has closed to the granting of easements or other authorizations offered by the agency. Such~~If the proposed use or development is inconsistent with local, state, or federal laws; or ¶

(c) If the proposed use or development is inconsistent with these rules; or ¶

(d) If the proposed use or development has unacceptable impacts on public health, safety or welfare, or would result in the loss of, or damage to natural, historical, cultural or archaeological resources; or ¶

(e) If the proposed use or development is prohibited by a State Land Board or Department-adopted area closure, use restriction, or areas may be identified by contacting the Department~~agement plan (such as the Lower Willamette River Management Plan; or a Total Maximum Daily Load Implementation Plan);~~ or ¶

(f) If the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192). ¶

(67) The Department ~~wi~~shall: ¶

(a) Recognize all valid easements of record on land acquired by the Department as disclosed at the time of acquisition; and ¶

(b) Honor any ~~renewal~~ provisions contained in existing valid easements granted by the Department if the ~~h~~Holder of the easement has complied with all terms and conditions of the easement and applies to the Department for a new easement as prescribed in these rules. ¶

(78) Except as provided in OAR 141-122-0010(4), ~~141-122-0100~~, and OAR 141-122-0105(2)~~0~~, any person wanting to use or place a development on state-owned land subject to an easement must obtain a written

authorization in the form of an easement from the Department prior to beginning the use or placing the development. Additionally, an easement is required for any use or development that encroaches on state-owned land regardless of ~~their~~its height above or below, or manner of crossing the state-owned land.¶

~~(89)~~ Unless otherwise exempt by these rules, each individual use of, or development placed on, state-owned land constitutes a separate discrete activity subject to:¶

(a) An easement specifically authorizing only that individual use or development; and¶

(b) Payment of compensation as required in these rules.¶

~~(910)~~ The Department may, at its discretion, deny an easement if the applicant's financial status or past business practices, or both, indicate that the applicant may not:¶

(a) Be able to fully meet the terms and conditions of an easement offered by the Department; or¶

(b) Use the land applied for in a way that meets the provisions of OAR 141-122-0020.¶

~~(101)~~ The Department may, at its discretion, deny an easement if the applicant is out of compliance with the terms of any authorization issued, or is subject to any enforcement or corrective action, by the Department.¶

~~(12)~~ An easement cannot be established on Department-managed land by adverse possession regardless of the length of time the use or development has been in existence.¶

~~(113)~~ The Department may:¶

(a) Conduct field inspections to determine if the uses and developments in place on state-owned land are authorized by, or conform with, the terms and conditions of an easement and, if not;¶

(b) Pursue whatever remedies are available under law and OAR 141-122-0130 to ensure that unauthorized uses subject to an easement on state-owned land are either brought into compliance with the requirements of these rules or removed.¶

~~(124)~~ Pursuant to the provisions of ORS 530.490(2) and (3), the Oregon State Forester may issue easements on Common School Forest Land in accordance with these rules (OAR 141-122-0100) and those adopted by the Oregon State Board of Forestry.¶

~~(13)~~ The Department will not grant an easement if the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0030

RULE SUMMARY: Added definitions for Appraised Value, Easement for Compensation Purposes, Holder, Intake, Market Value, Outfall, Owner, Public Trust Uses, Real Estate Asset Management Plan, Real Market Value, Right of Way, State Land Board, and Utility.

CHANGES TO RULE:

141-122-0030

Definitions ¶

- (1) "Applicant" is any person applying for an easement. ¶
- (2) ~~"Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real-estate assets. ¶~~
- (3) ~~"Attenuator" is a ppraised Value" means an estimate of current market value of the property (not including improvements) as of a specific date, prepared by a qualifixed or floating device that is placed in the water to absorb or reduce the energy contained in wave~~ independent appraiser in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards. ¶
- (43) "Authorized Area" is the area of state-owned land defined in the easement for which a use is authorized. ¶
- (54) "Cable" means a conductor of electricity or light with insulation, or a combination of conductors insulated from one another within a single jacket or sheath. ¶
- (65) "Circuit" means a system of conductors through which an electric current is intended to flow. A single pole or transmission tower may support one or more circuits, each of which may consist of up to four separate conductors. ¶
- (76) "City" means a city incorporated under ORS 221.020 through 221.100. ¶
- (87) "City Limits" refers to the boundaries of a city incorporated under ORS 221.020 through 221.100. ¶
- (98) "Common School Forest Land" is Trust Land that has been designated or "certified" by the State Land Board and the Oregon Board of Forestry for management by the Oregon Department of Forestry under contract between the State Forester and the State Land Board as allowed in ORS 530.450 through 530.520. ¶
- (109) "Communication Line" is any cable including fiber optic cable which transmits electronic information, telephone or television signals or other data. ¶
- (110) "Comparative Compensatory Payment" is the amount of money paid to owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant. ¶
- (121) "Compensation" or "Compensatory Payment" is the amount of money ~~paid~~, or something of equal value, paid or provided for an easement to the Department for the use of Department-managed land. ¶
- (13-2) "Conduit" is a pipe that protects cables from damage. It may be buried or used in above-ground applications such as bridge crossings. Innerducts may be installed within a conduit to facilitate individual cable installation. ¶
- (14) ~~"Conservation Easement" is a type of easement granted by the Department that limits or prevents uses on a parcel of land in order to protect or enhance the property's ecological or open-space values. ¶~~
- (153) "Deflector" is a structural barrier such as a groin or jetty projecting into a waterway to divert flow away from and prevent eroding sections of the banks of a waterway. ¶
- (164) "Department" means the Department of State Lands. ¶
- (175) "Development" is any structure or physical facility (for example, each cable, innerduct, innerduct and cable, conduit, conduit and cable, pipeline, electrical line, communication line, bridge, road, fence, ditch, reservoir, or easement-associated building) on state-owned land subject to, or authorized by an easement granted by the Department. ¶
- (186) "Director" means the Director of the Department of State Lands or designee. ¶

- (197) "Domestic Use" means the use of water for human consumption and household purposes that is necessary for the sustenance of an individual, family unit or household. Domestic use may also include water used by an individual family unit or household for heating or cooling purposes.¶
- (2018) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the HHolder other than those specifically granted in the easement authorization.¶
- (219) "Easement for Conservation Purposes" is a type of easement granted by the Department that limits uses to protect the property for conservation values, such as fish and wildlife habitat or other ecosystem processes. The easement for conservation purposes is conveyed by the Department when the applicant is not eligible to hold a Conservation Easement or otherwise does not conform to ORS 271.715 to 271.775.¶
- (20) "Encroachment" is an unauthorized development or use, such as, but not limited to a structure, fill, or pile of aggregate, that overlaps on, or otherwise occupies or restricts the full use of state-owned land. An encroachment may be a pipe, conduit, or other structure that has been abandoned in place. An encroachment may also occur when the HHolder of an easement granted by the Department extends their use outside of the area authorized by that easement or adds a use or development not authorized.¶
- (221) "Erosion Control Structures" mean revetments, attenuators, deflectors, retaining walls, riprap and other structures placed adjacent to, or on the bank of a waterway or lake to stabilize its position and to prevent or reduce erosion.¶
- (23) "Fair Market Value" is the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts concerning the property.¶
- (24) State Trust Land¶
- (22) "Fiber Optic Cable" means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light.¶
- (253) "Gas Lines and Associated Fixtures" are the pipelines and required compressor and gate stations, valves, meters, regulators, relief stacks, marker posts, rectifiers, and all other related fixtures and equipment necessary to deliver natural gas from the point of origin to the user.¶
- (264) "Governmental Body" means an agency of the Federal Government, the State of Oregon, and every political subdivision thereof as defined in ORS 271.005.¶
- (275) "Holder" means any person who holds a current authorization from the Department for the use of state-owned lands. ¶
- (26) "Individual Use" or "Individual Development" is each separate use of, or development placed on state-owned land.¶
- (287) "Innerduct" is tubing that not only protects fiber optic and other types of cables, but also facilitates their installation. It is often placed inside a conduit, or may be buried directly into the ground¶
- (28) "Intake" is a location or structure through which something is taken in, e.g. water in a channel or pipe from a body of water.¶
- (29) "Irrigation" or "Irrigation Use" means the artificial application of water to crops or plants by controlled means to promote growth or to nourish crops or plants. Examples of irrigation uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course play field or vineyard.¶
- (30) "Market Value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and assuming neither is under undue duress.¶
- (31) "Miscellaneous Development" means any development placed upon, over or across state land that is not already defined in these rules (e.g. mailboxes, monitoring wells, Helipads) ¶
- (32) "Non-Trust Land" is land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land [(land below ordinary high

water)] under navigable and tidally influenced waterways.¶

(313) "Outfall" is the point of a drain where it discharges to an area of land or body of water.¶

(34) "Owner" means a person or legal entity that has a property interest in a structure or land¶

(35) "Permanent Easement" is a type of easement that is issued in perpetuity.¶

(326) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe.¶

(33) "Right T7) "Public Trust Use(s)" means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect and enhance those uses. Examples of Public Trust Uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating.¶

(38) "Real Estate Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets.¶

(39) "Real Market Value for Land" means the current market value of the property (not including improvements) assigned to the land within the tax lot, adjacent riparian tax lot, or comparable tax lot by the county tax assessor.¶

(40) "Right of Way" is the legal right, established by grant, to pass along a specific route through grounds or property belonging to another.¶

(41) "Right to Use Water" is a water right permit, water right certificate, or a proposed or final order approving a water right permit granted by the Oregon Water Resources Department, or court decree evidencing a water right, authorizing a person to take and use a specific quantity of water for a specific use or uses from a specific location under specific terms and conditions.¶

(342) "Rip-Rap roadway" means crushed rock or concrete placed on the ba road, driveway or anky of a waterway or lake to prevther development for reduce erosion of the bankthe use of a vehicle.¶

(435) "State Land" or "State-Owned Land" is land owned orby the State and managed by the Department or its agents and includes Trust Land and Non-Trust Land.¶

(3644) "State Land Board" means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.¶

(45) "Structure or Facility Necessary for the Use of Water" means the pipelines and required stands, pumps, wiring, fish screens, and similar equipment necessary to convey water from the point of diversion to the place of use.¶

(3746) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.¶

(3847) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon.¶

(3948) "Trust Land" is land granted to the state upon its admission into the Union, or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.¶

(409) "Use" means an activity on state-owned Trust and Non-Trust Landlands that requires an easement under these rules.¶

(50) "Utility" means water, waste water, gas, electric or communication service lines, fixtures and other related facilities.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0040

RULE SUMMARY: Modified fee schedule for easement applications, clarifies application requirements for easements involving conduit.

CHANGES TO RULE:

141-122-0040

Easement Application Requirements ¶

(1) Except as provided by OAR 141-122-0010(4) (Purpose and Applicability) and 141-122-0100 (Easements Issued on Common School Forest Land), any person wanting to use state-owned land for any of the purposes described in OAR 141-122-0010(2) and (3) must: ¶

(a) Apply to the Department for the easement using a form provided by the Department; and ¶

(b) Submit a non-refundable application fee as provided in OAR 141-122-0040(3) payable to the Department to cover the administrative costs of processing the application and issuing the authorization. When applying for an easement for a structure or facility necessary for the use of water as described in OAR 141-122-0105, a person may submit to the Department a copy of their application to the Department of Water Resources for a right to use water in lieu of using the Department's easement application form. ¶

(2) Unless otherwise exempt under the provisions of OAR 141-122-0010(4) (Purpose and Applicability), each individual use of, or development placed on state-owned land must be authorized by a separate easement specifically authorizing only that use or development. ¶

(a) ~~With regard to fiber optic cables, each single empty conduit, or single conduit containing one fiber optic cable, or every a conduit, regardless of the number of innerducts or fiber optic cable plaes contained within at the conduit after the first fiber optic cable has been installed is, each cable or innerduct is considered~~ an individual use subject to authorization by an easement. ¶

(b) With regard to electric power transmission lines, one transmission line with one or more circuits will constitute an individual use subject to authorization by an easement. Additional parallel transmission lines owned by the same entity with one or more circuits may be included in the same individual use so long as such parallel lines are located within the designated boundaries of the easement. ¶

(3) ~~Except as provided by OAR 141-122-0105 (Structures or Facilities Necessary for the Use of Water), the application fee for all easements is \$750~~ The application fee for all easements is as follows: ¶

(a) Utility Easements \$750 ¶

(b) All Other Trust Land Easements: \$1,500.00 ¶

(c) Application fee for all structures or facilities necessary for the use of water on submerged land subject to an easement is \$125. ¶

(4) A single easement application form may be used to request: ¶

(a) Multiple easements required for a single pipeline, cable, or similar use or development which cross one or more parcels of state-owned land; ¶

(b) An easement for all state, county or city-owned bridges within a single county, or ¶

(c) An easement for one or more identical uses or developments which cross the same parcel of state-owned land or state-owned waterway, for example, two parallel pipelines. ¶

~~(5) An easement application for a conduit must include a cross-sectional drawing that shows the proposed use and the remaining conduit space available for future use. ¶~~

(7) A fully completed application must be submitted to the Department at least 90 calendar days prior to the proposed use or placement of a development subject to a term easement on state-owned land, unless otherwise allowed by the Director in writing, a ¶

(8) A fully completed application must ~~shall~~ be submitted to the Department at least ~~6~~120 calendar days prior to the proposed use or placement of a development ~~subject to easement on state-owned land~~ that is eligible for a permanent easement on state-owned land, unless otherwise allowed by the Director in writing. ¶

~~(6) Any person holding a valid easement (other than a permanent easement) granted by the Department prior to~~

the adoption of these rules who wants to continue holding the authorized area following the expiration of the easement for a use subject to easement must:

(a) ~~Unless otherwise allowed by the Director, a~~ Apply to the Department for a new easement and pay the required application fee 180 calendar days prior to the expiration of the easement as provided in OAR 141-122-0040(1), unless otherwise allowed by the Director in writing; and

(b) Pay the compensatory payment required by OAR 141-122-0060 at such time that the Department has reviewed and approved the easement application request pursuant to OAR 141-122-0050(~~79~~) and (810).

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0050

RULE SUMMARY: Added EJ Provisions to public noticing protocol, added language to streamline review of EFSC certified projects.

CHANGES TO RULE:

141-122-0050

Easement Application Review and Approval Process ¶

(1) Upon receipt of an application, Department staff may require a meeting to discuss a proposed project and use before performing an application completion review. This meeting may be in person or through other means acceptable to the Department. The Department may invite other government entities and affected stakeholders to take part in an application meeting. ¶

(2) Upon receipt of an application, and the completion of an application meeting if necessary, the Department will determine whether it is complete. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection. ¶

(23) If a rejected application is resubmitted within 9120 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed. ¶

(34) If determined by the Department to be complete, the application will be circulated to affected local, state, and federal agencies; holders of valid authorizations granted by the Department in the requested area; and other interested persons, including federally recognized tribal governments and ports for review and comment. As a part of this review, the Department will specifically request comments concerning: ¶

(a) The presence, type and location of state or federal listed threatened and endangered species (including candidate species), and archeological and historic resources within the requested area which may be disturbed by the proposed use; ¶

(b) Whether the proposed easement use: ¶

(A) Conforms with other local, state, and federal law and rules; ¶

(B) Conforms with the local comprehensive land use plan and zoning ordinances; ¶

(C) Conforms with the ~~policy~~ general provisions described in OAR 141-122-0020 of these rules; and ¶

(D) Would unreasonably impact uses or developments proposed or already in place within the requested area. ¶

(45) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed use. The Department shall make paper or electronic copies of an application available to any person upon request. ¶

(6) The Department may waive the circulation requirement described in OAR 141-122-0050(34) if: ¶

(a) The use or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented in the easement application; ¶

(b) The application is for an easement associated with the right to use water and the Water Resources Department is conducting/ or has conducted a public interest review sufficient to make the determinations required by OAR 141-122-0050(34) or; ¶

(c) The application is for an easement for an energy facility that has been granted a site certificate by the Energy Facility Siting Council under ORS 469.300 et seq. and OAR 345-022, et seq. (Regulation of Energy Facilities), in which case the Department will accept the findings and conclusions of the Energy Facility Siting Council in evaluating the easement application over Trust Land. ¶

(57) An applicant for an easement may be required to amend their application at any time to address issues, concerns, or information needs identified by the Department or other commenters. ¶

(68) After receipt of agency and public comment concerning the proposed use, the Department will determine, and advise the applicant in writing if: ¶

(a) Changes to the requested easement area are necessary to respond to agency or public comment; ¶

(b) Additional information is required from the applicant, including but not limited to a survey of; ¶

(A) State or federal listed threatened and endangered species (including candidate species) within the requested area; ~~and/or.~~

(B) Archaeological and historic resources within the requested area.

(c) The request is denied. Applicants will be given the opportunity to revise their proposed project if the Department denies the request; or

(d) The easement will be granted with specific terms and conditions.

(79) If the Department decides to grant the easement, the written notification will also indicate:

(a) The amount of compensation pursuant to the requirements of OAR 141-122-0060 that the applicant must ~~shall~~ remit to the Department to obtain the authorization;

(b) Any surety bond or other guarantees of performance in an amount required by the Department pursuant to the provisions of OAR 141-122-0070(142); and

(c) The easement terms and conditions.

(810) The Department will not grant an easement to an applicant until it has received all fees and compensation specified in these rules, and evidence of a surety bond or other guarantees of performance (if required). However, the Department, at its discretion, may grant a provisional easement prior to receipt of compensation due for removal of timber, sand and gravel, or other natural resources in the easement area if the fair-market value of those resources is based on actual receipts from their sale.

(911) The Director may refer unusual or controversial easement applications to the State Land Board for review and approval.

(102) If requested by the Department, an applicant must present evidence to the Department prior to placing the use or development that they have obtained:

(a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use or development; and

(b) Any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to undertake the use or development.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0060

RULE SUMMARY: Defined the minimum compensation fee for various easement types.

CHANGES TO RULE:

141-122-0060

Compensation ¶¶

- (1) Except as provided in OAR 141-122-0060(73), the Department will, prior to granting an easement, require an applicant ~~not otherwise exempt under 141-122-0060(2) or as provided in 141-122-0060(6)~~ to submit to the Department a compensatory payment for each individual crossing or use of state-owned land in the greatest of: ¶¶
- (a) 100 percent of the ~~fair market value of the area requested for the easement if it is on, over or above state-owned upland for uses as defined in OAR 141-122-0010(2) and (3). Fair m~~Market value is either: ¶¶
- (A) ~~Determined by an appraisal that is acceptable to the Department and that has been prepared by a:~~ ¶¶
- (i) ~~State-certified appraiser; or~~ ¶¶
- (ii) ~~Salaried public employee of the federal government, the State of Oregon or a political subdivision of the federal government or the State of Oregon while engag~~Real market value as determined in~~by the performance of the duties of the employee as defined in ORS 674.110(2)(h); or~~ ¶¶
- (B) ~~The county assessor's real market value of the tax lot(s) affected by the easement.~~ ¶¶
- (b) ~~For submerged and submersible lands, compensation is based on 33 1/3 percent of the fair market value of the adjacent riparian tax lots for uses defined in OAR 141-122-0010(2) and (3). Fair market value is either:~~county tax assessor for DSL parcel impacted and the benefitting tax lot(s); or ¶¶
- (AB) ~~Determined by a~~An appraised value that is acceptable to the Department and that has been prepared by a state-certified appraiser; or ¶¶
- (B) ~~The county assessor's real market value of the adjacent riparian tax lots.~~ ¶¶
- (c) ~~\$250; or~~ ¶¶
- (d) ~~The highest comparative compensatory payment.~~ ¶¶
- (2) ~~The following types of easements located on Non-Trust Land are exempt from the mandatory compensatory payment to the Department specified in OAR 141-122-0060(1):~~ ¶¶
- (a) ~~State and county-owned bridges located outside of city limits.~~ ¶¶
- (b) ~~Gas, electric and communication line easements located outside of city limits.~~ ¶¶
- (c) ~~Water ditches; water supply pipes; and water supply mains up to a maximum width of 25 feet on each side of the center line.~~ ¶¶
- (d) ~~Sanitary pressure mains and storm water pipes and outfalls up to a maximum width of 25 feet on each side of the center line.~~ ¶¶
- (e) ~~Any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if:~~ ¶¶
- (A) ~~The withdrawal is authorized by a valid right to use the water; and~~ ¶¶
- (B) ~~The water is used exclusively for irrigation or domestic use.~~ ¶¶
- (3) ~~The Department is limited to \$1.00 per acre consideration for easements on Non-Trust Land for:~~qualified state-certified appraiser. ¶¶
- (b) Minimum compensation fee as follows: ¶¶
- (A) Utilities: \$3,500.00 ¶¶
- (aB) Railroad track right-of-way (exclusive of bridges over state-owned submerged and submersible land) up to a maximum width of 50 feet on each side of the center line of the road; andoadways: \$2,500.00 ¶¶
- (bC) Railroad stations, depots, and other related facilities (exclusive of bridges over state-owned submerged and submersible land) up to a maximum of 10 acres in any one place. ¶¶
- (4) ~~Compensatory payments shall be required at the rate stipulated in OAR 141-122-0060(1) for that part of an easement for the uses specified in OAR 141-122-0060(2) and (3) which exceeds the maximum widths or acreages indicated, or occurs on:~~ ¶¶

~~(a) Trust Land, or~~

~~(b) Other land not exempt from a mandatory compensatory payment. Miscellaneous Development: \$1,000.00~~

~~(52) If required by the Department, applicants must also submit to the Department a payment in an amount to be determined by the Department for the fair-market value of any commercially valuable timber, sand and gravel, or other natural resources in the easement area which must be removed during or after placement of the proposed use, or which cannot be developed because of the easement use. Such payment shall be due at a date to be determined by the Department.~~

~~(63) The Department may, in lieu of a cash compensatory payment, negotiate a non-cash compensatory payment equivalent to or greater than the compensation required under OAR 141-122-0060(1).~~

~~(7) Notwithstanding the provisions of OAR 141-122-0060(1), for state, county and city-owned bridges crossing a state-owned waterway on Non-Trust Land, the required compensation will be:~~

~~(a) No compensation for a 30-year easement if none of the bridges listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.~~

~~(b) \$100 for a 30-year easement if any bridge listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.~~

~~(c) \$100 for a permanent easement for each state, county or city-owned bridge crossing state-owned land if it is located in a city.~~

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0070

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0070

General Easement Terms And Conditions ¶¶

- (1) Easements shall be offered by the Department for the minimum area and term determined by the Department to be required for the requested use or development. Unless otherwise authorized by the Director, the minimum width of an easement shall be no less than 15 feet. ¶¶
- (2) The applicant shall have ninety (90) calendar days from the date of offer to execute an easement with the Department. The Department may revoke the offer after ninety calendar days, at which time the applicant may re-apply for an easement in accordance with OAR 141-122-0040. ¶¶
- (3) The Department may grant additional easements which, as determined by the Department, do not substantially interfere with other authorized easements within a given area. ¶¶
- ~~(34) The Department will, upon request of the applicant, grant permanent easements only for the following uses of state-owned land: ¶¶~~
- ~~(a) Conservation purposes (conservation easements); ¶¶~~
- ~~(b) State, county and city owned bridges if the application contains a full surveyed legal description for each bridge and the appropriate compensation required by these rules; ¶¶~~
- ~~(c) Water, gas, electric and communication lines; and ¶¶~~
- ~~(d) Structures or facilities necessary for the use of water as provided in OAR 141-122-0105. ¶¶~~
- (4) Easements shall be offered for a term no longer than thirty (30) years unless otherwise authorized by the Director. ¶¶
- (5) The Department may, upon request of the applicant, grant permanent easements only for structures or facilities necessary for the use of water as provided in OAR 141-122-0105. ¶¶
- (6) Requests for permanent easements shall be taken to the State Land Board for review and approval. ¶¶
- (7) An easement granted by the Department will generally be to a specific person for a specific use, location, and term. The ~~h~~Holder of an easement must apply to and obtain prior written approval from the Department as provided in OAR 141-1242-0040 prior to: ¶¶
- (a) Changing the authorized use; ¶¶
- (b) Transfer of ownership; ¶¶
- ~~(c) Expanding the number of authorized developments or uses; ¶¶~~
- ~~(ed) Changing the authorized area; or ¶¶~~
- ~~(de) Permitting other persons to utilize the authorized area for uses and developments requiring separate authorization by the Department (for example, attachment of cables, conduits, or pipes under a bridge already authorized by an easement).~~ ¶¶
- ~~(58) State-owned land authorized for a specific use by an easement will remain open to the public for recreational and other non-proprietary uses unless restricted or closed to public entry by the State Land Board or the Department. An easement ~~h~~Holder may request the Department to partially restrict or close an easement area to partial or total public use if it can be demonstrated to the Department that: ¶¶~~
- ~~(a) Public entry on the area encumbered by the easement could cause damage to the use of, or development placed on the authorized area; or ¶¶~~
- ~~(b) The use of the authorized area could cause harm to the public. ¶¶~~
- ~~(69) The Department or its authorized representative(s) ~~wi~~shall have the right to enter into and upon the authorized easement area at any time for the purposes of inspection or management.~~ ¶¶
- ~~(710) Routine right-of-way maintenance including, but not limited to vegetation trimming and the application of state-approved herbicides will be allowed as specified by the easement conditions. However, except as expressly authorized in writing by the Department, an easement ~~h~~Holder will not otherwise remove any sand, gravel, or~~

other mineral or natural resources within the authorized area for commercial use or sale.¶

~~(8) An applicant for an easement must compensate the Department for the fair market value of any commercially valuable timber, sand and gravel, or other natural resources in the requested area that must be removed during or after placement of the proposed use, or that cannot be developed because of the use or development.¶~~

~~(9)¶~~

~~(11) The hHholder of an easement must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, disturbed lands shall be reclaimed as specified by the Department.¶~~

~~(102) The hHholder of an easement must maintain all buildings, pipelines, cables, and other developments or items placed in or on state-owned land in a good state of repair.¶~~

~~(113) Applicants for an easement may be required to obtain:¶~~

~~(a) Insurance, bond or other guarantees of performance required by the Department in the exercise of its reasonable discretion if, in the opinion of the Department, the use constitutes a risk to other users of the area, to public safety, or to the State of Oregon, or if required by Oregon state law. The Department may:¶~~

~~(A) Request that the applicant for, or the hHholder of an easement provide information concerning the use or development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use, and¶~~

~~(B) Require that the State of Oregon be named as an additional insured party in any such policy.¶~~

~~(b) A surety bond in an amount to be determined by the Department to ensure that the easement hHholder will perform in accordance with all terms and conditions of the authorization; or a cash deposit in an amount equal to the amount required for a surety bond.¶~~

~~(124) Easement hHholders must inspect the condition of the easement area and the developments placed on it on a frequency to be determined by the Department in consultation with the easement hHholder and other interested parties.¶~~

~~(135) Unless otherwise agreed to in writing in the easement, the hHholder of an easement which does not have a permanent term must terminate all use, and remove any or all developments or uses placed within the easement area upon expiration or cancellation of the easement. If the hHholder of the easement refuses to terminate their use or remove their developments, the Department may remove them and charge the hHholder for doing so.¶~~

~~(146) The hHholder of an easement must indemnify the State of Oregon and the Department against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area resulting from the actions or negligence of the easement holder.¶~~

~~(17) A term easement exempt from any fees may be subject to the future imposition by the Department of a consideration payment, and/or usage ¶~~

~~fee to be established by the State Land Board as authorized by law.~~

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0080

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0080

Assignment of Easements ¶¶

(1) An easement in good standing is ~~assignment~~transferable. Prior written consent of the Department is required prior to any ~~assignment~~transfer of the easement. No transfer may increase the burden on the estate or detract from the value of the underlying state land. ¶¶

(2) The ~~holder~~Holder of an easement wanting to ~~assignment~~transfer their easement must submit to the Department: ¶¶

(a) Notice of proposed ~~assignment~~transfer on a form provided by the Department at least 60 calendar days prior to the date that the ~~assignment~~transfer is to occur; and ¶¶

(b) Non-refundable ~~assignment~~transfer processing fee of ~~\$75~~1,000.00 payable to the Department.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0090

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0090

Termination of an Easement ¶

- (1) ~~With the exception of permanent easements, t~~The Department may terminate any easement:¶
- (a) If there is no use of, or development placed on the easement area for five consecutive years;¶
- (b) If the easement is for a structure or facility necessary for the use of water on state-owned ~~submerged and~~ ~~submersible~~ land and the associated right to use water is cancelled by the Oregon Water Resources Department or abandoned by the easement ~~h~~Holder. Upon such termination, the Department will notify the easement ~~h~~Holder in writing using the last known address reported by the easement ~~h~~Holder to the Department. This notification will state that the easement has terminated, and that the easement ~~h~~Holder will have 30 calendar days from the date of the notice to respond in writing to the Director why the easement should be reinstated. The Director will notify the easement ~~h~~Holder in writing of his/her decision within 60 calendar days of receipt of the request for reinstatement of the easement; or ¶
- (c) If the ~~h~~Holder of the easement fails to comply with these rules or the terms and conditions of the easement, or violates other laws covering the use of their authorized area, the Department will notify the ~~h~~Holder of the easement in writing of the default and demand correction within a specified time frame. If the ~~h~~Holder of an easement fails to correct the default within the time frame specified, the Department may:¶
- (A) Modify or terminate the easement;¶
- ~~(B) Request the Attorney General to take or cause to be taken appropriate legal action against the holder of the easement; or ¶~~
- ~~(C) Invoke other remedies as provided in OAR 141-122-0130.¶~~
- ~~(32) Notwithstanding the provision of OAR 141-122-0090(1), the Department will not terminate an easement that is not perman term easement if the hHolder of the easement is ready, but unable ¶~~
- to commence the requested use within the five-year period due to their inability to obtain other required authorizations within the five-year period.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0100

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0100

Easements Issued on Common School Forest Land ¶¶

(1) The Oregon State Forester may issue an easement not to exceed a term of ten years [temporary easements] on certified Common School Forest Land in accordance with applicable statutes and administrative rules. ¶¶

(2) Such easements may be issued by the Oregon State Forester for uses such as, but not limited to: ¶¶

(a) Use of roads for forest management purposes; ¶¶

(b) Constructing, improving and/or maintaining temporary roads, including spur roads; ¶¶

(c) Constructing landing sites to deck timber; ¶¶

(d) Use of stumps and/or trees for guide lines and tail holds; ¶¶

(e) Extracting sand, gravel, or quarry rock for the improvement, construction or maintenance of state-owned roads; and ¶¶

(f) Use of existing roads for forest management purposes. ¶¶

(3) Any person wanting to obtain an easement on certified Common School Forest Land must apply directly to the Oregon Department of Forestry. ¶¶

(4) Any person wanting to obtain an easement on Common School Forest Land for the uses or developments described in OAR 141-122-0010(2) and (3), must apply to the Department pursuant to these rules.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0105

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0105

Easements For Structures and Facilities Necessary for the Use of Water ¶¶

~~(1) Except as otherwise provided in OAR 141-122-0105(2), a~~An easement is required for all structures and facilities placed on Trust or Non-Trust Land managed by the Department that are necessary for the use of water.¶¶

~~(2) An easement is not required for those parts of structures and facilities necessary for the use of water placed on state-owned submersible land managed by the Department if the:~~¶¶

~~(a) Owner of the structures and facilities holds a valid right to use the water, and~~¶¶

~~(b) Water is used exclusively for domestic and irrigation purposes.~~¶¶

~~(3) Persons who own, use, have placed, intend to place, or have the legal authority to represent the owners or users of structures and facilities necessary for the use of water subject to an easement must apply to the Department for an easement on a form provided by the agency. The applicant must include with the application a non-refundable application fee in the amount of \$125 payable to the Department to cover the administrative costs of processing the application and issuing the easement.~~¶¶

~~(4) An application received by the Department for an easement for a structure or facility necessary for the use of water will be processed pursuant to the provisions of OAR 141-122-0050 and 141-122-0060 (as applicable) of these rules.~~¶¶

~~(5) The Department will allow a person to include up to three water pipelines and associated fixtures per lot of record on their application for an easement.~~¶¶

~~(6) An easement issued by the Department under this section will have the same term as that of the associated right to use the water as determined by the Oregon Water Resources Department. Land Board approval will not be required for an easement granted under this section.~~¶¶

~~(7) The Department may enter into an agreement with the Oregon Water Resources Department to consolidate the processing of easements for structures or facilities necessary for the use of water with the processing of a right to use water.~~

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0110

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0110

Unauthorized Uses and Penalties ¶

(1) Uses and developments not authorized by an easement issued by the Department, or by another agency as a valid existing right of record on land acquired by the Department, constitute a trespass and must be removed as directed unless otherwise authorized in writing by the Department. ¶

(2) In addition to any other penalties provided or permitted by law, the use or placement of any development on state-owned land without the required Department authorization as described in these rules, or which is otherwise not in compliance with these rules, will constitute a trespass and be prosecuted pursuant to governing law.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0120

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0120

Reconsideration of Decision ¶

An applicant or any person adversely affected by the issuance or denial of an easement by the Department may request the Director or the State Land Board, depending on which entity made the decision, to reconsider the decision. A request for reconsideration must be filed in compliance with ORS 183.482 or 183.484.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

AMEND: 141-122-0130

RULE SUMMARY: Amending this rule to reflect the division of rules for trust and non-trust lands for easements.

CHANGES TO RULE:

141-122-0130

Enforcement Actions; Civil Penalties and Other Remedies ¶

(1) The Department may:¶

(a) Conduct field inspections to determine if uses of, and developments on, ~~in or over state-owned submerged and submersible land~~ Trust Lands are authorized by, or conform with the terms and conditions of an easement and, if not,¶

(b) Pursue whatever remedies are available under law to ensure that any use that is in violation of the terms or conditions of an easement is either brought into compliance with the requirements of these rules or other applicable law, or removed.¶

(2) In addition to any other penalty or sanction provided by law, for uses subject to an easement located on state-owned submerged and submersible Trust Lands, the Director may assess a civil penalty of not more than \$1,000 per day of violation for the following:¶

(a) Violations of any provision of OAR 141-122 or ORS 273 or 274; or¶

(b) Violations of any term or condition of a written authorization granted by the Department under ORS 273 and 274.¶

(3) The Director will give written notice of a civil penalty incurred under OAR 141-122-0130(2) by registered or certified mail to the person incurring the penalty. The notice will include, but not be limited to the following:¶

(a) The particular section of the statute, rule or written authorization involved;¶

(b) A short and clear statement of the matter asserted or charged;¶

(c) A statement of the party's right to request a hearing within 20 calendar days of the notice;¶

(d) The time allowed to correct a violation; and¶

(e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.¶

(4) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-122-0130(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.¶

(5) In imposing a penalty under OAR 141-122-0130 of these rules, the Director will consider the following factors as specified in ORS 274.994:¶

(a) The ~~past~~ history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;¶

(b) Any prior violations of statutes, rules, orders and authorizations pertaining to Trust lands, or submerged and submersible lands;¶

(c) The impact of the violation on ~~public trust uses of commerce, navigation, fishing and recreation, and~~ Trust Land.¶

(d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.¶

(6) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-122-0130 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.¶

(7) If a civil penalty is not paid as required by OAR 141-122-0130, interest will accrue at the maximum rate allowed by law from the date first due.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0010

RULE SUMMARY: Adopting rules for granting easements on non-trust lands

CHANGES TO RULE:

141-123-0010

Purpose and Applicability

(1) These rules:

(a) Govern the granting and renewal of easements on state-owned Non-Trust land as specified herein.

(b) Do not apply to the:

(A) Granting of easements for State-Owned Trust lands under OAR 141-122 (Rules for Granting Easements on Trust Land)

(B) Granting of easements for fiber optic and other cables on state-owned submerged and submersible land within the Territorial Sea, an activity governed by OAR 141-083 (Rules for Granting Easements for Fiber Optic and Other Cables on State-Owned Submerged and Submersible Land Within the Territorial Sea);

(C) Granting of authorizations for hydroelectric projects on state-owned Non-Trust Land, an activity governed by OAR 141-087 (Hydroelectric Projects);

(D) Granting of authorizations for remediation and habitat restoration activities governed by OAR 141-145 (Rules Governing the Management of State-Owned Submerged and Submersible Land Subject to Remediation and Habitat Restoration Activities);

(E) Granting of authorizations for leases, licenses and registrations for structures on and uses of state-owned submerged and/or submersible lands governed by OAR 141-082 (Rules Governing the Management Of, And Issuing of Leases, Licenses and Registrations for Structures On, And Uses of State-Owned Submerged and Submersible Land);

(F) Dedication of roads or rights-of-way required of the Department or its agents by local government resulting from a local land use approval involving state-owned land; or

(G) Existing valid easements or right of ways granted, by the Department of State Lands (Department) or State Land Board, prior to the adoption of these rules.

(c) Require prior authorization for all uses described under OAR 141-123-0010(2) and (3) unless otherwise exempt from easement under the provisions of OAR 141-123-0010(4) of these rules.

(d) Contain specific provisions relating to the granting of easements by the Department to persons who have or will place a structure or facility on state-owned Non-Trust Land necessary to take water for which they have a right to use.

(2) Unless otherwise exempt under the provisions of OAR 141-123-0010(4) of these rules, developments and uses of state-owned Non-Trust Land subject to easement include, but are not limited to the following:

(a) Water, gas, electric and communication service lines (including fiber optic cables) and associated equipment such as pumping stations, transformers and meters;

(b) Innerducts and conduits for cables (regardless of whether they contain a cable or are in use);

(c) Water supply pipelines, ditches, canals, and flumes;

(d) Drainage and irrigation works;

(e) Sewer, storm, and cooling water lines, including storm water outfalls and other outfalls;

(f) Bridges, skylines, and logging lines;

(g) Railroad and light rail track, bridges, stations, depots, and other related facilities;

(h) Roads and trails of all types;

(i) Overhead transportation lines (for example, tramways, etc.);

(j) Storage of materials (for example, sand, gravel, dredge spoils, etc.); and

(k) Other encroachments

(l) Erosion control structures, dikes, levees, and tide-gates.

(3) The Department Director may determine that other uses and developments similar to those specified in OAR 141-123-0010(2) are also subject to authorization by, or exempted from, an easement and these rules.

(4) An easement is not required:¶

(a) For uses or developments on state-owned Non-Trust Land that would require an easement under these rules if the person undertaking the use or owning the development has obtained a valid authorization from the Department pursuant to the provisions of OAR 141-082 (Leasing And Registration Of Structures On, And Uses Of State-Owned Submerged And Submersible Lands); OAR141-145 (Authorizations For Remediation And Habitat Restoration Activities); or OAR 141-125 (Authorizing Special Uses On State-Owned Land), provided the proposed use or development is located on the land which is subject of the authorization, is incidental to the specific use that is the subject of the authorization, and does not result in an additional burden on the land; or¶

(b) For any structure or facility necessary for the use of water crossing or situated on state-owned submersible land if the below conditions apply: ¶

(A) The withdrawal is authorized by a valid right to use the water; and¶

(B) The water is used exclusively for irrigation or domestic use. ¶

(c) For water, gas, electric and communication lines physically attached to and supported by county or state-owned bridges that cross state-owned waterways which are located outside of city limits. If the water, gas, electric and communication lines are located within a city, or cross a state-owned waterway within a city, they are subject to easement unless otherwise exempt by these rules.¶

(5) A person who is exempt from obtaining an easement under the provisions of OAR 141-123-0010(4) may apply to obtain an easement and the Department may authorize an easement even though none is required under these rules. The application shall be processed in accordance with OAR 141-123-0050.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0020

RULE SUMMARY: Adopting rules for the general provisions of the easements on non-trust lands.

CHANGES TO RULE:

141-123-0020

General Provisions

- (1) Pursuant to Article VIII, Section 5(2) of the Oregon Constitution, the State Land Board, through the Department, has a constitutional responsibility to manage all land (Trust and Non-Trust) under its jurisdiction "with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management." ¶
- (2) The Department shall follow the guiding principles and resource-specific management prescriptions contained in the Real Estate Asset Management Plan, and consider the comments received from federal, state, and local governments and interested persons when determining whether to authorize or condition an easement on state-owned land. ¶
- (3) All tidally influenced and title navigable waterways (referred to as state-owned submerged and submersible land) have been placed by the Oregon State Legislature under the jurisdiction of the State Land Board and the Department, as the administrative arm of the State Land Board.¶
- (4) All references in these rules to "state-owned submerged and submersible land" include state-owned submerged lands or submersible lands or both.¶
- (5) State-owned submerged and submersible land is managed to ensure the collective rights of the public to fully use and enjoy this resource for commerce, navigation, fishing, recreation, and other public trust values. These rights are collectively referred to as "public trust rights". ¶
- (6) All uses of state-owned land must conform to applicable local (including local comprehensive land use planning and zoning ordinance requirements), state and federal laws.¶
- (7) No applicant or grantee is allowed to request from any government agency a change in the zoning for, or approved uses of, state-owned land without first applying to and receiving written approval from the Department. ¶
- (8) The Department shall not grant an easement if:¶
- (a) As a result of its circulation for public comment of the application for easement as described in OAR 141-123-0050(4) it determines that the proposed use or development would unreasonably impact use or developments proposed or already in place within the requested area; or¶
- (b) If the proposed use or development is inconsistent with local, state, or federal laws; or¶
- (c) If the proposed use or development is inconsistent with these rules; or¶
- (d) If the proposed use or development has unacceptable impacts on public health, safety or welfare, or would result in the loss of, or damage to natural, historical, cultural or archaeological resources, as determined by the Department; or¶
- (e) If the proposed use or development is prohibited by a State Land Board or Department-adopted area closure, use restriction, or area management plan (such as the Lower Willamette River Management Plan; or a Total Maximum Daily Load Implementation Plan); or¶
- (f) If the proposed use or development is inconsistent with any endangered species management plan adopted by the Department under the Oregon Endangered Species Act (ORS 496.171 to 496.192).¶
- (9) The Department may, at its discretion, deny an easement if the applicant's financial status or past business practices, or both, indicate that the applicant may not:¶
- (a) Be able to fully meet the terms and conditions of an easement offered by the Department; or ¶
- (b) Use the land applied for in a way that meets the provisions of OAR 141-123-0020.¶
- (10) The Department may, at its discretion, deny an easement if the applicant is out of compliance with the terms and conditions of any previous authorization issued, or is subject to any enforcement or corrective action, by the Department. ¶
- (11) The Department shall:¶

(a) Recognize all valid easements of record on land acquired by the Department as disclosed at the time of acquisition; and¶¶

(b) Honor any renewal provisions contained in existing valid easements granted by the Department if the Holder of the easement has complied with all terms and conditions of the easement and applies to the Department for a new easement as prescribed in these rules.¶¶

(12) Except as provided in OAR 141-123-0010(4) and OAR 141-123-0100(2), any person wanting to use or place a development on state-owned land subject to an easement must obtain a written authorization in the form of an easement from the Department prior to beginning the use or placing the development. Additionally, an easement is required for any use or development that encroaches on state-owned land regardless of its height above or below, or manner of crossing the state-owned land.¶¶

(13) Unless otherwise exempt by these rules, each individual use of, or development placed on, state-owned land constitutes a separate discrete activity subject to: ¶¶

(a) An easement specifically authorizing only that individual use or development; and¶¶

(b) Payment of compensation as required in these rules.¶¶

(14) An easement cannot be established on Department-managed land by adverse possession regardless of the length of time the use or development has been in existence. ¶¶

(15) The Department may: ¶¶

(a) Conduct field inspections to determine if the uses and developments in place on state-owned land are authorized by, or conform with, the terms and conditions of an easement and, if not: ¶¶

(b) Pursue whatever remedies are available under law and OAR 141-123-0120 to ensure that unauthorized uses subject to an easement on state-owned land are either brought into compliance with the requirements of these rules or removed.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0030

RULE SUMMARY: Definitions were adopted for non-trust lands easements.

CHANGES TO RULE:

141-123-0030

Definitions

- (1) "Applicant" is any person applying for an easement.¶
- (2) "Appraised Value" means an estimate of current market value of the property (not including improvements) as of a specific date, prepared by a qualified independent appraiser in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards.¶
- (3) "Authorized Area" is the area of state-owned land defined in the easement for which a use is authorized.¶
- (4) "Cable" means a conductor of electricity or light with insulation, or a combination of conductors insulated from one another within a single jacket or sheath.¶
- (5) "Circuit" means a system of conductors through which an electric current is intended to flow. A single pole or transmission tower may support one or more circuits, each of which may consist of up to four separate conductors.¶
- (6) "City" means a city incorporated under ORS 221.020 through 221.100.¶
- (7) "City Limits" refers to the boundaries of a city incorporated under ORS 221.020 through 221.100.¶
- (8) "Communication Line" is any cable including fiber optic cable which transmits electronic information, telephone or television signals or other data.¶
- (9) "Comparative Compensatory Payment" is the amount of money paid to owners of parcels that are similar to the state-owned land requested by an applicant for a use that is the same as, or similar to that requested by an applicant. When the applicant's requested use is in, on or over Trust Land, the comparative compensatory payment is the maximum amount of money private landowners receive for the same or similar uses in, on or over parcels that they own that are similar to the Trust Land requested by the applicant.¶
- (10) "Compensation" or "Compensatory Payment" is the amount of money paid or something of equal value provided for an easement to the Department for the use of Department managed land.¶
- (11) "Conduit" is a pipe that protects cables from damage. It may be buried or used in above-ground applications such as bridge crossings. Innerducts may be installed within a conduit to facilitate individual cable installation.¶
- (12) "Deflector" is a structural barrier such as a groin or jetty projecting into a waterway to divert flow away from and prevent eroding sections of the banks of a waterway.¶
- (13) "Department" means the Department of State Lands.¶
- (14) "Development" is any structure or physical facility (for example, each cable, innerduct, innerduct and cable, conduit, conduit and cable, pipeline, electrical line, communication line, bridge, road, fence, ditch, reservoir, or easement-associated building) on state-owned land subject to or authorized by an easement granted by the Department.¶
- (15) "Director" means the Director of the Department of State Lands or designee.¶
- (16) "Domestic Use" means the use of water for human consumption and household purposes that is necessary for the sustenance of an individual, family unit or household. Domestic use may also include water used by an individual family unit or household for heating or cooling purposes.¶
- (17) "Easement" is an authorization granted by the Department that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. An easement does not convey any proprietary or other rights of use to the Holder other than those specifically granted in the easement authorization.¶
- (18) "Easement for Conservation Purposes" is a type of easement granted by the Department that limits uses to protect the property for conservation values, such as fish and wildlife habitat or other ecosystem processes. The easement for conservation purposes is conveyed by the Department when the applicant is not eligible to hold a Conservation Easement or otherwise does not conform to ORS 271.715 to 271.775.¶
- (19) "Encroachment" is an unauthorized development or use, such as, but not limited to a structure, fill, or pile of

aggregate, that overlaps on, or otherwise occupies or restricts the full use of state-owned land. An encroachment may be a pipe, conduit, or other structure that has been abandoned in place. An encroachment may also occur when the Holder of an easement granted by the Department extends their use outside of the area authorized by that easement or adds a use or development not authorized. ¶

(20) "Erosion Control Structures" mean revetments, attenuators, deflectors, retaining walls, riprap and other structures placed adjacent to, or on Non-Trust Land. ¶

(21) "Fiber Optic Cable" means an insulated and often armored cable used to transmit telecommunications through glass fibers using pulses of light. ¶

(22) "Gas Lines and Associated Fixtures" are the pipelines and required compressor and gate stations, valves, meters, regulators, relief stacks, marker posts, rectifiers, and all other related fixtures and equipment necessary to deliver natural gas from the point of origin to the user. ¶

(23) "Governmental Body" means an agency of the Federal Government, the State of Oregon, and every political subdivision thereof as defined in ORS 271.005. ¶

(24) "Holder" means any person who holds a current authorization from the Department for the use of state-owned lands. ¶

(25) "Individual Use" or "Individual Development" is each separate use of, or development placed on state-owned land. ¶

(26) "Innerduct" is tubing that not only protects fiber optic and other types of cables, but also facilitates their installation. It is often placed inside a conduit or may be buried directly into the ground. ¶

(27) "Intake" is a location or structure through which something is taken in, e.g. water in a channel or pipe from a body of water. ¶

(28) "Irrigation" or "Irrigation Use" means the artificial application of water to crops or plants by controlled means to promote growth or to nourish crops or plants. Examples of irrigation uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course play field or vineyard. ¶

(29) "Market Value" Means the most probable price, as of a specified date, in cash, or in terms equivalent to cash for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller acting prudently, knowledgeably, and assuming neither is under undue duress. ¶

(30) "Maximum Value Per Square Foot" means the highest price per square foot that the Department may use in determining compensation for easements. ¶

(31) "Multiple-Use Easement" means an authorization issued for a single conduit, through which additional uses may be embedded. ¶

(32) "Non-Trust Land" is land managed by the Department other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land [(land below ordinary high water)] under navigable and tidally influenced waterways. ¶

(33) "Outfall" is the point of a drain where it discharges to an area of land or body of water. ¶

(34) "Owner" means a person or legal entity that has a property interest in a structure or land ¶

(35) "Permanent Easement" is a type of easement that is issued in perpetuity. ¶

(36) "Person" includes individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies as well as any state or other governmental or political subdivision or agency, public corporation, public authority, or Indian Tribe. ¶

(37) "Public Trust Use(s)" means those uses embodied in the Public Trust Doctrine under federal and state law including, but not limited to navigation, recreation, commerce and fisheries, and other uses that support, protect, and enhance those uses. Examples of Public Trust uses include, but are not limited to, short term moorage, camping, bank fishing, picnicking, and boating. ¶

(38) ""Real Estate Asset Management Plan" is the plan adopted by the State Land Board that provides the policy direction and management principles to guide both the short and long-term management by the Department of the Common School Fund's real estate assets. ¶

(39) "Real Market Value" for land means the current market value of the property (not including improvements)

assigned to the land within the tax lot, adjacent riparian tax lot, or comparable tax lot by the county tax assessor.¶

(40) "Right of Way" is the legal right, established by grant, to pass along a specific route through grounds or property belonging to another. ¶

(41) "Right to Use Water" is a water right permit, water right certificate, or a proposed or final order approving a water right permit granted by the Oregon Water Resources Department, or court decree evidencing a water right, authorizing a person to take and use a specific quantity of water for a specific use or uses from a specific location under specific terms and conditions.¶

(42) "Roadway" means a road, driveway, or any other development for the use vehicles or other traffic.¶

(43) "Rip-Rap" means crushed rock or concrete placed on the bank of a waterway or lake to prevent or reduce erosion of the bank. ¶

(44) "Single-Use Easement" means an authorization for a crossing with an individual use.¶

(45) "State Land" or "State-Owned Land" is land owned by the State and managed by the Department or its agents and includes Trust Land and Non-Trust Land. ¶

(46) "State Land Board" means the constitutionally created body consisting of the Governor, Secretary of State, and State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law.¶

(47) "Structure or Facility Necessary for the Use of Water" means the pipelines and required stands, pumps, wiring, fish screens, and similar equipment necessary to convey water from the point of diversion to the place of use. ¶

(48) "Submerged Land" means land lying below the line of ordinary low water of all title navigable and tidally influenced water within the boundaries of the State of Oregon. ¶

(49) "Submersible Land" means land lying above the line of ordinary low water and below the line of ordinary high water of all title navigable and tidally influenced water within the boundaries of the State of Oregon. ¶

(50) "Trust Land" is land granted to the state upon its admission into the Union or obtained by the state as the result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.¶

(51) "Use" means an activity on state-owned lands that requires an easement under these rules.¶

(52) "Utility" means water, waste water, gas, electric, or communication service lines, fixtures and other related facilities.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0040

RULE SUMMARY: Adopting the application review and approval process for easements on the non-trust lands.

CHANGES TO RULE:

141-123-0040

Easement Application Requirements

(1) Except as provided by OAR 141-123-0010(4) (Purpose and Applicability) and 141-123-0100 (Easements for Structures and Facilities Necessary for the Use of Water), any person wanting to use state-owned land for any of the purposes described in OAR 141-123-0010(2) and (3) must: ¶

(a) Apply to the Department for the easement using a form provided by the Department; and ¶

(b) Submit a non-refundable application fee as provided in OAR 141-123-0040(3) payable to the Department to cover the administrative costs of processing the application and issuing the authorization. When applying for an easement for a structure or facility necessary for the use of water as described in OAR 141-123-0100, a person may submit to the Department a copy of their application to the Department of Water Resources for a right to use water in lieu of using the Department's easement application form. ¶

(2) Unless otherwise exempt under the provisions of OAR 141-123-0010(4) (Purpose and Applicability), each individual use of, or development placed on state-owned land must be authorized by a separate easement specifically authorizing only that use or development. ¶

(a) With regard to a conduit, regardless of the number of innerducts or fiber optic cables contained within the conduit, each cable or innerduct is considered an individual use subject to authorization by an easement. ¶

(b) With regard to electric power transmission lines, one transmission line with one or more circuits will constitute an individual use subject to authorization by an easement. Additional parallel transmission lines owned by the same entity with one or more circuits may be included in the same individual use so long as such parallel lines are located within the designated boundaries of the easement. ¶

(3) Except as provided by OAR 141-123-0100 (Easements for Structures and Facilities Necessary for the Use of Water) and OAR 141-123-0040(4), the application fee for all term easements is \$750; the application fee for all structures or facilities necessary for the use of water on submerged land subject to an easement is \$125. ¶

(4) There is no application fee for water, gas, electric or communication service ¶
lines across non-trust lands outside of city limits. ¶

(5) A single easement application form may be used to request: ¶

(a) An easement for a single pipeline, cable, or similar use or development which crosses one or more parcels of state-owned land. ¶

(b) An easement for all state, county or city-owned bridges within a single county, or ¶

(c) An easement for one or more identical uses or developments which cross the same parcel of state-owned land or state-owned waterway, for example, two parallel pipelines. ¶

(6) An easement application for a conduit must include a cross-sectional drawing that shows the proposed use and the remaining conduit space available for future use. ¶

(7) A fully completed application must be submitted to the Department at least 90 calendar days prior to the proposed use or placement of a development subject to a term easement on state-owned land unless otherwise allowed by the Director in writing. ¶

(8) A fully completed application must be submitted to the Department at least 120 calendar days prior to the proposed use or placement of a development that is eligible for a permanent easement on state-owned land, unless otherwise allowed by the Director in writing. ¶

(9) Any person holding a valid easement (other than a permanent easement) granted by the Department prior to the adoption of these rules who wants to continue holding the authorized area following the expiration of the easement for a use subject to easement must: ¶

(a) Apply to the Department for a new easement and pay the required application fee 180 calendar days prior to the expiration of the easement as provided in OAR 141-123-0040(1), unless otherwise allowed by the Director in writing; and ¶

(b) Pay the compensatory payment required by OAR 141-123-0060 at such time that the Department has reviewed and approved the easement application request pursuant to OAR 141-123-0050 (9) and (10).

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0050

RULE SUMMARY: Adopting easement application review and approval process for easements on non-trust lands.

CHANGES TO RULE:

141-123-0050

Easement Application Review and Approval Process

- (1) Department staff may require a meeting to discuss a proposed project and use before performing an application completion review. This meeting may be in person or through other means acceptable to the Department. The Department may invite other government entities and affected stakeholders to take part in an application meeting.¶
- (2) Upon receipt of an application, and the completion of an application meeting if necessary, the Department will determine whether it is complete. Applications determined to be incomplete will be returned to the applicant with a written explanation of the reason(s) for rejection.¶
- (3) If a rejected application is resubmitted within 120 calendar days from the date the Department returned it to the applicant, no additional application fee will be assessed.¶
- (4) If determined by the Department to be complete, the application will be circulated to affected local, state, and federal agencies; Holders of valid authorizations granted by the Department in the requested area; and other interested persons including federally recognized tribal governments and ports for review and comment. As a part of this review, the Department will specifically request comments concerning:¶
- (a) The presence, type and location of state or federal listed threatened and endangered species (including candidate species), and archeological and historic resources within the requested area which may be disturbed by the proposed use;¶
- (b) Whether the proposed easement use:¶
- (A) Conforms with other local, state, and federal law and rules;¶
- (B) Conforms with the local comprehensive land use plan and zoning ordinances;¶
- (C) Conforms with the general provisions described in OAR 141-123-0020 of these rules; and¶
- (D) Would unreasonably impact uses or developments proposed or already in place within the requested area.¶
- (5) The Department may post a notice of an application and opportunity to comment at a local government building, public library, or other appropriate locations in order to ensure that minority and low-income communities are included and aware of a proposed use. The Department shall make paper copies of an application available to any person upon request.¶
- (6) The Department may waive the circulation requirement described in OAR 141-123-0050(4) if:¶
- (a) The use or development has been previously reviewed by the listed agencies and other interested persons, and the results are documented in the easement application;¶
- (b) The application is for an easement associated with the right to use water and the Water Resources Department is conducting or has conducted a public interest review sufficient to make the determinations required by OAR 141-123-0050(4); or¶
- (c) The application is for an easement for an energy facility that has been granted a site certificate by the Energy Facility Siting Council under ORS 469.300 et seq. and OAR 345-022, et seq. (Regulation of Energy Facilities), in which case the Department will accept the findings and conclusions of the Energy Facility Siting Council in evaluating the easement application over Non-Trust Land.¶
- (7) An applicant for an easement may be required to amend their application at any time to address issues, concerns, or information needs identified by the Department or others that provided comments.¶
- (8) After receipt of agency and public comment concerning the proposed use, the Department will determine, and advise the applicant in writing if:¶
- (a) Changes to the requested easement area are necessary to respond to agency or public comment;¶
- (b) Additional information is required from the applicant, including but not limited to a survey of:¶
- (A) State or federal listed threatened and endangered species (including candidate species) within the requested area; or¶

- (B) Archaeological and historic resources within the requested area. ¶
 - (c) The request is denied. Applicants will be given the opportunity to revise their proposed project if the Department denies the request; or ¶
 - (d) The easement will be granted with specific terms and conditions. ¶
 - (9) If the Department decides to grant the easement, the written notification will also indicate: ¶
 - (a) The amount of compensation pursuant to the requirements of OAR 141-123-0060 that the applicant must remit to the Department to obtain the authorization; ¶
 - (b) Any surety bond amount required by the Department pursuant to the provisions of OAR 141-123-0070(13); and ¶
 - (c) The easement terms and conditions. ¶
 - (10) The Department will not grant an easement to an applicant until it has received all fees and compensation specified in these rules, and evidence of a surety bond (if required). However, the Department, at its discretion, may grant a provisional easement prior to receipt of compensation due for removal of timber, sand and gravel, or other natural resources in the easement area if the fair market value of those resources is based on actual receipts from their sale. ¶
 - (11) The Director may refer unusual or controversial easement applications to the State Land Board for review and approval. ¶
 - (12) If requested by the Department, an applicant must present evidence to the Department prior to placing the use or development that they have obtained:¶
 - (a) All authorizations required by local, state, and federal governing bodies to undertake the proposed use or development; and¶
 - (b) Any authorization that may be required to obtain access to, or to cross land belonging to a person other than the Department to undertake the use or development.
- Statutory/Other Authority: ORS 273.045
- Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0060

RULE SUMMARY: Adopting Compensation rules for the easements on non-trust lands.

CHANGES TO RULE:

141-123-0060

Compensation

(1) Except as provided in OAR 141-123-0060(11) and (12), the Department will, prior to granting an easement, require an applicant not otherwise exempt under OAR 141-123-0060(6) or as provided in OAR 141-123-0060(10) to submit to the Department a compensatory payment for each individual crossing or use of state-owned land in an amount equal to the greatest of: ¶

(a) For submerged and submersible lands, compensation is based on 33 1/3 percent of the market value of the adjacent riparian tax lots for uses described in OAR 141-123-0010(2) and (3). Market value is either:¶

(A) An appraised value that is acceptable to the Department; or¶

(B) The Real Market value of the adjacent riparian tax lots. ¶

(b) \$500; or¶

(c) The highest Comparative Compensatory Payment. ¶

(2) For all single-use easements on, over, above, or below state submersible or submerged lands, the value per square feet derived from the real market value of the adjacent riparian tax lot(s) shall not exceed the Maximum Value per Square Foot. The Statewide Maximum Value Per Square Foot is \$11.93 starting July 1, 2018, and shall increase each year on July 1st by three percent.¶

(3) For all multiple-use easements on, over, above, or below state submersible or submerged lands, compensation is based upon the real market value of the adjacent riparian tax lot(s) and is not limited by the Statewide Maximum Value per Square Foot.¶

(4) For each new individual use, proposed to be embedded in existing conduit authorized by the Department prior to January 1, 2019, compensation is required and the Statewide Maximum Value per Square Foot shall apply.¶

(5) For each new individual use, proposed to be embedded in existing conduit authorized by the Department after January 1, 2019, no additional compensation is required.¶

(6) The following types of easements located on Non-Trust Land are exempt from the mandatory compensatory payment to the Department specified in OAR 141-123-0060(1): ¶

(a) State and county-owned bridges located outside of city limits.¶

(b) Gas, electric and communication line easements located outside of city limits, as allowed by ORS 758.010.¶

(c) Water ditches; water supply pipes; and water supply mains up to a maximum width of 25 feet on each side of the center line, as allowed by ORS 273.761. ¶

(d) Sanitary pressure mains and storm water pipes and storm water outfalls up to a maximum width of 25 feet on each side of the center line, as allowed by ORS 273.761. ¶

(e) Any structure or facility necessary for the use of water crossing or situated on state-owned submersible land, as allowed by ORS 274.040(3) if:¶

(A) The withdrawal is authorized by a valid right to use the water; and¶

(B) The water is used exclusively for irrigation or domestic use.¶

(7) There is granted to all persons constructing railways built after February 21, 1891, within the boundaries of the state, and to their successors and assigns as allowed by ORS 273.751:¶

(a) A right of way through any unimproved state lands, of the width of 100 feet, being 50 feet in width on each side of the center line of the road.¶

(b) All necessary grounds for stations, depots, shops, side tracks, turntables and water stations, not exceeding 10 acres in any one place, upon payment to the state of the sum therefor as fixed by the Department of State Lands.¶

(c) The right to take, from the lands of this state adjacent to the route lines of the road, material necessary for the construction of the roads.¶

(d) The right to construct and maintain railroad bridges over any navigable waters in this state. All bridges crossing navigable waters shall be subject to such regulations, restrictions and compensation as may be fixed by the

department and shall be so constructed as not unnecessarily to interfere with navigation.¶

(8) Compensatory payments shall be required at the rate specified in OAR 141-123-0060(1) for that part of an easement for the uses specified in OAR 141-123-0060(2) and (3) which exceeds the maximum widths or acreages indicated, or occurs on:¶

(a) Trust Land (under OAR 141-122), or ¶

(b) Other land not exempt from a mandatory compensatory payment. ¶

(9) If required by the Department, applicants must also submit to the Department a payment in an amount to be determined by the Department for the fair market value of any commercially valuable timber, sand and gravel, or other natural resources in the easement area which must be removed during or after placement of the proposed use, or which cannot be developed because of the easement use. Such payment shall be due at a date to be determined by the Department. ¶

(10) The Department may, in lieu of a cash compensatory payment, negotiate a non-cash compensatory payment equivalent to or greater than the compensation required under OAR 141-123-0060(1).¶

(11) Notwithstanding the provisions of OAR 141-123-0060(1), for state, county and city-owned bridges crossing a state-owned waterway on Non-Trust Land, the required compensation will be:¶

(a) No compensation for a 30-year easement if none of the bridges listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.¶

(b) \$100 for a 30-year easement if any bridge listed on a single county application submitted by either the Oregon Department of Transportation or any county is located within a city.¶

(c) \$100 for a permanent easement for each state, county or city-owned bridge crossing state-owned land if it is located in a city.¶

(12) Notwithstanding the provisions of OAR 141-123-0060(1), for People's Utility Districts (PUD) structures crossing a state-owned waterway on Non-Trust Land, the required compensation will be:¶

(a) No compensation for a 30-year easement if the structures are not located within a city.¶

(b) \$100 for a 30-year easement if the structures are located within a city.¶

(13) If in the process of calculating compensation, the assessed value is found to be depressed due to the presence of hazardous substances or some other extenuating circumstance(s) as determined by the Department, another comparable upland tax lot shall be selected by the Department as the basis for calculating the compensation. The applicant may suggest a comparable tax lot or may appeal the Department's selection to the Director.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0070

RULE SUMMARY: Adopting Terms and Conditions for easements on non-trust lands

CHANGES TO RULE:

141-123-0070

General Easement Terms and Conditions

- (1) Easements shall be offered by the Department for the minimum area and term determined by the Department to be required for the requested use or development. Unless otherwise authorized by the Director, the minimum width of an easement shall be no less than 15 feet. ¶
- (2) The applicant shall have ninety (90) calendar days from the date of offer to execute an easement with the Department. The Department may revoke the offer after ninety calendar days, at which time the applicant may re-apply for an easement in accordance with OAR 141-123-0040.¶
- (3) The Department may grant additional easements which, as determined by the Department, do not substantially interfere with other authorized easements within a given area. ¶
- (4) Easements shall be offered for a term no longer than thirty (30) years, unless otherwise authorized by the Director. ¶
- (5) The Department may, upon request of the applicant, grant permanent easements only for the following uses of state-owned land:¶
- (a) State, county and city-owned bridges if the application contains a full surveyed legal description for each bridge and the appropriate compensation required by these rules; and¶
- (b) Structures or facilities necessary for the use of water as provided in OAR 141-123-0100. ¶
- (6) Requests for permanent easements shall be taken to the State Land Board for review and approval.¶
- (7) An easement granted by the Department will generally be to a specific person for a specific use, location, and term. The Holder of an easement must apply to and obtain prior written approval from the Department as provided in OAR 141-123-0040 prior to: ¶
- (a) Changing the authorized use;¶
- (b) Transfer of ownership; ¶
- (c) Expanding the number of authorized developments or uses; ¶
- (d) Changing the authorized area; or ¶
- (e) Permitting other persons to utilize the authorized area for uses and developments requiring separate authorization by the Department (for example, attachment of cables, conduits, or pipes under a bridge already authorized by an easement). ¶
- (8) State-owned submerged and submersible land must remain open to Public Trust Uses unless a restriction is approved by the Department or other agencies with jurisdiction over navigation or public safety. ¶
- (a) Notwithstanding the provisions of Division 88, a Holder may close all or a portion of the authorized area to Public Trust Uses, or restrict Public Trust Uses within all or a portion of the authorized area, provided the closure or restriction is:¶
- (A) Reasonably necessary to protect persons and property from harm arising from Holder's authorized use of the submerged and submersible land;¶
- (B) Limited in duration; and¶
- (C) Limited in scope.¶
- (b) If the proposed closure or restriction is wholly or partially within the navigation channel of the waterway as established by the United States Coast Guard, or is located in such a way as to increase traffic in or otherwise impact use of the navigation channel, Holder shall consult with the United States Coast Guard, the Oregon Marine Board and any applicable port prior to implementing the closure or restriction. Holder must comply with all requirements imposed by the United States Coast Guard and the Oregon Marine Board.¶
- (c) The Holder must provide written notice to the Department no less than fourteen (14) days prior to the implementation of any closure or restriction. The written notice must identify the need for and the scope, and duration of the closure or restriction, and must certify that Holder has consulted and received approval from the

United States Coast Guard and the Oregon Marine Board regarding the closure or restriction. ¶

(d) The Department, in its sole discretion, may at any time require Holder to terminate or modify the closure or restriction. The Department, in its sole discretion, may at any time require the closure or restriction to be established pursuant to OAR 141-088. ¶

(9) The Department or its authorized representative(s) shall have the right to enter into and upon the authorized easement area at any time for the purposes of inspection or management. ¶

(10) Routine right-of-way maintenance including, but not limited to vegetation trimming and the application of state-approved herbicides will be allowed as specified by the easement conditions. However, except as expressly authorized in writing by the Department, an easement Holder will not otherwise remove any sand, gravel, or other mineral or natural resources within the authorized area for commercial use or sale. ¶

(11) The Holder of an easement must conduct all operations within the authorized area in a manner that conserves fish and wildlife habitat; protects water quality; and does not contribute to soil erosion, or the introduction or spread of noxious weeds or pests. Upon completion of construction, disturbed lands shall be reclaimed as specified by the Department. ¶

(12) The Holder of an easement must maintain all buildings, pipelines, cables, and other developments or items placed in or on state-owned land in a good state of repair. ¶

(13) Applicants for an easement may be required to obtain: ¶

(a) Insurance, bond or other guarantees of performance required by the Department in the exercise of its reasonable discretion if, in the opinion of the Department, the use constitutes a risk to other users of the area, to public safety, or to the State of Oregon, or if required by Oregon state law. The Department may: ¶

(A) Request that the applicant for, or the Holder of an easement provide information concerning the use or development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Department in determining the appropriate amount of insurance coverage based on the nature of the use, and ¶

(B) Require that the State of Oregon be named as an additional insured party in any such policy. ¶

(b) A surety bond in an amount to be determined by the Department to ensure that the easement Holder will perform in accordance with all terms and conditions of the authorization; or a cash deposit in an amount equal to the amount required for a surety bond. ¶

(14) Easement Holders must inspect the condition of the easement area and the developments placed on it on a frequency to be determined by the Department in consultation with the easement Holder and other interested parties. ¶

(15) Unless otherwise agreed to in writing in the easement, the Holder of an easement which does not have a permanent term must terminate all use and remove any or all developments or uses placed within the easement area upon expiration or cancellation of the easement. If the Holder of the easement refuses to terminate their use or remove their developments, the Department may remove them and charge the Holder for doing so. ¶

(16) The Holder of an easement must indemnify the State of Oregon and the Department against any claim or costs arising from or related to a release of a hazardous substance on or from the authorized area resulting from the actions or negligence of the easement Holder. ¶

(17) A term easement that is exempt from fees may be subject to the future imposition by the Department of a consideration payment, and/or usage fee to be established by the State Land Board as authorized by law.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0080

RULE SUMMARY: Adopting transfer of easement rules for easements on non-trust lands.

CHANGES TO RULE:

141-123-0080

Transfer of Easements

(1) An easement in good standing is transferable. Prior written consent of the Department is required prior to any transfer of the easement. No transfer may increase the burden on the estate or detract from the value of the underlying state land. ¶

(2) The Holder of an easement wanting to transfer their easement must submit to the Department:¶

(a) Notice of proposed transfer on a form provided by the Department at least 60 calendar days prior to the date that the transfer is to occur; and¶

(b) Non-refundable transfer processing fee of \$750 payable to the Department.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0090

RULE SUMMARY: Adopting rules for the termination of an easement for easements on non-trust lands.

CHANGES TO RULE:

141-123-0090

Termination of an Easement

(1) The Department may terminate any easement:¶

(a) If there is no use of, or development placed on the easement area for five consecutive years:¶

(b) If the easement is for a structure or facility necessary for the use of water on state-owned submerged and submersible land and the associated right to use water is cancelled by the Oregon Water Resources Department or abandoned by the easement Holder. Upon such termination, the Department will notify the easement Holder in writing using the last known address reported by the easement Holder to the Department. This notification will state that the easement has terminated, and that the easement Holder will have 30 calendar days from the date of the notice to respond in writing to the Director why the easement should be reinstated. The Director will notify the easement Holder in writing of his/her decision within 60 calendar days of receipt of the request for reinstatement of the easement; or ¶

(c) If the Holder of the easement fails to comply with these rules or the terms and conditions of the easement, or violates other laws covering the use of their authorized area, the Department will notify the Holder of the easement in writing of the default and demand correction within a specified time frame. If the Holder of an easement fails to correct the default within the time frame specified, the Department may:¶

(A) Modify or terminate the easement; ¶

(B) Invoke other remedies as provided in OAR 141-123-0120.¶

(2) Notwithstanding the provision of OAR 141-123-0090(1), the Department will not terminate a term easement if the Holder of the easement is ready, but unable to commence the requested use within the five-year period due to their inability to obtain other required authorizations within the five-year period.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0100

RULE SUMMARY: Adopting rules for Easements for Structures and Facilities Necessary for the Use of Water for easements on non-trust lands.

CHANGES TO RULE:

141-123-0100

Easements for Structures and Facilities Necessary for the Use of Water

(1) Except as otherwise provided in OAR 141-123-0100(2), an easement is required for all structures and facilities placed on Non-Trust Land managed by the Department that are necessary for the use of water.¶

(2) An easement is not required for those parts of structures and facilities necessary for the use of water placed on state-owned submerged and submersible land managed by the Department if the:¶

(a) Owner of the structures and facilities holds a valid right to use the water, and¶

(b) Water is used exclusively for domestic and/or irrigation purposes.¶

(3) Persons who own, use, have placed, intend to place, or have the legal authority to represent the owners or users of structures and facilities necessary for the use of water subject to an easement must apply to the Department for an easement on a form provided by the agency. The applicant must include with the application a non-refundable application fee in the amount of \$125 payable to the Department to cover the administrative costs of processing the application and issuing the easement.¶

(4) An application received by the Department for an easement for a structure or facility necessary for the use of water will be processed pursuant to the provisions of OAR 141-123-0050 and 141-123-0060 (as applicable) of these rules. ¶

(5) The Department will allow a person to include up to three water pipelines and associated fixtures per lot of record on their application for an easement.¶

(6) An easement issued by the Department under this section will have the same term as that of the associated right to use the water as determined by the Oregon Water Resources Department. Land Board approval will not be required for an easement granted under this section.¶

(7) The Department may enter into an agreement with the Oregon Water Resources Department to consolidate the processing of easements for structures or facilities necessary for the use of water with the processing of a right to use water.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0105

RULE SUMMARY: Adopting Rules for Unauthorized Uses and Penalties for easements on non-trust lands.

CHANGES TO RULE:

141-123-0105

Unauthorized Uses and Penalties

(1) Uses and developments not authorized by an easement issued by the Department, or by another agency as a valid existing right of record on land acquired by the Department, constitute a trespass and must be removed as directed unless otherwise authorized in writing by the Department. ¶

(2) In addition to any other penalties provided or permitted by law, the use or placement of any development on state-owned land without the required Department authorization as described in these rules, or which is otherwise not in compliance with these rules, will constitute a trespass and be prosecuted pursuant to governing law.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0110

RULE SUMMARY: Adopting rules for Reconsideration of Decision for easements on non-trust lands.

CHANGES TO RULE:

141-123-0110

Reconsideration of Decision

An applicant or any person adversely affected by the issuance or denial of an easement by the Department may request the Director or the State Land Board, depending on which entity made the decision, to reconsider the decision. A request for reconsideration must be filed in compliance with ORS 183.482 or 183.484.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

ADOPT: 141-123-0120

RULE SUMMARY: Adopting rules for Enforcement Actions; Civil Penalties and Other Remedies for easements on non-trust lands.

CHANGES TO RULE:

141-123-0120

Enforcement Actions; Civil Penalties and Other Remedies

(1) The Department may:

(a) Conduct field inspections to determine if uses of, and developments on, in or over state-owned submerged and submersible land are authorized by, or conform with the terms and conditions of an easement and, if not,

(b) Pursue whatever remedies are available under law to ensure that any use that is in violation of the terms or conditions of an easement is either brought into compliance with the requirements of these rules or other

applicable law, or removed.

(2) In addition to any other penalty or sanction provided by law, for uses subject to easement located on state-owned submerged and submersible land, the Director may assess a civil penalty of not more than \$1,000 per day of violation for the following:

(a) Violations of any provision of OAR 141-123 or ORS 273 or 274; or

(b) Violations of any term or condition of a written authorization granted by the Department under ORS 273 and 274.

(3) The Director will give written notice of a civil penalty incurred under OAR 141-123-0120(2) by registered or certified mail to the person incurring the penalty. The notice will include, but not be limited to the following:

(a) The particular section of the statute, rule or written authorization involved;

(b) A short and clear statement of the matter asserted or charged;

(c) A statement of the party's right to request a hearing within 20 calendar days of the notice;

(d) The time allowed to correct a violation; and

(e) A statement of the amount of civil penalty which may be assessed and terms and conditions of payment if the violation is not corrected within the time period stated.

(4) The person incurring the penalty may request a hearing within 20 calendar days of the date of service of the notice provided in OAR 141-123-0120(3). Such request must be in writing. If no written request for a hearing is made within the time allowed, or if the party requesting a hearing fails to appear, the Director may make a final order imposing the penalty.

(5) In imposing a penalty under OAR 141-123-0120 of these rules, the Director will consider the following factors as specified in ORS 274.994:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes, rules, orders and authorizations pertaining to submerged and submersible land or Trust lands;

(c) The impact of the violation on public trust uses of commerce, navigation, fishing and recreation; and

(d) Any other factors determined by the Director to be relevant and consistent with the policy of these rules.

(6) Pursuant to ORS 183.090(2), a civil penalty imposed under OAR 141-123-0120 will become due and payable 10 calendar days after the order imposing the civil penalty becomes final by operation of law or on appeal.

(7) If a civil penalty is not paid as required by OAR 141-123-0120, interest will accrue at the maximum rate allowed by law from the date first due.

Statutory/Other Authority: ORS 273.045

Statutes/Other Implemented: ORS 273.761, 274.040, 274.720, 376.620, 530.050, 530.490, 758.010

OAR 141-122 & 141-123 Rulemaking Public Comments

PUBLIC COMMENTS RECEIVED and AGENCY RESPONSE

Commenter:

Patty Cate, ODF

Comment/Response:

“I reviewed the proposed changes to the DSL rules and I noticed under 141-122-0010 (2)(d) your proposing to change guylines to guide lines and tailholds to tail holds.

In logging terminology, guylines are cables used to stabilize the yarder. In cable logging, tailholds are used as anchors at the outer end of the skyline, away from the landing. So I believe the existing terminology in the rule is correct.”

Comment:

DSL Response :

The commenter is correct, DSL will need to revise the proposed rule change to ensure that the original rule language is retained for the terms guylines and tailholds.

Commenter:

Mary Anne Cooper/Public Policy Counsel Oregon Farm bureau

Comment: via e-mail to DSL Rules – rules@dsl.state.or.us

I am trying to get some more information on the Division 122 and 123 rulemaking. Can you let me know who is in charge of it? First, I wanted to see the list of RAC members, as the link online is broken. Second, I was curious if these are brand new rules (where all content is new) or, if not, if there's a track changes version of the changes available.

Thank you for your help!

Mary Anne

DSL Response :

From Gary Cooper via e-mail on August 6, 2018.

I am the POC for the revision of Div. 122 rules, these are not brand new rules. All the information regarding the rulemaking is on the website:

<https://www.oregon.gov/dsl/Laws/Pages/Rulemaking.aspx>

The link has been fixed on our website and the Secretary of State website has our official track changes document. <https://secure.sos.state.or.us/oard/viewRedlinePDF.action?filingRsn=38859>

If you have any other questions please give me a call.

Thanks

Gary D. Cooper, Northern Operations Manager
Aquatic Resource Management Program
Oregon Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503) 986-5308
(503)378-4844 (fax)
gary.d.cooper@state.or.us
DSL Web site: www.oregon.gov/dsl

No other comments were received and there were not any attendees or comments from the public at the public hearings held in Ontario, OR, Bend, OR, or Salem OR.

**SUMMARY OF OAR 141- 122 & 123 RULEMAKING HEARINGS IN
Locations: Ontario, OR; Bend, OR; and Salem, OR
Dates Respectfully: Aug 21; Aug 22; and Aug 28, 2018**

ATTENDEES:

None

DSL STAFF:

Name: Hearings Officer in Ontario and Bend – Nancy Pustis, Eastern Region Manager

Name: Hearings Officer in Salem – Gary Cooper, Northern Region Manager

TESTIMONY PROVIDED BY: None

The full audio from this rulemaking hearing is available from the Department upon request and is posted on the Department's website:

<http://www.oregon.gov/dsl/Pages/Rulemaking-Activity.aspx>



Oregon

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State Land Board

State Land Board

**Regular Meeting
October 10, 2018
Agenda Item 5**

Kate Brown
Governor

Dennis Richardson
Secretary of State

Tobias Read
State Treasurer

SUBJECT

Request for approval to sell 0.4 acres of state-owned filled lands in Coos County on Catching Slough to the adjacent riparian property owner.

ISSUE

Whether the State Land Board should authorize the Department to sell the 0.4 acres of state-owned filled land (Appendix A) in a direct land sale

AUTHORITY

Oregon Constitution, Article VIII, Sections 2 and 5; pertaining to the Common School Fund and land management responsibilities of the State Land Board.

ORS 273.055; relating to the power to acquire and dispose of real property.

ORS 273.171; relating to the duties and authority of the Director.

OAR 141-067; relating to the sale, exchange and purchase of state land.

Real Estate Asset Management Plan (REAMP), adopted by the Land Board; February 2012

SUMMARY

In 1988, the Department requested State Land Board approval for the filling and sale of 0.4 acres of submerged state-owned land (Appendix B). The proposed sale was to Crescent City Marine Ways and Drydock, Inc. for lands that extended beyond the company's deeded tideland ownership in Township 25 South, Range 12 West, Section

30 & 31 (which the county assessor has recently moved to Township 25 South, Range 13 West, Section 25 to better align the filled land with the riparian upland). This request to create and sell new lands was approved under Removal-Fill Permit 3341 by the Land Board on July 29, 1988.

In 2016, the waterway lease held by Sause Bros. adjacent to their upland riparian ownership was due for renewal, which included the lands created under the 1988 Removal-Fill permit. As a result of the renewal process, Department staff discovered these filled lands were never in fact purchased by Crescent City Marine Ways and Drydock, Inc.

The applicant, Sause Bros. was also unable to produce a record of conveyance of the filled lands, so the Department informed the applicant that the lands either needed to be purchased or leased under a Special Use Lease. In January 2016, Sause Bros. submitted an application for purchase of these filled lands with a survey of the associated area per the Department's request.

Through the Department's due diligence of the parcel, the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians contacted the Department with some concerns. The Department's archaeologist worked with the Tribes to clear up some misunderstandings on where the filled parcel was located and when the parcel had been filled. The Tribes then withdrew any concerns they had with the land sale. No other comments were received.

Per the filled lands rules, the value of the land is \$3,515.

RECOMMENDATION

The Department recommends that the State Land Board authorize the direct sale of the 0.4 acres of state-owned filled land in Coos County to the adjacent riparian land owner for \$3,515.

APPENDICES

- A. Map of the parcel
- B. 1988 Land Board Agenda item

State of Oregon
Department of State Lands



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EXHIBIT A

58761-LS, New Lands
T25S R13W, Sec. 25; Tax Lot 400
Approx. 0.4 acres
Coos County

-  58761-LS, New Lands
-  Tax Lot 400 (T25S R13W, Sec. 25)

This map depicts the approximate location and extent of a Department of State Lands. Proprietary authorization for use. This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

0 250 500

Feet



Map Projection:
 Oregon Statewide Lambert
 Datum NAD83
 International Feet
 State of Oregon
 Department of State Lands
 775 Summer St NE, Suite 100
 Salem, OR 97301
 503-986-5200
www.oregon.gov/DSL
 Date: 3/2/2018





Division of State Lands

1600 STATE STREET, SALEM, OREGON 97310 PHONE (503) 378-3805

OREGON STATE
LAND BOARD

NEIL GOLDSCHMIDT
Governor

BARBARA ROBERTS
Secretary of State

ANTHONY MEEKER
State Treasurer

S T A T E L A N D B O A R D

Regular Meeting
July 29, 1988

Agenda Item 3 j

SUBJECT

Request to fill state-owned submerged land in Coos County.

ISSUE

Whether the Land Board should approve the request of Crescent City Marine Ways and Drydock Company, Inc. ("Crescent City") to create and purchase 0.40 acres of new lands in Coos Bay by filling upon state-owned submerged land and what the purchase price of the new lands should be.

AUTHORITY

ORS 274.905 - 274.940, providing for Land Board approval of requests to create and purchase new lands on state-owned submerged and submersible lands.

SUMMARY

Crescent City requests Land Board approval to create a fill of 0.40 acres at the confluence of South Coos Bay and Catching Slough near Eastside east of the town of Coos Bay. See map attached as Appendix A. The requested fill is to improve the waterfront so that barges can be moved along a bulkhead in conjunction with a barge construction and repair facility. The project would involve placement of approximately 15,000 cubic yards of material pursuant to the division's removal-fill permit no. 3341 (Appendix B).

Crescent City is a Sause Bros. Ocean Towing Company subsidiary. Stockholders of Sause Bros. also own Willamette Leasing Company, which is the upland (riparian) owner of record at the site to be filled. Although Crescent City will be constructing the fill, the parties involved have requested that the deed be issued to Willamette Leasing Company, which is apparently paying for the fill. See Appendix C.

Division staff have calculated a reasonable purchase price for this 0.40 acres of new lands to be approximately \$3,700.00, with the final purchase price to be determined upon survey after completion of the fill. The valuation method is shown in Appendix D. Crescent City has agreed to this value.

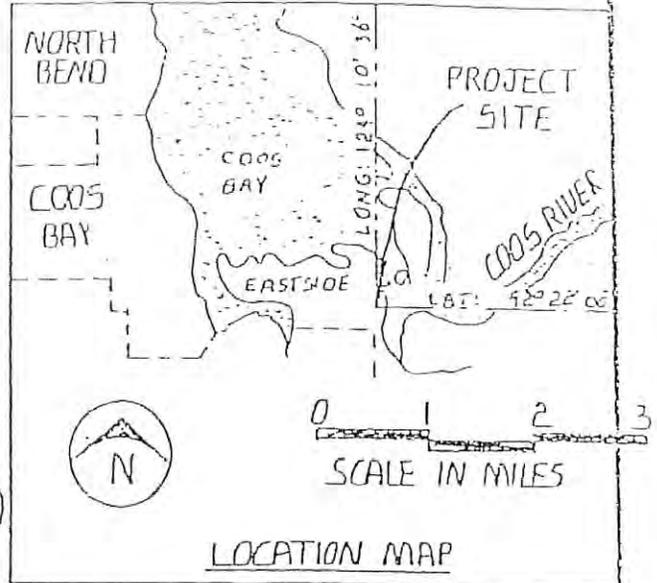
RECOMMENDATION

The division recommends that the Land Board approve Crescent City's request to fill and purchase 0.40 acres of new land and that the Land Board issue a deed for the new lands in exchange for payment of approximately \$3,700.00, with the final purchase price to be determined upon survey after completion of the fill.

APPENDICES:

- A. Map
- B. State Fill Permit No. 3341
- C. Letter from Crescent City Marine Ways & Drydock Company, Inc.
- D. Value Determination Worksheet

PORT OF COOS BAY

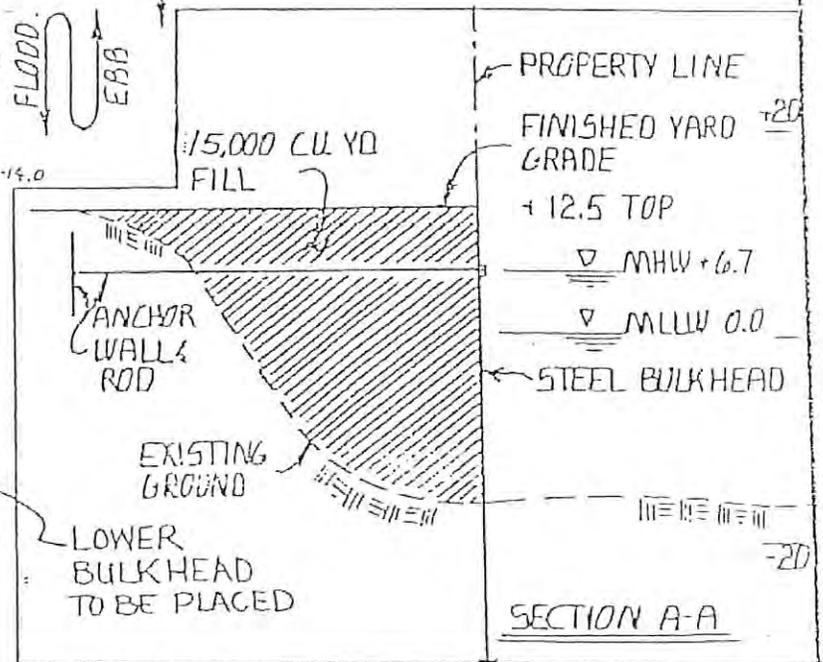
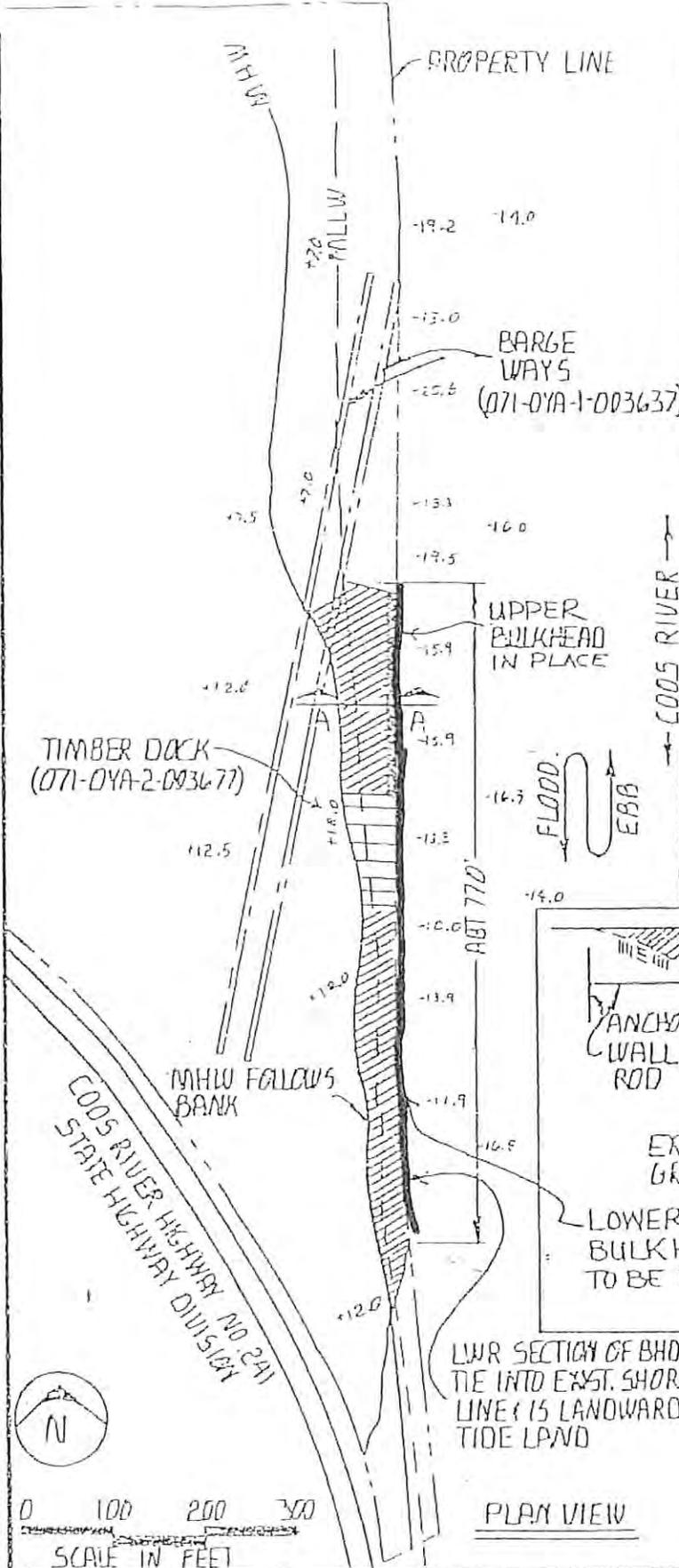


PURPOSE: BARGE CONSTRUCTION & REPAIR FACILITY

DATUM: MLLW

ADJACENT PROPERTY OWNERS:

1. PORT OF COOS BAY
2. STATE HIGHWAY DIVISION



LWR SECTION OF BHD TO TIE INTO EXST. SHORELINE IS LANDWARD OF TIDE LAND

PROPOSED BULKHEAD
 COOS RIVER (MILE 2.0)
 COUNTY OF COOS, STATE OF OREGON
 APPLICATION BY CRESCENT CITY MARINE
 WAYS & DRYDOCK CO.
 DATE 11 JULY 1980 (REV. 3 DEC. 1986)
 SHEET 1 OF 1

DRAWING 40-105



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

Kate Brown

Governor

Dennis Richardson

Secretary of State

Tobias Read

State Treasurer

M E M O R A N D U M

Date: October 16, 2018

To: Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read

From: Vicki L. Walker
Director

Subject: Clarification of the June 14, 2018, Land Board Decision

At the June 14, 2018 Land Board meeting Senior Investment staff from the Oregon State Treasurer's Office and Callan Consultants presented the annual Common School Fund Distribution report. The report recommended that the maximum distribution be updated to 3.5%. After the Board approved this recommendation, questions were raised by stakeholders if this distribution amount included the SB 1566 amount.

Considering the confusion, Department staff reached out to Callan to clarify this issue. Attached is the letter from Janet Becker-Wold, Senior Vice President & Manager for Callan. This memo clearly indicates that the 3.5% does not include the SB 1566 amount.



September 24, 2018

Ms. Jean Straight
Deputy Director, Administrative Services
Oregon Department of Lands
775 Summer Street NE #100
Salem, OR 97301-1279

Dear Ms. Straight

I am responding to your request for clarification on the Oregon Common School Fund distribution rate recommendation presented at the State Land Board meeting June 2018.

The summary conclusions stated that a 3.5% distribution rate is sustainable when incorporating the projected SB 1566 transfers. Meaning the SB 1566 transfer is not included in the 3.5% rate

Let me know if you need anything else

Thank you,

Janet Becker-Wold
Senior Vice President & Manager



Oregon

Kate Brown, Governor

Department of State Lands

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State Land Board

Kate Brown
Governor

Dennis Richardson
Secretary of State

Tobias Read
State Treasurer

M E M O R A N D U M

Date: October 16, 2018

To: Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read

From: Patrick Tate
Trust Property Manager

Subject: Trust Property Unit Report FY 2016 & FY 2017

The Trust Property Unit is part of the Administrative Division. It manages the Unclaimed Property and Escheated Estate programs.

UNCLAIMED PROPERTY PROGRAM

HISTORY

Oregon's unclaimed property statutes date back to 1957. Originally it was a 25-year escheat law applicable only to financial institutions. Over the past 58 years, the statutes have changed significantly and are now applicable to every type of industry and include a wide variety of property types which are held in perpetuity for the rightful owner or owner's heirs.

PURPOSE

The law requires businesses and organizations, called holders, to report and remit certain tangible and intangible property to the state when the owner of such property cannot be located or contacted after a certain period.

Every year, between October 1 and November 1, holders report and remit unclaimed property to the Department of State Lands. The Unclaimed Property group processes the reports, maintaining a database of over three million names and properties. Staff attempts to locate the owners and reviews and approves payment of claims.

ESCHEATED ESTATES PROGRAM

HISTORY

Under Oregon's Constitution, the Department manages the estates of residents who die both without a will and without any known heirs. The Department acts as personal representative and immediately seeks to reunite the estate with legal heirs, if possible. Estates managed by the Department range from those of decedents who are destitute to those with multi-million dollar assets. There is a strong fiduciary responsibility to the beneficiaries and to the Common School Fund if an estate escheats.

PURPOSE

By statute, anyone with knowledge of the death of a resident individual who has died without leaving a will and with no known heirs must notify the Department within forty-eight hours of the death.

Within five days after notification, Department staff must respond to the estate to determine the existence and value of assets and to safeguard them against loss. A physical search is performed of the residence and other personal effects to locate an heir or a will. If an heir or a will is located, the estate is turned over to the appropriate person or entity. If neither is found, the Department administers the estate through probate.

The process of probate consists of identifying and liquidating all assets, satisfying creditors and completing the legal process. Property of the estate, both real estate and personal, may be liquidated by public auction to generate funds for the payment of debts and administrative expenses. Administrative costs and expenses incurred by the Department from administering the estate are reimbursed out of the funds of the estate. The remaining funds escheat to the Common School Fund where they are held for a period of not more than ten years. The proceeds permanently escheat to the Common School Fund at the end of the ten-year period providing that no heirs have come forward.

Millions of dollars pass through the estates program each year and large amounts are reunited with rightful heirs found by Department staff. Without the efforts of the Department, the assets of many estates would fall into the hands of those who have no legal right to claim them.

TRUST PROPERTY PROGRAM GROWTH

The attached charts (Appendix A) show the growth of Trust Property's receipts and claim payments for the past several years.

HIGHLIGHTS

Fiscal Year (FY) 2016 Trust Property receipts of \$68 million was a record high. It was a \$17.6 million dollar increase from FY 2015. The main factor of the increase was the \$17.6 million in stock sale proceeds received in 2016.

FY 2017 Trust Property receipts were \$59 million. The \$9.9 million decline from FY 2016 was due to reduced stock sale proceeds received.

Table 1 Trust Property Receipts and Refunds

Fiscal Year	\$ Reported	\$ Claimed
2016	\$68,997,263	\$25,473,461
2017	\$59,094,477	\$27,780,173

Activities:

- We conducted free unclaimed property reporting workshops throughout the state and conducted additional unclaimed property presentations to business professionals.
- Escheated Estates staff continue to educate landlords, funeral homes, medical examiners, attorneys, judges and others concerning the Department's role in intestate estate cases.
- The Section completed 75 in-state unclaimed property audits on companies that have not reported in the past.
- Escheated Estates staff opened 596 new cases in FY 2016 and 908 cases in FY 2017 and the value of funds permanently escheated to the Common School Fund was \$943,647.
- Claim refunds increased to \$25.4 million in FY 2016 and \$27.7 million FY 2017.
- 15,223 claims were paid during FY2016 releasing 52,843 properties.
- 14,599 claims were paid during FY 2017 releasing 51,510 properties.
- Over \$6.9 million was paid to over 1,862 owners as the direct result of our staff owner location activities- called finder service.¹

¹ This is an internal process we use to find and contact owners of higher valued properties of \$250 or more. This effort contributed to 10% of the total refunds and almost 30% of the total value returned.

TRUST PROPERTY GOALS AND OBJECTIVES

1. *Make unclaimed property reporting accurate, easy, and fast*

- In response to the elimination of many of the free reporting options that were available to holders, we are developing a more robust online reporting tool via NIC USA that will allow reporters to upload report files or create their report online for free. Reporters will be able to pay via EFT or credit card online.
- The Section continues to offer free educational seminars around the state beginning in June. We are adding online webinars this year and they have been well-attended.

2. *Make the claim process simple and timely*

- Trust Property continues to analyze Unclaimed Property processes and procedures to make owner outreach more effective and provide timely responses to the resulting claims. The Section's finder service letter project is increasing owner outreach.
- Trust Property is implementing a paperless claim option that is already being implemented in several states. Based on specific criteria such as value, owner relationship, and matching data, some claims could be approved without the claimant submitting paperwork resulting in expedited payment of claims.

3. *Businesses find it easy to understand the rules and comply with the law*

- The largest compliance issue is simply that stakeholders are not aware of their responsibilities for intestate estates and unclaimed property reporting.
- Our team is looking at outreach efforts and partners to help educate stakeholders to increase this category of compliance.

4. *Improvements to Uniform Unclaimed Property Act*

- Holders who report to multiple states want more uniformity in state laws. To begin to address this issue, we are putting forward to legislative concepts that will make our law more uniform with other states.

5. *Intestate situations are reported timely and investigated promptly*

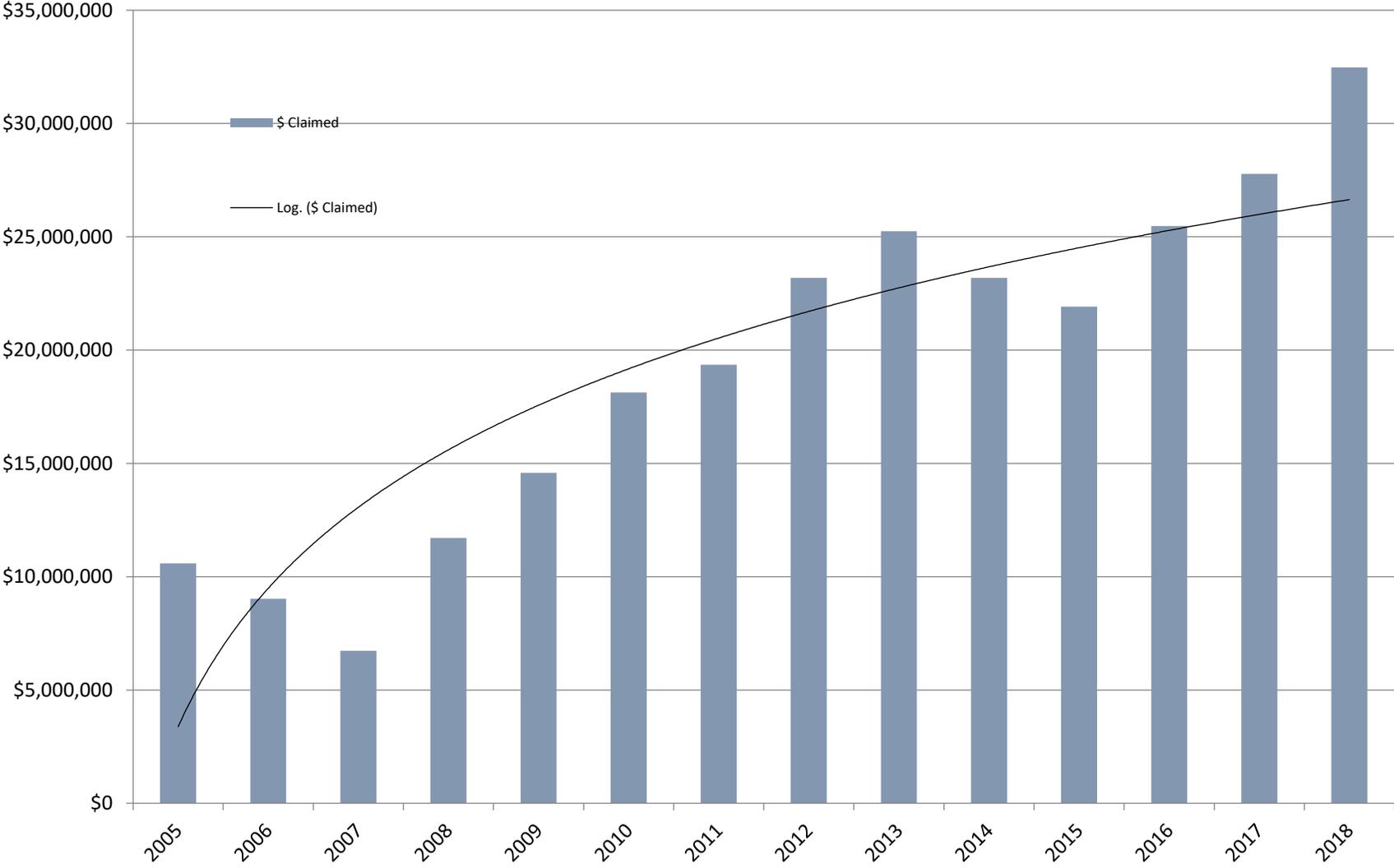
- Trust Property is seeking more effective outreach methods and partners to educate stakeholders to ensure DSL is timely notified when there is a decedent without known heirs.
- We now participate in the Oregon Vital Events Registration System (OVERS) sponsored by the Oregon Health Authority. This system provides additional research tools to allow us to quickly determine if there are living heirs to an estate.

- In FY 2019 we plan to meet with stakeholders to develop a simple estates reporting tool that will allow required reporters to notify us when there is an intestate decedent with no apparent heirs.

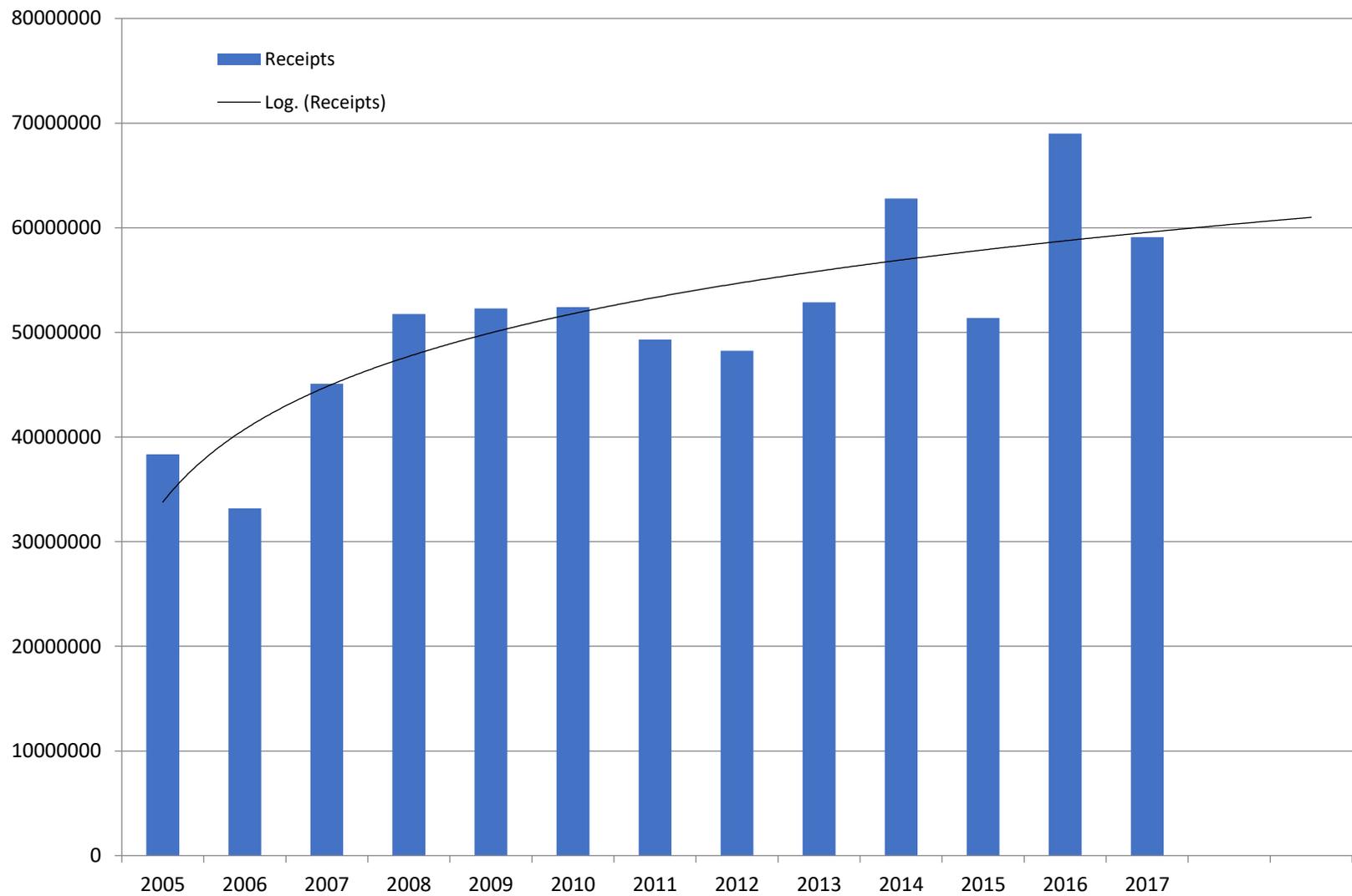
APPENDICES

- A. Unclaimed Property Refunds: 2005-2017
- B. Unclaimed Property Receipts: 2005-2017

Trust Property Refunds



Trust Property Receipts





Oregon

Kate Brown, Governor

Department of State Lands

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M E M O R A N D U M

State Land Board

October 16, 2018

Kate Brown
Governor

To: Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read

Dennis Richardson
Secretary of State

From: Vicki L. Walker
Director

Tobias Read
State Treasurer

Subject: Goble Update

In August 2018, the Department of State Lands determined the waterway cleanup on the Columbia River in Goble was complete. The cleanup began in June 2017 and removed 10 vessels, including the River Queen, from the site. Overall, 617 tons of solid waste, 209 tons of hazardous waste, 114 tons of liquid waste, and 933 tons of recyclable steel were removed.

Cleanup costs to-date are approximately \$11.2 million. Total costs are anticipated to be approximately \$12 million. This amount is more than originally estimated. The increase is primarily due to the derelict condition of the River Queen, and the additional precautions needed to ensure removal of that vessel did not pollute the waterway. Off-site disassembly and disposal of the River Queen is still in progress.

The Goble site is now restored to its original condition. Multiple DSL efforts are underway to protect state-owned waterways from future damaging and costly cleanups, including a legislative concept that will allow DSL to develop a pool of money to acquire a state-owned insurance policy and fund some future cleanups; developing a program plan for removal of abandoned and derelict vessels from state-owned waterways; increasing site visits to state leaseholds to help identify potential problems and address them early and to improve relationships with lease-holders; applying existing DSL authority to require more robust bonds or other financial security measures in leases; exploring options for creating an interest-bearing fund to assist the state in future cleanups; and working with British Columbia, Alaska, Washington and California on a task force that will ultimately provide a Blue Ribbon Program for strategically addressing issues with abandoned and derelict vessels.



Oregon

Kate Brown, Governor

Department of State Lands

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MEMORANDUM

State Land Board

Kate Brown
Governor

Dennis Richardson
Secretary of State

Tobias Read
State Treasurer

October 16, 2018

To: Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read

From: Vicki L. Walker, Director

Subject: Filled Lands Review Update

At the June 12, 2018, State Land Board meeting, the Board directed the Department to determine whether any interest remains vested in the State of Oregon, with respect to historically filled lands on the Chetco River, Curry County.

The Department has completed an Initial Review of historically filled lands for the Chetco River (Appendix A). The Initial Review found a total of approximately 4 acres of filled land in two different locations within the Port of Brookings Harbor marina. Both fill events occurred on or after May 28, 1963 and are therefore not considered historically filled land. In addition, the fill material for the two fill events was placed on tidelands that were previously conveyed to upland owners.

Since the Initial Review revealed no historically filled lands that the State may have an interest in, the Department plans to suspend any further study or procedures with respect to historically filled lands on the Chetco River, from River Mile 0 to River Mile 11.

The Department has been allocated two limited duration positions by the Legislature to complete the work required by Senate Bill 912 (Appendix B), passed in 2015. The use of limited duration positions for the project has been an ongoing challenge as the employees keep leaving for long-term employment.

The Department intends to take a different approach for the mapping portion of the project and outsource that work. This approach is part of our 2019-21 budget request.

With the loss of our last limited duration employee, the Department plans to start that procurement earlier, in the current biennium, in order to meet the 2025 project completion deadline.

Appendices

- A. Filled Lands: Initial Review, Chetco River, August 2018
- B. Senate Bill 912 (2015)

Filled Lands: Initial Review

Chetco River

August 2018



The data and analysis provided in this review is for informational purposes only and was not prepared for, nor is it suitable for, legal, engineering, or surveying purposes.

Geographic information system software was used to represent the position, shape and size of filled lands and calculate summary statistics. As such, the calculated quantities presented herein are only approximations. In order to determine an accurate and precise location and extent of filled lands, a survey conducted by a licensed professional surveyor may be necessary.

FILLED LANDS INITIAL REVIEW: CHETCO RIVER

A project of Oregon's Department of State Lands to characterize and map filled lands in tidal waters and navigable waterways.

March, 2018

Project Team:

Bill Ryan, Deputy Director
Linda Anderson, Project Manager
Blake Helm, State Lands Ownership Coordinator
John Bonnett, Ownership GIS Specialist
Richard Fitzgerald, State Lands Ownership Coordinator
Will Allender, Ownership GIS Specialist
Chris Castelli, Senior Policy & Legislative Analyst
Gerry Hutson, Proprietary Coordinator
Dan Antonson, GIS Analyst

Contact:

Bill Ryan, Deputy Director
Aquatic Resource Management
Oregon Department of State Lands
bill.ryan@state.or.us

Cover Page Photos

- (1) *Brookings Flyover 15-1 (2013)*, available at ferrytrails.com/?p=633 (top-left)
- (2) *South Coast Dredge*, available at dredge.com/brookings-port.html (upper top-right)
- (3) Jeremy Moore, *Coho Salmon*, available at cascwild.org/tag/rogue-river/ (lower top-right)
- (4) *Panning the Sixes River*, available at oregongold.net/tag/chetco-river/ (middle-left)
- (5) *Chetco River Drift Boat*, available at wilddriversfishing.com/book.html (middle-right)
- (6) *Chetco Gravel Mining*, available at oregoncoastalliance.org/pages/mining.html (lower-left)
- (7) *Brookings Harbor Marina Entrance*, available at marinas.com/view/marina/4175_Port_of_Brookings_Harbor_OR_United_States (lower-right)

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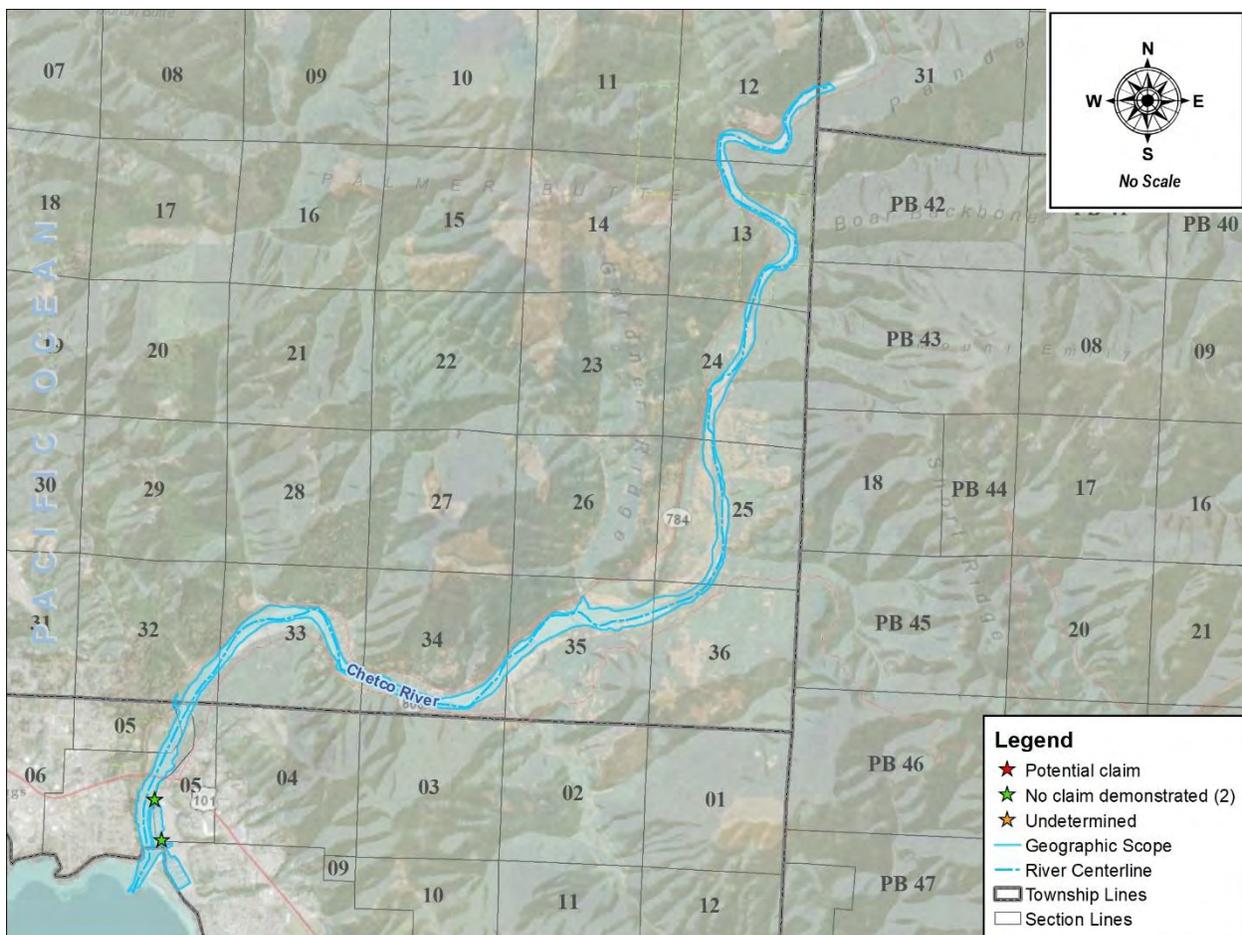
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EXECUTIVE SUMMARY

Waterways—lakes, rivers and streams—are vital to Oregon’s quality of life. Historically, many waterways were used as trade routes for Native Americans, pathways for explorers and pioneers, as well as highways of commerce for timber and steamboats. Many of these waterways provide habitat for important fish and wildlife species. Over the years some of these waterways have been artificially filled thereby creating new usable upland.

The purpose of this Initial Review is to map and characterize filled lands within tidal and navigable waterways within the review area. To this end, this review classifies identified filled lands as occurring before May 28, 1963 or occurring on or after that date and makes a preliminary determination as to whether the State of Oregon retains an ownership interest in each fill site.

Figure 1. Review Area, Chetco River



The results of this review are summarized in Tables 1 and 2 below.

Table 1. Filled Lands Findings for Chetco River, number of sites.

	Potential claim	No claim demonstrated	Undetermined	All
Before May 28, 1963	0	0	0	0
On or after May 28, 1963	0	2	0	2
Undetermined	0	0	0	0
All	0	2	0	2

Table 2. Filled Lands Findings for Chetco River, acres (rounded).

	Potential claim	No claim demonstrated	Undetermined	All
Before May 28, 1963	0	0	0	0
On or after May 28, 1963	0	4	0	4
Undetermined	0	0	0	0
All	0	4	0	4

INTRODUCTION

At statehood, Oregon acquired title to the submerged and submersible lands of navigable and tidally influenced waterways under the Equal Footing Doctrine and the Oregon Admissions Act. In conjunction with the Public Trust Doctrine, this ownership embodies the principle that the state holds title to these lands subject to a duty to maintain them for public navigation, recreation, fisheries and commerce.

The Oregon Legislature delegated to the Department of State Lands (DSL) the authority to authorize uses of state-owned submerged and submersible lands. Revenue generated from these authorizations is deposited into the Common School Fund for Oregon's K-12 public schools.

Throughout much of Oregon's history the placement of fill on the state's submerged and submersible lands was unregulated. Filling was generally considered an improvement to what were seen as low-value areas. Land owners adjacent to waterways placed fill or allowed fill to be placed on the submerged and submersible land adjacent to their property in order to increase the usable area of their property. Filling submerged and submersible lands created expanded business opportunities along wharfs and docks or new farm lands. Dredging, which created much of the material available for fill, fostered more opportunities for commerce through deepened shipping channels. In 1967, the Oregon Removal Fill law was enacted and the practice of filling waterways became a regulated activity.

The act of filling in submerged land is considered an avulsive event that does not change property ownership lines. Thus, unless the state relinquishes title, it retains ownership of lands formed by placing fill on state-owned submerged and submersible land. The state does not claim title to all filled lands; only those lands where the state's title has never been relinquished. Before 1963 the state relinquished title to some submersible lands.

In 1963, the state legislature enacted statutes¹ addressing the ownership of "new lands," lands created by the artificial placement of fill. Although subsequently amended, these statutes provide for the purchase of lands created after May 28, 1963. Not addressed were filled lands created before that date.

In 2015, Senate Bill 912² passed into law. This bill changed existing statutes pertaining to filled lands by distinguishing historically filled lands from new lands, requiring the State Land Board to meet certain requirements before asserting title to historically filled lands, and requiring the

¹ Oregon Laws 1963, chapter 376, §§ 1–10 (codified as amended at ORS 274.900–274.940 (2015)).

² Oregon Laws 2015, chapter 804, §§ 1–17 (codified at ORS 274.905–274.940).

State Land Board to direct DSL to determine whether the state retains any interest in historically filled lands in tidal and navigable waterways.

DSL has not pursued comprehensive statewide settlement of filled lands claims. Such issues are typically raised on an individual basis through a bank financing requirement, regulatory permit or potential sale of the property. In many cases, the lending bank or title company will find a “cloud on title” and initiate contact between DSL and the landowner. Currently, there is no comprehensive mapping or appraisal of filled lands, but the collective fair market value is estimated to be in the millions of dollars.

PURPOSE

Once directed by the State Land Board, DSL will conduct studies of the state’s interest in historically filled lands for specified geographic areas. While conducting these studies, DSL will provide public notice to affected property owners that a study is being conducted for their area. Prior to submitting the draft report to the State Land Board, DSL will provide public notice to affected property owners and other interested parties. DSL will provide an opportunity for a public hearing in the area of the affected filled lands and an opportunity for the public to provide written comments on the draft report and to submit public testimony as well as evidence concerning the presence of or the state’s interest in historically filled lands. Once completed, DSL will submit to the State Land Board a draft report which includes DSL’s findings and conclusions as to whether any historically filled lands are located in the study area and the extent of the state’s interest in those lands.

In anticipation of direction from the State Land Board to prepare such studies, DSL has performed this Initial Review. The purpose of this review is to map and characterize filled lands within tidal and navigable waterways within the review area. To this end, this review identifies filled lands, classifies them as occurring either before May 28, 1963 or on or after that date, and makes a preliminary determination as to whether the state retains an ownership interest in the fill site. In doing so, DSL developed a spatial database of identified filled lands that characterizes filled lands sites by period of fill, location, approximate acreage, ownership, and current and prior use.

Key terms relevant to this review are defined in statute and rule.³ These and other important definitions are presented in Appendix A. In sum, both historically filled lands and new lands are:

- within the state,
- not fronting the Pacific Ocean,

³ “Historically filled lands” and “new lands” are defined in ORS 274.905. “Line of ordinary high water,” “line of ordinary low water,” “submerged lands,” and “submersible lands” are defined in ORS 274.005. OAR 141-067-0150 includes definitions of “filled lands,” “submerged land,” and “submersible land” that reflect these statutory definitions.

- above ordinary high water,
- on submerged or submersible lands,
- created by artificial fill or deposit, and
- are not structures.

Historically filled lands and new lands are distinguished by the date of creation. Historically filled lands were created before May 28, 1963. New lands were created on or after that date.

METHODS

Below is a brief summary of the steps used in this project to identify, map, and characterize filled lands.

1. Select geographic area for review.
2. Define the geographic scope of the waterway using heads of tide and navigability determinations, tidal influence data and light detection and ranging data (LiDAR).
3. Map the shorelines of relevant waterways.
4. Identify and map filled lands using LiDAR, aerial photographs and images, and other information.
5. Preliminarily characterize filled lands based on readily available information, including aerial photographs and images, DSL plat maps, DSL deed books, other DSL records, and other information.
6. Calculate areas and summary statistics.

Further details on methods may be found in the methodology documents prepared for this project:

- DSL, Filled Lands Initial Review: GIS Data Sources & Methodology (ver 3.1, 2018).
- DSL, Waterway Ownership: GIS Data Sources & Methodologies (ver 5 DRAFT, 2018).

DATA, MAPS, CHARTS & DOCUMENTS

Following is a list of maps, charts and other documents used to identify and characterize filled lands.

Maps, Charts & Aerial Photography

DSL Plat Maps

- 40S13W
- 41S13W

General Land Office Plat Maps

- 40S13W (1876)
- 40S13W (1879)
- 40S13W (1882)
- 40S13W (1894)

- 41S13W (1859)
- 41S13W (1873)
- 41S13W (1874)
- 41S13W (1880)
- 41S13W (1881)

Curry County Assessor's Maps

- Township 40 South, Range 13 West
- Township 41 South, Range 13 West

U.S. Army Corps of Engineers' Aerial Photos

- 1965
- 1972

Civil Court Cases, Documents & Reports

- DSL, AN INVENTORY OF FILLED LANDS IN THE CHETCO RIVER (Nov 1972)
- DSL, Deed Books 1–Z
- DSL, HEADS OF TIDE FOR COASTAL STREAMS IN OREGON (March 1989)
- DSL, Memorandum, Port of Brookings Ownership Settlement Proposal (1984)
- DSL, Memorandum, Oregon Department of Revenue (1984)
- OREGON DEPARTMENT OF FISH & WILDLIFE, NATURAL RESOURCES OF CHETCO ESTUARY (Estuary Inventory Report, Vol.2, No.9, 1979).
- Port of Brookings v. Oregon, CV-5420 (Curry County, Sept 20, 1966)
- Order, Oregon v. Tidewater Contractors, CV-93-6017-HO (D Or, Aug 10, 1994)
- United States Bureau of Land Management, Search Documents by Identifier, GENERAL LAND OFFICE RECORDS, <https://glorerecords.blm.gov/search/default.aspx?searchTabIndex=0&searchByTypeIndex=0%23searchTabIndex=0&searchByTypeIndex=3#searchTabIndex=2> [hereinafter GLO Records]⁴
- United States Bureau of Land Management, Oregon/Washington, ONLINE LAND RECORDS, <https://www.blm.gov/or/landrecords/landrecords.php> (online source for Master Title Plats)

GIS Data Sources & Services

- ESRI, ARCGIS SERVICES: WORLD IMAGERY (created Dec 12, 2009) [hereinafter ESRI World Imagery]⁵

⁴ Cited documents from this source are referred to by a "CDI Doc ID," a unique identifier used by BLM. Copies of cited documents are on file with DSL.

⁵ ESRI world imagery is periodically updated and includes data from a variety of sources. See WORLD IMAGERY, <https://www.arcgis.com/home/item.html?id=10df2279f9684e4a9f6a7f08feb2a9> (last visited Sept 14, 2017). During the preparation of this review the data within the review area was 2016 USDA Farm Service Agency National Agriculture Imagery Program (NAIP) imagery. ESRI, Arc GIS, WORLD IMAGERY, <https://www.arcgis.com/home/webmap/viewer.html?useExisting=1> (last visited Sept 12, 2017); see also NAIP

- ESRI, ARCGIS SERVICES: USA TOPO MAPS. Sources: ©2014 National Geographic Society, i-cubed.
- CURRY COUNTY ASSESSOR'S OFFICE, TAX LOT PARCELS (2016)
- OREGON DEPARTMENT OF GEOLOGICAL AND MINERAL INDUSTRIES (DOGAMI), SOUTH COAST GEODATABASE (2008)
- OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT, OREGON COASTAL MANAGEMENT PROGRAM (OCMP), APPROXIMATE MAXIMUM EXTENT OF OREGON TIDAL WETLANDS (2014)
- OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT, OCMP, NSDC MHW SHORELINE (2015)
- OREGON DEPARTMENT OF WATER RESOURCES, OREGON RIVER MILE LOCATIONS ON 7.5' QUADS (2015), accessed June, 2016
- U.S. DEPT. OF AGRICULTURE, FARM SERVICE AGENCY, NATIONAL AGRICULTURE IMAGERY PROGRAM, aerial imagery (2014) [hereinafter 2014 NAIP] (courtesy of the U.S. Geological Survey)
- U.S. GEOLOGICAL SURVEY, DIGITAL RASTER GRAPHIC OF THE CHETCO RIVER
- U.S. GEOLOGICAL SURVEY, NATIONAL HYDROGRAPHY DATASET (2016)

Other

- DSL, Land Administration System version 4.49.2

National Metadata, <https://catalog.data.gov/harvest/object/8d6212e5-5b51-4018-bace-799e1d1d52c7/html> (last visited Oct 13, 2017).

WATERWAY SUMMARY & DESCRIPTION

FEATURE NAME

Chetco River

COUNTY

Curry

TOWNSHIP, RANGE, SECTION

T39S, R12W, Sec. 31

T40 S, R13W, Sec. 12, 13, 24, 25, 32, 33, 34, 35 & 36

T41S, R13W, Sec. 5 & 8

GEOGRAPHIC SCOPE

The geographic scope of this review is limited to tidal and navigable waterways within the state associated with the Chetco River.⁶ See Exhibit A-02.

Based on heads of tide determinations conducted by DSL, the Chetco River is tidally influenced from its mouth to roughly River Mile (RM) 3.5. The Chetco River has also been determined navigable by a court of competent jurisdiction to “at least RM 11.”⁷ DSL staff used spatial tidal influence data and conducted a GIS analysis to determine a probable head of tide for those current and historical waterways without a head of tide determination.

EXCLUDED WATERWAYS

No waterways within the review area were excluded from the scope of this review.

WATERWAY DESCRIPTION

The Chetco River subbasin covers over 700 square miles within Curry County, with around 350 square miles actually draining into the Chetco River. The remainder of the subbasin drains into the Winchuck River, the Pistol River, and Hunter Creek. These three streams empty into minor estuaries before eventually discharging into the Pacific Ocean. The Chetco River, located in the Southwest corner of Oregon, discharges into the Pacific Ocean at Brookings, Oregon, approximately five miles north of the California border.

⁶ See ORS 274.952(1)(a).

⁷ Oregon v. Tidewater Contractors (D Or, 1994).

In terms of hydrology, hydraulics and channel morphology, the Chetco River is similar now to the way it was in 1859. Prior to statehood, the Chetco River’s native population lived in several settlements along its banks and used Klamath shovel-nose canoes as a means of transportation and for transporting items of value to their culture. Small commercial sawmills operated at different times and locations along the Chetco from the mouth to approximately RM 14. In 1875 gravel extraction in the lower river made boat passage locally more difficult compared to past conditions. The channel of the Chetco is open and continuous from RM 18 to its mouth. Currently the Chetco is frequently floated from RM 24 to its mouth by Northwest style drift boats which are similar in design to the historical native population’s Klamath shovel-nose canoes.

TIMELINE

Oregon Statehood _____	1859
Water-powered sawmill operates on the Chetco River _____	1900
Brookings Lumber and Box Co. acquires sawmill _____	1907
Construction starts on a deep water harbor and the Town of Brookings _____	1912
CA & OR Lumber Co. constructs piling and timber wharf in Chetco Cove _____	1915–17
Piling and timber wharf destroyed during storm event _____	1936-1939
Port of Bookings created _____	1956
USACE completes Chetco Project, constructing jetties and dredging river mouth _____	1957
Archie McVay constructs boat basin _____	1958
Port extends boat basin, constructs breakwater _____	1959
Port constructs marina breakwater _____	1960
Port expands boat basin and extends breakwater _____	1962–64
Port constructs new breakwater and expands boat basin _____	1968–70
Hopper dredging and ocean disposal begins _____	1972
Port dredges second boat basin _____	1972–78
Chetco River, headwaters to Siskiyou National Forest boundary, designated as Wild and Scenic _____	1988

FILLED LANDS FINDINGS

DSL found a total of two sites, covering approximately six acres, that were created by the artificial placement of material on submerged or submersible lands. Both of these sites were created on or after May 28, 1963.

Available information indicates that the state does not retain a proprietary interest in either site.

Table 3. Filled lands in Chetco River, number of sites.

	Potential claim	No claim demonstrated	Undetermined	All
Before May 28, 1963	0	0	0	0
On or after May 28, 1963	0	2	0	2
Undetermined	0	0	0	0
All	0	2	0	2

Table 4. Filled lands in Chetco River, acres.

	Potential claim	No claim demonstrated	Undetermined	All
Before May 28, 1963	0	0	0	0
On or after May 28, 1963	0	4	0	4
Undetermined	0	0	0	0
All	0	4	0	4

Appendix B and Exhibit B-01 provide detailed descriptions of each of the filled land sites within the review area.

SIGNATURE BLOCK

*The undersigned acknowledge they have reviewed and approved the report **Filled Lands Initial Review: Chetco River.***

Signature: _____ Date: _____

Print Name:

Title: Deputy Director

Role: Project Sponsor

Signature: _____ Date: _____

Print Name:

Title: State Lands Ownership Coordinator

Role: Author

APPENDIX A

TERMS & DEFINITIONS

Filled lands.— submerged and submersible lands reclaimed artificially through raising such lands above the highest probable elevation of the tides to form dry land, by placement of a fill or deposit of earth, rock, sand or other solid imperishable material. OAR 141-067-0150(14).

Historically filled lands. — Those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian lands on the same side of the body of water, that were created upon submersible or submerged lands by artificial fill or deposit before May 28, 1963, excluding bridges, wharves and similar structures constructed upon submersible or submerged lands by other than artificial fill or deposit. ORS 274.905(1).

Mean higher high tide. — See “mean higher high water.”

Mean higher high tide line. — See “mean higher high water line.”

Mean higher high water. — The average height of the higher high waters over a 19-year period.

Mean higher high water line. — The intersection of the tidal plane of mean higher high water with the shore. See “mean higher high water.”

Mean high tide. — See “mean high water.”

Mean high water. — The average height of the high waters over a 19-year period. All high waters are included in the average where the tide is either semidiurnal or mixed. Where the type of tide is predominantly diurnal, only the higher high water heights are included in the average on those days when the tide is semidiurnal.

Mean high water line. — The intersection of the tidal plane of mean high water with the shore.

Mean high water mark. — See “mean high water line.”

Mean lower low water. — The average height of the lower low waters over a 19-year period. The tidal plane used on the Pacific Coast as a datum for soundings on the hydrographic surveys and nautical charts of the Coast and Geodetic Survey.

Mean low water. — The average height of the low waters over a 19-year period. All low water heights are included in the average where the type of tide is either semidiurnal or mixed. Where the type of tide is predominantly diurnal, only the lower low water heights are included in the average on those days when the tide becomes semidiurnal.

Mean low water line. — The intersection of the tidal plane of mean low water with the shore.

Mean sea level. — The average height of the surface of the sea for all stages of the tide over a 19-year period, usually determined from hourly height readings. A determination of mean sea level that has been adopted as a standard for heights is called a sea level datum.

Mean tide level. — A tidal datum midway between mean high water and mean low water.

New lands. — Those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian lands on the same side of the body of water, that were created upon submersible or submerged lands by artificial fill or deposit on or after May 28, 1963,

excluding bridges, wharves and similar structures constructed upon submersible or submerged lands by other than artificial fill or deposit. ORS 274.905(2).

OHW. – See “line of ordinary high water.”

OLW. – See “line of ordinary low water.”

Line of ordinary high water. – The line on the bank or shore to which the high water ordinarily rises annually in season. ORS 274.005(3).

Line of ordinary low water. – The line on the bank or shore to which the low water ordinarily recedes annually in season. ORS 274.005(4).

Submerged lands. – Except as provided in ORS 274.705, means lands lying below the line of ordinary low water of all navigable waters within the boundaries of this state as heretofore or hereafter established, whether such waters are tidal or nontidal. ORS 274.705(7); OAR 141-067-0150(43).

Submersible lands. – Except as provided in ORS 274.705 means lands lying between the line of ordinary high water and the line of ordinary low water of all navigable waters and all islands, shore lands or other such lands held by or granted to this state by virtue of her sovereignty, wherever applicable, within the boundaries of this state as heretofore or hereafter established, whether such waters or lands are tidal or nontidal. ORS 274.705(8); OAR 141-067-0150(44).

Tidelands. – The land that is covered and uncovered by the daily rise and fall of the tide. More specifically, it is the zone between the mean high-water line and the mean low-water line along a coast, and is commonly known as the “shore” or “beach.” Tidelands are referred to in legal decisions as lying between ordinary high water mark and ordinary low water mark. Tidelands presuppose a high-water line as the upper boundary.

APPENDIX B

FILLED LAND SITE DESCRIPTIONS

B-01

This exhibit covers the mouth and lower reaches of the Chetco River.

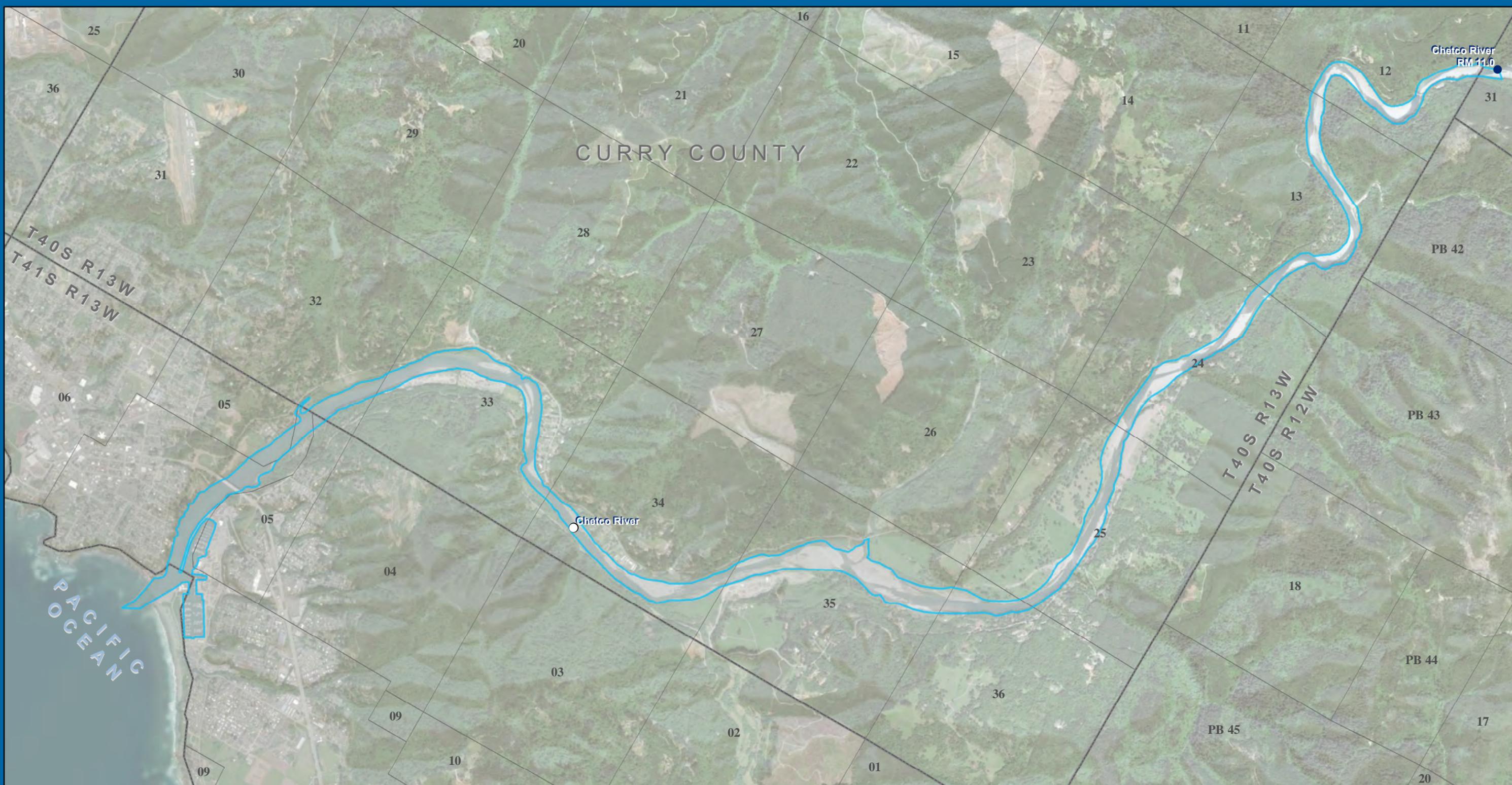
The following narratives provide greater detail of individual sites. The locations of these individual sites are shown in the corresponding exhibit.

CR1 Current Use: **Water control** Created: **On or after May 28, 1963** Acres: **2.8**
 Ownership: **Private** State Claim: **No claim demonstrated** Exhibit: **B-01**

Fill at site CR1 was determined by DSL staff to be new and occurred on tidelands previously conveyed by the DSL. Fill was originally placed at this site for the construction of a new breakwater structure for the Port of Brookings Harbor marina. Discussions between DSL and the Port in 1983-1984 indicate ownership was resolved in a 1966 court case.

CR4 Current Use: **Commercial** Created: **On or after May 28, 1963** Acres: **0.7**
 Ownership: **Private** State Claim: **No claim demonstrated** Exhibit: **B-01**

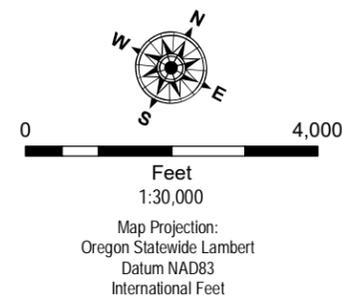
Fill at site CR4 was determined by DSL staff to be new and occurred on tidelands previously conveyed by the DSL. Fill was originally placed for commercial purposes associated with the marina. A USACE condition survey from 1964 was used to approximate the date when fill was placed and to digitize the extent of fill.




State of Oregon
 Department of State Lands
 775 Summer St, NE, Ste100
 Salem, OR 97301
 503-986-5200
 www.oregon.gov/DSL
 Date: 3/2/2018

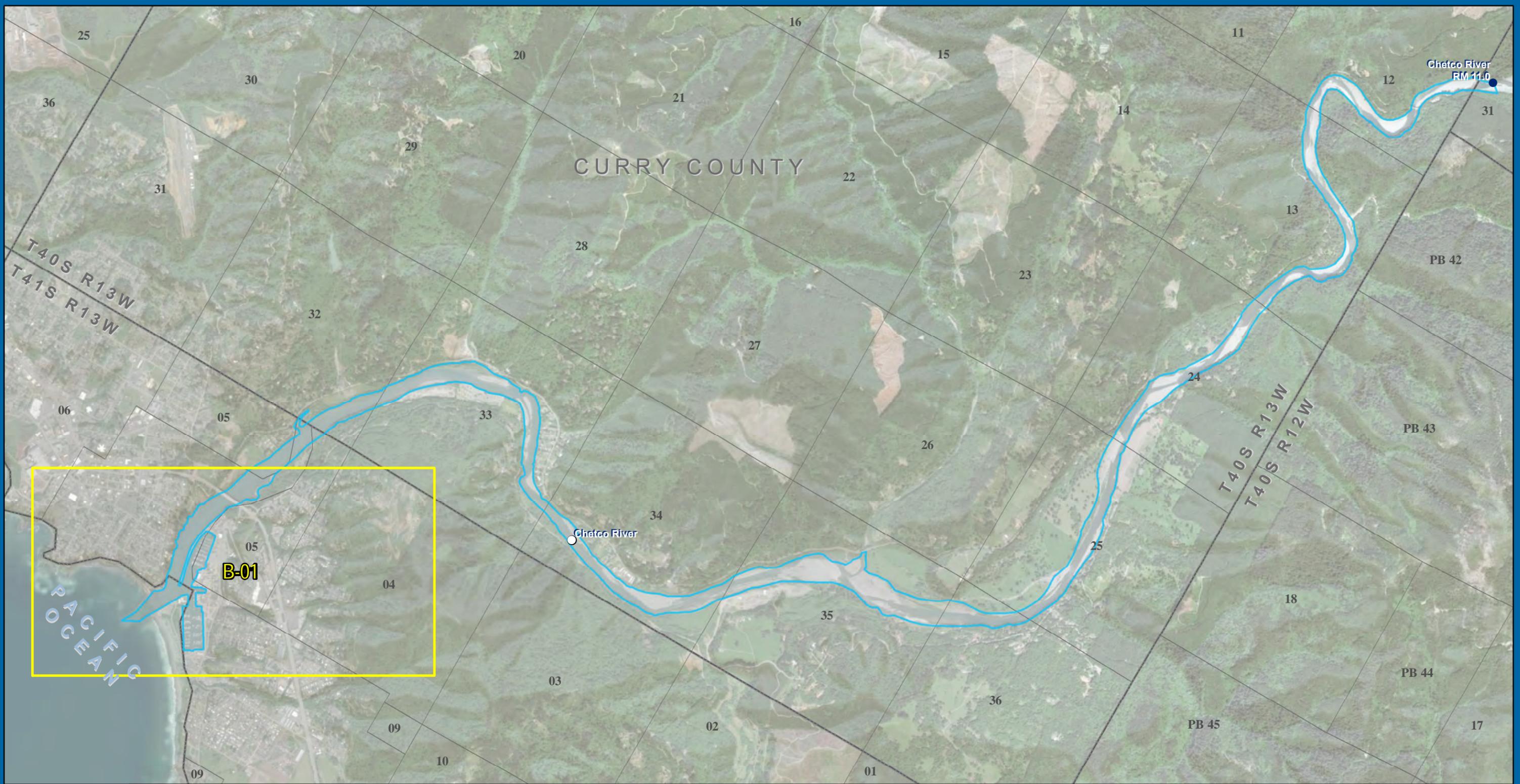


- Legend**
-  Reviewed Waterway
 -  Township Lines
 -  Section Lines
- Limits of Review Area**
-  Extent of Navigability
 -  Extent of Tidal Influence



Filled Lands Initial Review Chetco River Exhibit A-01 Geographic Scope of Review Area

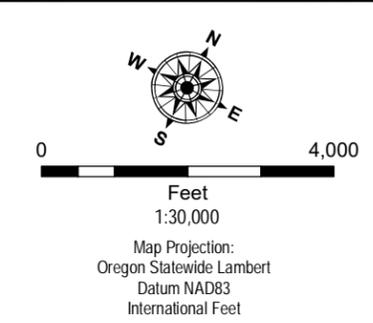
This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain its usability.




 State of Oregon
 Department of State Lands
 775 Summer St, NE, Ste100
 Salem, OR 97301
 503-986-5200
 www.oregon.gov/DSL
 Date: 3/8/2018



Legend
Limits of Review Area
 Type
 ● Extent of Navigability
 ○ Extent of Tidal Influence
 ▭ Township Lines
 ▭ Section Lines
 ~ Reviewed Waterway
 □ Map Sheets



Filled Lands Initial Review
Chetco River
Exhibit A-02
Geographic Scope of Review Area

This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain its usability.

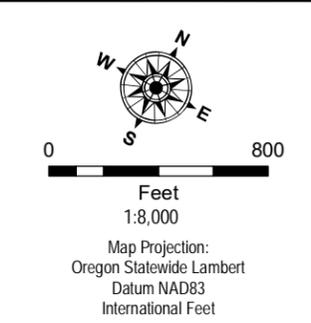


State of Oregon
 Department of State Lands
 775 Summer St, NE, Ste100
 Salem, OR 97301
 503-986-5200
 www.oregon.gov/DSL
 Date: 8/30/2018



Legend

△ River Mile	Fill Events	Ownership Status
— River Centerline	● Potential claim	— Ordinary High Water
	● No claim demonstrated	— Ordinary Low Water
	● Undetermined	— Public Interest
Filled Lands Area		— Territorial Sea
▨ On or after May 28, 1963		— Undetermined
▨ Before May 28, 1963		
▨ Undetermined		



Filled Lands Initial Review Chetco River

Exhibit B-01
 Detailed Review of Fill Events

This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain its usability.

78th OREGON LEGISLATIVE ASSEMBLY--2015 Regular Session

Enrolled
Senate Bill 912

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

AN ACT

Relating to land that was formerly submerged or submersible land; creating new provisions; amending ORS 274.905, 274.910, 274.915, 274.929 and 274.940; repealing ORS 274.960, 274.963, 274.965, 274.967, 274.970, 274.975, 274.977, 274.980, 274.983 and 274.985; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:**AMENDMENTS TO NEW LANDS STATUTES****SECTION 1.** ORS 274.905 is amended to read:

274.905. As used in ORS 274.905 to 274.940, unless the context requires otherwise:

(1)(a) **“Historically filled lands” means those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian lands on the same side of the body of water, that were created upon submersible or submerged lands by artificial fill or deposit before May 28, 1963.**

(b) **“Historically filled lands” does not include bridges, wharves and similar structures constructed upon submersible or submerged lands by other than artificial fill or deposit.**

[(1)] (2)(a) “New lands” means those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian lands on the same side of the body of water[, *which have been*] **that were** created upon submersible or submerged lands by artificial fill or deposit **on or after May 28, 1963.**

(b) “New lands” does not include bridges, wharves and similar structures constructed upon submersible or submerged lands by other than artificial fill or deposit.

[(2)] (3) “Public body” means the State of Oregon or any port organized under the laws of this state or any dock commission of any city of this state.

SECTION 2. ORS 274.910 is amended to read:

274.910. (1) ORS 274.905 to 274.940 [*shall*] **do** not apply to submersible, submerged or new lands fronting upon the Pacific Ocean.

[(2)] *The provisions of ORS 274.905 to 274.940 apply to new lands created before, on or after May 28, 1963.*

[(3)] (2) Nothing contained in ORS 274.905 to 274.940 shall divest the State of Oregon of its rights to minerals, oil, gas and sulfur.

SECTION 3. ORS 274.915 is amended to read:

274.915. (1) Except as otherwise provided in ORS 274.905 to 274.940, the Department of State Lands may sell, lease or trade submersible or submerged lands owned by the state in the same manner as provided for submersible lands in this chapter or ORS chapter 273.

(2) Except as otherwise provided in ORS 274.905 to 274.940, the department may sell, lease or trade new lands created upon submersible or submerged lands owned by the state in the same manner as provided for lands acquired as an investment for the Common School Fund in ORS 274.085 or ORS chapter 273.

(3) Except as otherwise provided in ORS 274.905 to 274.940 and sections 7 to 10 of this 2015 Act, the State Land Board shall adopt rules under which the department may sell, lease or trade historically filled lands owned by the state.

SECTION 4. ORS 274.929 is amended to read:

274.929. (1) Whenever the United States, while engaged in the promotion of navigation, creates new lands upon submersible or submerged lands owned by the state and the adjoining or opposite upland or riparian land on the same side of the body of water is owned by other than a public body, the nonpublic riparian owner has the right to purchase the new lands as provided in this section.

(2) A nonpublic riparian owner entitled to purchase the new lands under subsection (1) of this section shall pay to the Department of State Lands for the new lands a sum equal to the difference between the value of the tract, consisting of the new lands and the adjoining or opposite upland on the same side of the body of water, and the value of the adjoining or opposite upland before the creation of the new lands and an amount prescribed by the department to pay its administrative costs incurred with respect to the new lands. Such payment shall be made by the nonpublic riparian owner within six months after the date of the receipt by the nonpublic riparian owner of actual official notice by the department of the creation of the new lands, the sum equal to the difference between the value of the tract, consisting of the new lands and the adjoining or opposite upland on the same side of the body of water, and the value of the adjoining or opposite upland before the creation of the new lands and administrative costs incurred by the department with respect to the new lands. If the nonpublic riparian owner fails to make payment for the new lands as provided in this subsection, the department, after the expiration of the six-month period, may dispose of the new lands as provided in ORS 274.915.

(3) If a nonpublic riparian owner and the department cannot agree on the sum to be paid under subsection (2) of this section, the sum to be paid shall be determined by three appraisers, one appointed by the nonpublic riparian owner, one by the department, and the third by the first two, and their determination shall be final. The cost of the third appraiser shall be borne equally by the nonpublic riparian owner and the department.

(4) Notwithstanding ORS [274.910 (2)] **274.905 (2)**, this section applies only to new lands created on or after October 5, 1973.

SECTION 5. ORS 274.940 is amended to read:

274.940. (1) Notwithstanding [ORS 274.905, 274.915 to 274.925, 274.929, 274.932 and 274.937] **any contrary provision of ORS 274.905 to 274.940**, the Department of State Lands may reserve **historically filled lands or** new lands from sale, transfer or lease where upon notice and hearing [it] **the department** determines that the public interest requires [such] **the** lands to be preserved for recreation, conservation of fish and wildlife or the development of navigation facilities. [, but in case of such reservation]

(2) If lands are reserved from sale, transfer or lease under this section, the adjoining or opposite upland or riparian owner shall be allowed reasonable access [across such reserved new lands] to navigable water **across the reserved historically filled lands or new lands**.

(3) A determination that the public interest requires historically filled lands or new lands to be reserved under this section is not a final agency order.

REPEAL OF FORMERLY SUBMERGED OR SUBMERSIBLE LANDS PROVISIONS

SECTION 6. ORS 274.960, 274.963, 274.965, 274.967, 274.970, 274.975, 274.977, 274.980, 274.983, and 274.985 are repealed.

**IDENTIFICATION AND NOTIFICATION OF STATE'S INTEREST
IN HISTORICALLY FILLED LANDS**

SECTION 7. (1) Except as provided in subsection (2) of this section, the State Land Board may not in any manner assert title to historically filled lands, as defined in ORS 274.905, unless, prior to December 31, 2025:

(a) The board makes a declaration under section 9 of this 2015 Act that asserts title to the historically filled lands; and

(b) Notice of the board's declaration was given as required under section 10 of this 2015 Act.

(2) Subsection (1) of this section does not apply to:

(a) Historically filled lands, as defined in ORS 274.905, over which the State Land Board asserted title prior to January 1, 2016;

(b) Historically filled lands fronting upon the Pacific Ocean; or

(c) Lands in that portion of the Lower Willamette River that includes the Portland Harbor Superfund Site.

(3) Nothing contained in sections 7 to 10 of this 2015 Act shall divest the State of Oregon of its rights to minerals, oil, gas and sulfur.

SECTION 8. (1)(a) The State Land Board shall direct the Department of State Lands to determine whether any interest remains or is vested in the State of Oregon with respect to historically filled lands, as defined in ORS 274.905, in:

(A) Waterways of the state subject to tidal influence;

(B) Waterways of this state that have been administratively or judicially determined navigable pursuant to ORS 274.400 to 274.412; and

(C) Waterways in which the state has asserted ownership prior to the enactment of ORS 274.402 on September 9, 1995.

(b) Nothing contained in paragraph (a)(C) of this section is intended to affect the ability of a court of competent jurisdiction to make a determination with respect to a private claim to or interest in real property.

(c) In directing a determination by the department under this subsection, the board may designate a specifically described area of land within which the department shall make its determination.

(2) Upon direction by the board under subsection (1) of this section, the department shall conduct a study to make the determination. In completing the study, the department shall comply with the following procedures:

(a) The department shall provide prompt public notice to affected property owners that the department is beginning the study.

(b) Upon completion of a study directed under subsection (1) of this section, the department shall prepare and submit to the board a draft report setting forth the department's findings and conclusions as to whether any historically filled lands, as defined in ORS 274.905, are located within the area under study and, if so, the extent of the State of Oregon's interest in the historically filled lands.

(c) The department shall provide appropriate prior public notice to affected property owners and other interested parties concerning the draft report. The notice shall provide an opportunity for a public hearing in the area of the affected lands and an opportunity for the public to submit written comments on the draft report and to submit testimony or other evidence concerning the presence of historically filled lands, as defined in ORS 274.905, or the State of Oregon's interest in the historically filled lands.

(3) Following the public hearing under subsection (2) of this section, the board may adopt the draft report submitted by the department as final if substantial evidence in the record supports the report's findings and conclusions, or the board may refer the report to the department for further action as determined by the board.

SECTION 9. (1) Upon the adoption of a final report by the State Land Board under section 8 of this 2015 Act, the board shall declare the nature and extent of the state's claim to any interest that remains or is vested in the State of Oregon with respect to historically filled lands described in the report.

(2) A declaration made by the board pursuant to subsection (1) of this section shall be binding upon the State of Oregon with respect to the interest, if any, of the State of Oregon in historically filled lands described in the declaration.

(3) A declaration under this section is not a final order as defined in ORS 183.310.

(4) Nothing contained in this section is intended to affect the ability of a court of competent jurisdiction to make a determination with respect to a private claim to or interest in real property.

SECTION 10. Immediately following a declaration made by the State Land Board pursuant to section 9 of this 2015 Act, the board shall:

(1) Cause reasonable public notice of the declaration to be given to interested parties. The notice shall describe the land or waterway affected and the nature and extent of the state's claim. Notice under this section need not describe the land or waterway in legal terms, but by the use of common descriptions or maps shall be designed to identify the land or waterway in a manner intelligible to the layperson and useful in establishing the exact location of the state claim in relation to existing legal descriptions.

(2) Give notice to each owner of record of land described in the declaration by transmitting by registered mail or by certified mail, return receipt requested, a copy of the declaration made with respect to the land and a statement informing the owner of record of a point of contact at the Department of State Lands, and of options available to the owner of record based on the notice.

NOTE: Section 11 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 12. The Department of State Lands shall submit a report on the department's progress in implementing sections 7 to 10 of this 2015 Act, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to the environment and natural resources in the manner provided under ORS 192.245 on or before September 15, 2017.

SECTION 13. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of State Lands, out of the General Fund, the amount of \$328,228 for the purpose of carrying out the duties, functions and powers conferred on the department by sections 7 to 10 of this 2015 Act. This appropriation is available continuously until expended for the purpose specified in this section. On January 1, 2026, any unobligated balance of the appropriation made by this section reverts to the General Fund.

MISCELLANEOUS

SECTION 14. The unit captions used in this 2015 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2015 Act.

SECTION 15. Sections 7 to 13 of this 2015 Act and the amendments to ORS 274.905, 274.910, 274.915, 274.929 and 274.940 by sections 1 to 5 of this 2015 Act become operative on January 1, 2016.

SECTION 16. The Department of State Lands, under the direction of the State Land Board, may take any action before the operative date specified in section 15 of this 2015 Act that is necessary for the department to exercise, on and after the operative date specified

in section 15 of this 2015 Act, all of the duties, functions and powers conferred on the department by sections 7 to 13 of this 2015 Act and the amendments to ORS 274.905, 274.910, 274.915, 274.929 and 274.940 by sections 1 to 5 of this 2015 Act.

EMERGENCY CLAUSE

SECTION 17. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by Senate July 1, 2015

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House July 3, 2015

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

.....
Jeanne P. Atkins, Secretary of State



Oregon

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Department of State Lands

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MEMORANDUM

State Land Board

Kate Brown
Governor

Dennis Richardson
Secretary of State

Tobias Read
State Treasurer

October 16, 2018

To: Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read

From: Vicki L. Walker, Director

Subject: Oregon Consensus Assessment Report

Common School Fund Decoupling

At the May 9, 2017, meeting, the Land Board directed the Department to move forward with a public option for the Elliott State Forest that: 1) advances public ownership of the Elliott; 2) decouples the forest from the Common School Fund, either through a trust land transfer or other financial means; 3) continues habitat conservation planning to protect species and allow for harvest off the forest; and 4) further researches Treasurer Read's concept.

The Department received \$1.5 million in funding in the 2017 Legislative Session to pursue the decoupling and the Habitat Conservation Plan (HCP). As reported previously, a contractor was hired, and the HCP process is underway.

On Jan. 2, 2018, DSL signed an Intergovernmental Agreement (IGA) with [Oregon Consensus](#) (OC), a public-policy mediation program based in the Hatfield School of Government at Portland State University, to independently conduct stakeholder interviews to inform development of a process and framework for decoupling.

The IGA with Oregon Consensus includes three phases:

- Phase 1: Establishing working principles and foundational elements for the project (an overall project management plan, including communications and an approach to stakeholder engagement) – *this phase was completed in March 2017*

Phase 2: Developing a resolution framework (conducting interviews and focus groups with people representing a variety of interest groups to assess key issues and determine the degree of current common ground; and producing a summary report of the findings that will inform Phase 3 work) – *estimated completion date: August/September 2018*

Phase 3: Convening an advisory group to develop recommendations for decoupling the Elliott State Forest from the Common School Fund (using Phase 2 findings, the group will explore issues needing further resolution and develop a report for consideration by the Department of State Lands and State Land Board) – *estimated completion date: Spring 2019*

Oregon Consensus has completed stakeholder interviews regarding decoupling the Elliott State Forest from the Common School Fund and submitted their final report to the Department. This completes Phase 2 of stakeholder outreach regarding decoupling.

The report has been available* on the Department's website since October 9; paper copies are available upon request. The Department invites the public to read the final report and provide feedback on report findings. Feedback will be accepted on our website or by postal mail until 5 p.m. on Thursday, November 15.

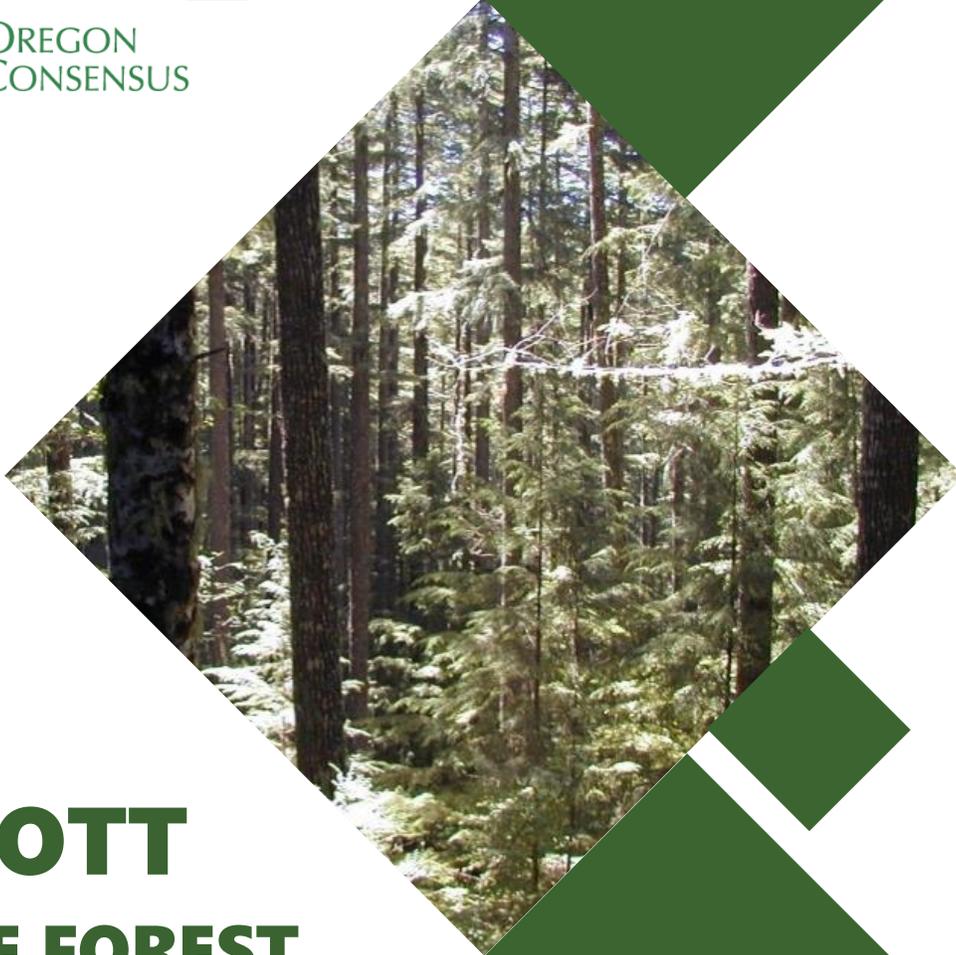
The Department will provide a summary of comments received to the Board prior to the December 11, 2018 meeting.

The Department is not seeking any action from the Board today, other than to clarify timelines and expectations for receiving additional information from prospective owners in advance of the December 11 meeting.

The Department will seek direction from the Board on next steps at the December 11 meeting. Receiving the following guidance today would assist the Department in preparing for that meeting:

- Confirming the Land Board assumptions stated in the report
- Confirming that ongoing public engagement in the process is desired under Phase 3

* The report can be accessed via the DSL homepage, or directly at the following address:
<http://www.oregon.gov/dsl/Land/Pages/Elliott.aspx>



ELLIOTT STATE FOREST

Next Step Considerations for Decoupling from Oregon's Common School Fund

October 2018



An Oregon Consensus Assessment Report to the Oregon
Department of State Lands and Oregon State Land Board

Assessment Team

Peter Harkema, Oregon Consensus Director
Brett Brownscombe, Senior Project Manager
Amy Delahanty, Project Associate

Acknowledgements

Oregon Consensus deeply appreciates all those who generously gave their time to inform this assessment and report.

About Oregon Consensus

Oregon Consensus (OC) was established by state statute as the State of Oregon's program for public policy conflict resolution and collaborative governance. The program provides mediation and other collaborative services to public bodies and stakeholders who are seeking new approaches to challenging public issues. OC conducts assessments and designs and facilitates impartial and transparent collaborative processes that foster balanced participation and durable agreements. OC is housed in the National Policy Consensus Center in the Hatfield School of Government at Portland State University.

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1. Introduction

1.1. Purpose of report

This report is the product of a series of interviews Oregon Consensus conducted with parties and stakeholders representing key interests related to the Elliott State Forest. The Department of State Lands (DSL) engaged Oregon Consensus to conduct a neutral, third-party assessment for the purpose of gathering perspectives and informing a process and framework for decoupling Elliott State Forest from the State Common School Fund (School Fund) within the framework established by the Oregon State Land Board (Land Board) at its May 9, 2017, meeting.

“Decoupling” is generally intended to mean releasing all or a portion of Elliott State Forest from its asset connection and revenue obligations to the School Fund. This report is intended to provide a reflection of what the Oregon Consensus assessment team heard from interviewees at a singular point in time. It also identifies key issues relevant to a decoupling solution, provides process recommendations, as well as potential next steps for the Land Board’s consideration.

The report begins with an explanation of the Oregon Consensus assessment process, followed by a synthesis of information gathered from interviews conducted, which are reflected in section 2, as well as section 4 of the report. The last section focuses on process recommendations for addressing decoupling of Elliott State Forest from the School Fund. Supplemental information is provided in the appendices.

1.2. Background & context

Just northeast of Coos Bay, the Elliott State Forest is situated in Coos and Douglas Counties in the central Oregon Coast Range. About 82,500 acres of the 91,000-acre Forest is a land asset of Oregon’s Common School Fund, overseen by the Land Board and administered by DSL. (See figure 1.) Since Elliott State Forest was established in 1930, timber harvest has served as the primary source of revenue from these lands to address the state’s duty, arising under the federal Oregon Admissions Act and the Oregon Constitution, to maximize School Fund revenue over the long-term.

Due to declining timber revenue and rising management costs (figure 2)¹, in 2017 the Land Board directed DSL to pursue an effort to decouple these

Figure 1

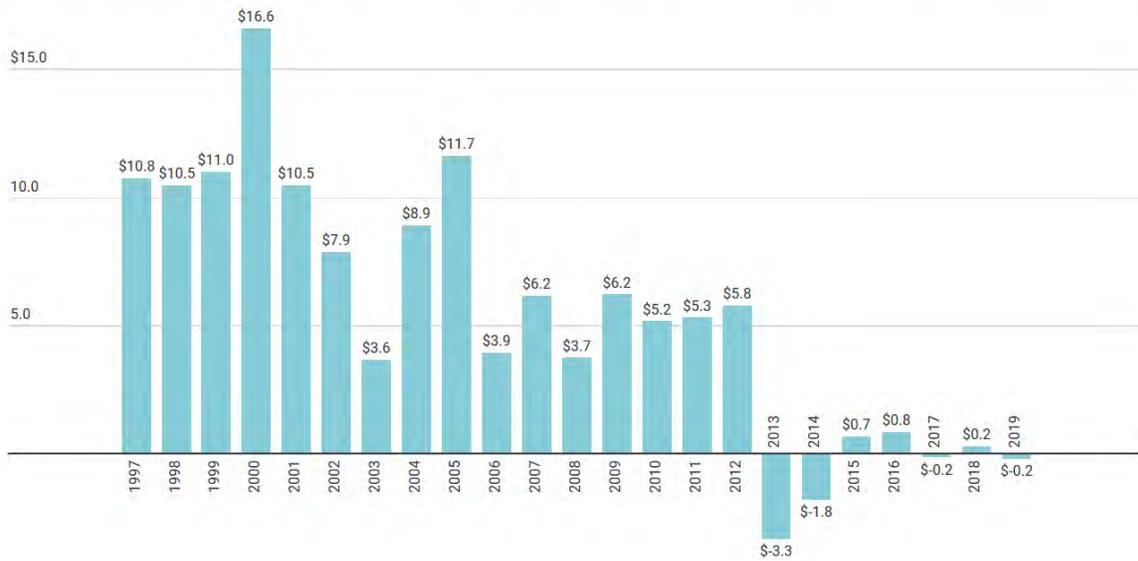


Capital Press graphic

1. As depicted in figure two, net revenue numbers as presented to the Land Board were actuals through fiscal year 2013 and projections for fiscal years 2014 through 2019.

Figure 2

Oregon no longer is making money from timber sales on the Elliott State Forest. Here's a look at the net revenue generated from timber sales on the property from 1997 through projected sales if the state didn't sell the land.



Figures are in millions

Source: Elliott State Forest Alternatives Project. Presented to the Oregon State Land Board December 9, 2014.

lands from the School Fund—including finding a different public owner—under a framework established by the board to meet public values. For purposes of finding a new owner, Land Board members indicated that “public” means state or federal government agencies, state universities, federally-recognized Oregon tribes, and local governments.

In connection with the Land Board’s direction, the 2017 Oregon Legislature approved \$100 million in state “certificate of participation” bonds² (hereinafter referred to as “bonds” or “state bond funding”) to buy down the state’s obligation to the School Fund—partial payment for Elliott State Forest’s 2016 appraised value of \$220.8 million. The bonds are scheduled to be issued in February 2019. This buy down was the initial step in the decoupling sought by the Land Board. While the details of this initial step are still in development, DSL determined the next step is stakeholder outreach, potentially leading to the convening of a stakeholder advisory group. To that end, DSL engaged Oregon Consensus, a program of the National Policy Consensus Center at Portland State University, to serve as a neutral, third party to assist them in this step and overall work toward decoupling. On January 9, 2018, Oregon Consensus signed an intergovernmental agreement with DSL to initiate this effort in three phases of work.

For phase one, Oregon Consensus worked with the DSL director and project management team to establish principles and a process architecture for the complete decoupling effort, including identification of a representative group of parties to be interviewed as part of this assessment. This assessment and subsequent report represent phase two of the work articulated in the

2. See HB 5006, Section 124: <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB5006>; See also: <https://olis.leg.state.or.us/liz/2017R1/Downloads/CommitteeMeetingDocument/137511>

intergovernmental agreement. In phase two, Oregon Consensus interviewed stakeholders representing a variety of interest groups to assess key issues related to the potential decoupling of Elliott State Forest. The interviews explored topics such as parties' desired outcomes for the decoupling effort, data and information needs, and opportunities and resources that could support a decoupling solution. More information about the assessment process and a list of interview questions are included in appendix b. A third phase of work could be initiated if the and Board deems a stakeholder advisory process necessary or helpful in advancing a decoupling effort.

Independent from the decoupling project, DSL has moved forward on the development of a federal Habitat Conservation Plan (HCP) and associated Incidental Take Permit to comply with the federal Endangered Species Act on School Fund lands within Elliott State Forest. DSL is drafting the HCP with the assistance of ICF, Inc.,³ and will provide updates to the public. While DSL intends to pursue HCP development regardless of and independent from the decoupling effort's outcomes, the nature of each of these efforts relates to future forest management options, and attracts attention from similar stakeholders. Interviewee perspectives on the relationship between decoupling and the HCP process are discussed later in this report.

It's worth also noting that the vast majority of the interviews were conducted before the Oregon Court of Appeals ruling on August 1, 2018, in the case of *Cascadia Wildlands v. Oregon Department of State Lands*, 293 Or App 127 (2018), (rejecting the 2014 sale of a 788 acre parcel of Elliott State Forest land to Seneca Jones Timber Corporation). The State petitioned the Oregon Supreme Court for review of this appellate court decision on October 2, 2018, and at the time of this report's publication, the implications of the decision on next steps for decoupling Elliott State Forest from the School Fund remain unclear.

1.3. Methods

Between March and August of 2018, the Oregon Consensus team conducted forty-six semi-structured interviews with seventy-three individuals representing federal, tribal, state, and local governments, as well as interests representing timber, conservation, school funding beneficiaries, recreation, land trusts, labor, and others. While we were not able to interview everyone with an interest in Elliott State Forest, Oregon Consensus, the DSL project management team, and the Land Board assistants made every effort to ensure that those interviewed represented the diverse interests surrounding Elliott State Forest. A goal was that all interested parties would feel that their perspectives and interests would be represented by those interviewed. A list of individuals interviewed and their affiliations can be found in appendix a. Most interviews were held in person, others were conducted by phone. Before each interview, individuals were asked of their willingness to participate, and were given interview questions and an assessment description (see appendix b). When individuals did not respond to the interview invitation, the team extended additional invitations by phone or email, including a final invitation near the conclusion of the interview stage of the assessment. All interviews were

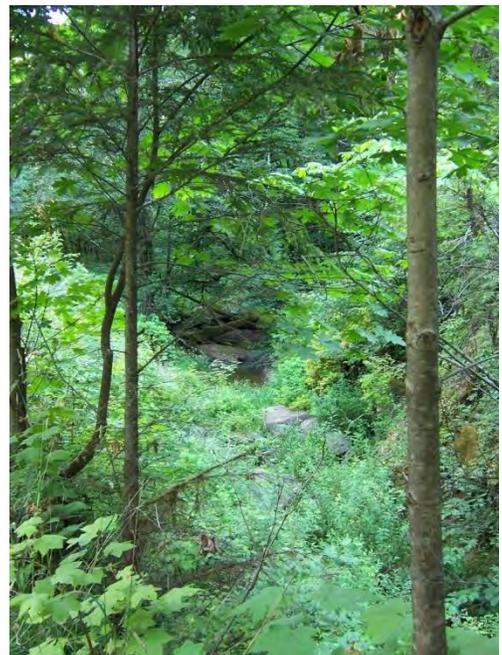
3. <https://www.icf.com/work/environment/natural-resources>

voluntary and lasted approximately one to one-and-a-half hours. Interviews were not recorded and interviewer notes were separated from any personal identifier information.

Understanding the critical role that five federally-recognized western Oregon tribes have with respect to Elliott State Forest, the director of DSL sent a letter and follow-up email to the chair of each tribe to invite them and other tribal staff members, as appropriate, to be involved in the assessment process to ensure they had the opportunity to share their perspectives with the assessment team. The assessment team followed up with emails and phone calls. Four tribes agreed to participate and one declined. Interviews often included tribal council members or designated tribal staff members. It's important to note that interviews were not formal government-to-government consultations, nor were the opinions and information shared official tribal statements.

2. Cross-Cutting Themes

The assessment team asked interviewees a variety of common questions (see appendix b). Questions included a focus on interviewees' perceived challenges and opportunities related to potential decoupling of Elliott State Forest, what major topics would need to be addressed, and what success looks like from their perspective. Additionally, interviewees were asked their thoughts on specific ownership options, the timeline between the HCP and decoupling, and what success looks like. Interviewees offered their thoughts on additional topics. Some topics were notable for how frequently they were mentioned and others for offering a unique perspective. It is worth noting that the relevance and merit of a topic or opinion is not determined by the frequency with which it was mentioned. Key themes emerged during analysis of interview responses. This section of the report is meant to summarize these cross-cutting themes in no particular order. It is not intended to be a comprehensive list of all issues discussed during the interviews or all topics that are related to Elliott State Forest.



2.1. Trust

Many interviewees spoke directly about trust and it was also woven through other topics. Two of the key interests, timber and conservation, have a long history of conflict on Elliott State Forest-related issues in western Oregon, including the past, present and future of the forest. This history, past litigation, and perceived motivations lead many members of these interest groups to approach the other with skepticism and a lack of trust. Many interviewees saw this history of

conflict and the resulting lack of trust as a key challenge in achieving decoupling of Elliott State Forest.

Trust for the Land Board as a decision-making body for Elliott State Forest was also frequently discussed. For some interviewees, the 2017 decision by the Land Board to conclude its protocol process⁴ and not move forward with the proposal⁵ from Lone Rock Timber Management Company (Lone Rock)/ the Cow Creek Band of Umpqua Tribe of Indians (Cow Creek Tribe)/the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (CTCLUSI) increased their level of distrust in the Land Board and any future process to decouple Elliott State Forest. They saw the decision as an example of political expediency outweighing other important factors. Some interviewees articulated the 2017 decision as a lack of leadership and highlighted the need for political leadership that can withstand pressure from stakeholders and other interest groups. Many interviewees questioned whether the Land Board is the best governance structure for decision-making and management related to Elliott State Forest, noting that the political nature of the Land Board results in frequently shifting circumstances that can motivate parties to hold back or engage depending on other political calculations.

2.2. Lack of clarity

When discussing the potential to decouple Elliott State Forest from the School Fund, many interviewees described a lack of clarity about Land Board direction related to the forest. This lack of clarity was also evident in the diversity of perspectives Oregon Consensus heard—across and within common categories of stakeholders—on Land Board direction on key topics. The lack of clarity may be the result of how decisions were made and specifically which topics were unanimously decided versus those that were individual Land Board member positions. The lack of clarity could also be related to stakeholders interpreting Land Board actions through their own lens or interests. Regardless, uncertainty or lack of clarity about the topics below is likely creating discord between key interests and potentially moving parties in divergent directions. Topics of uncertainty for interviewees included:

- *Definition of public ownership.* Among interviewees, varying interpretations seemed to exist over what the Land Board meant by “public” when it indicated its desire for Elliott State Forest to remain in public ownership. Some felt public was understood as remaining in state ownership, while others felt that public was to be defined more broadly to include tribal, federal, county, and state ownership.
- *Use of the \$100 million dollars.* Interviewee perspectives on the application of the \$100 million in bond funds vary dramatically. The one common theme, however, was a lack of clarity over how specifically these dollars are to be used to preserve non-economic benefits of Elliott State Forest, as directed in the legislation.⁶ Otherwise, stemming from

4. See “Appendix A and related Supplements” at:

https://www.oregon.gov/dsl/Land/Documents/Elliott/slb_dec2016_item2.pdf

5. See “Appendix B” at: https://www.oregon.gov/dsl/Land/Documents/Elliott/slb_dec2016_item2.pdf

6. <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB5006>

the lack of clarity, parties tend to resort to diverging perspectives that generally support their view on how future management of Elliott State Forest should look. The particular perspectives can be categorized and summarized as follows:

- *Parcelization.* Interviewees assert that—or question whether—use of the \$100 million could happen immediately, applying it first to specific parts of Elliott State Forest that have particularly high ecological value, and covering these parcels with a conservation easement or other legal protection afforded by a portion of the \$100 million. These high-ecological-value parcels may have an already low likelihood of being managed for timber harvest (due to the Endangered Species Act or other issues) and therefore a relatively low price tag. Funds remaining after use on these parcels could then be applied to achieving conservation outcomes on remaining parcels where timber value (and thus appraised value) may be higher. This parcelization approach is based on the perspective that the \$100 million should buy something tangible and above-and-beyond what an HCP would otherwise achieve in the absence of such funds.
- *Buy-down.* Interviewees assert that—or question whether—the \$100 million is best regarded as a buy-down of the total asset value of Elliott State Forest, thereby enabling decoupling options by reducing the cost of the forest to a new public owner or, if not decoupled, reducing the amount of revenue it would need to produce if retained as a School Fund asset under DSL management. When the bonds sell (estimated February 2019), revenues would be deposited into the School Fund. While not defining specific parcels that would be served by the \$100 million, this approach would address School Fund responsibilities by placing revenue into the fund in the near-term, and it could be combined with the application of a legal instrument as well as the HCP process to achieve outcomes for conservation and other potential non-economic values that would not have otherwise occurred without the \$100 million.
- *Cap-and-harvest.* Interviewees assert that—or question whether—the \$100 million is meant to define the state's contribution to achieving conservation, recreation, and non-revenue values on Elliott State Forest. Whether retained by DSL and managed as a School Fund asset, or owned and managed by another entity through decoupling, the \$100 million would be applied towards achieving these values. The remainder of Elliott State Forest would be placed under timber management. The HCP would define the relevant acres for protection up to \$100 million, and the level and intensity of harvest on other acres could be varied, depending on landscape conditions, stand-management conditions, and relevant state forest practices rules. This approach has some similarities to the two approaches above, but would attempt to circumscribe the HCP's potential impact on timber production prior to HCP negotiations, and it rests on certain perspectives and assumptions about land allocation that may limit other management and revenue options other than timber harvest.

- *Relationship between the Elliott State Forest decoupling and the HCP.* Interviewees expressed varying opinions and confusion over the connection between the state's pursuit of an HCP and the path for decoupling Elliott State Forest from the School Fund. There was general agreement among interviewees over the importance of an HCP to achieving more management certainty for a variety of values, as well as the value of an HCP to securing a new public owner and achieving complete decoupling. However, for many, considerable confusion remains about whether there is or should be a single process for HCP development and decoupling, or separate efforts, or a blend. This topic is discussed in greater detail in section 4.

2.3. Broader implications of Elliott State Forest

Many of the topics involved in the Elliott State Forest decoupling conversation (e.g., harvest levels, stream buffers, habitat protection, rural economies, and public land values) are not unique to Elliott State Forest. As a result, some interviewees expressed concern that decisions about the forest would be applied to or influence a broader landscape. For example, some wondered whether decisions about an HCP on Elliott State Forest might influence HCP efforts on other School Fund or non-School Fund state forest lands such as the Clatsop and Tillamook State Forests. In this way, decisions about Elliott State Forest take on heightened importance and may reduce parties' willingness to compromise or find innovative ways to reach agreement on the forest.

2.4. Symbolism of Elliott State Forest

As is common in many natural resource issues across Oregon, the issues surrounding Elliott State Forest are complicated by fraying relationships and increased polarization across sectors. This fraying is perhaps even more pronounced in the forest context where the landscape and issues have taken on heightened importance—for real and symbolic reasons. The following summaries are not intended to put words in the mouths of interviewees but are Oregon Consensus' extrapolation of symbolic themes related to Elliott State Forest taken from what the assessment team heard in interviews.

The timber industry, broader forest products sector and county governments tend to see Elliott State Forest with a context of increased diminishment and threats to long-standing as well as current jobs, economies, cultural fabric and livelihoods. They see the forest as a symbol of more urban and/or environmental voices pulling Oregon away from its natural resource assets or timber-based roots in a manner detrimental to rural communities, but they also view the forest as a potential opportunity for improved economic and community vitality. The environmental community sees an ongoing history of habitat and species in decline, with few remaining areas across a broad landscape where they can thrive or be preserved. They see the forest as an ecological opportunity. Tribal interests tend to see the forest in the context of landscapes once theirs—places rich in natural and culturally-significant resources, where tribal practices, traditions, communities, and economic opportunity once thrived but that, from their perspective, have been greatly and unjustly diminished over time. They see the forest as part of this history and as an opportunity to address the past in more equitable ways that support tribal

interests moving forward. For education beneficiaries and supporters of schools, Elliott State Forest is an unfulfilled mandate and promise. They desire to see Oregon's youth well served by the School Fund, and feel they have become caught in the middle of a classic Oregon natural resource battle in a way that is unfair or neglectful of foundational legal obligations.

For many categories of interests, Elliott State Forest holds a significant symbolic importance, and within each interest there is a sentiment that a line must be drawn somewhere. Whether Elliott State Forest alone can address or solve their larger symbolic concerns or interests is a question, but it is somewhat beside the point; it is the significance of Elliott State Forest to different interests in symbolic terms that makes resolving Elliott State Forest's challenges difficult but also an opportunity.



2.5. Litigation

Many interviewees discussed the topic of litigation. Some interviewees pointed to the ongoing litigation resulting from the Land Board's decision not to move forward with its protocol process and the Lone Rock/Cow Creek Tribe/CTCLUSI proposal as an impediment to any meaningful advisory process and the ability to decouple Elliott State Forest from the School Fund. Numerous interviewees specifically mentioned a lack of trust in the Land Board to follow through on any potential advisory group's recommendation. Interviewees also referred to the significant role of repeated litigation in shaping the current situation surrounding the forest and forestry issues in western Oregon more broadly. This includes litigation related to the marbled murrelet, the past sale of Elliott State Forest parcels (including the recent Cascadia Wildlands court decision), as well as lawsuits from county and environmental interests related to Board of Forestry (BOF) state lands.

Some interviewees shared skepticism that DSL or any future Elliott State Forest owner could chart a path that is void of litigation threats, in particular from environmental interests. These interviewees saw potential litigation as a barrier and strong risk factor to the future of the forest's ownership and management. Many interviewees also noted that if the status quo continued, then new litigation was likely on Elliott State Forest, in particular by School Fund beneficiaries related to revenue production. This could set up a legal showdown between arguments related to the Land Board's fiduciary obligations to the School Fund on the one hand, and the Endangered Species Act on the other. Some interviewees noted litigation has been and could be an effective tool to bring about change they desire. However, nearly all saw litigation as a less efficient, durable, or desirable approach to resolving outstanding issues related to Elliott State Forest.

2.6. Limited active work on Elliott State Forest

From the interviews, it was evident that few parties have been actively working to advance resolution of the issues surrounding Elliott State Forest since the Land Board decision in May 2017. While several interests indicated a desire to see a particular ownership structure for the forest (or to be a lead or partnering participant in that ownership structure), their comments were largely aspirational and based on what would best support their interests for the forest (e.g., timber production, forest protection, cultural resource enhancement, or revenue to schools and counties). No entity represented that it has raised funds to supplement the \$100 million in state bonds to support complete decoupling, and especially not at the level required to meet Elliott State Forest's 2016 appraised value.

2.7. Looking beyond Elliott State Forest and its School Fund lands

Many interviewees suggested that broadening discussions beyond Elliott State Forest and its geographic boundary may increase the potential to satisfy interests, enhance outcomes, and increase buy-in on a final potential decoupling solution. Interviewees identified several areas or topics where this broadening of a potential solution space could be relevant. These areas are identified and discussed in section 4.7.

2.8. Timing for decoupling is ripe

With a couple of notable exceptions, there was general agreement that the timing is right to decouple Elliott State Forest from the School Fund. Most interviewees expressed a desire to participate in a resolution. Those who felt the timing was right often noted the uncertainty of the present situation, suggesting that, if proactive action is not taken now, then outside forces such as litigation, the legislature, or future Land Board decisions would likely compel or shape action in ways that could limit current potential opportunities for their interests. Interviewees who presented exceptions to this view did so based on a similar risk assessment but from differing points of view, noting that either (a) continued retention of the forest as a School Fund asset may provide the greatest impetus for future timber production, or (b) that decoupling and ownership by a different party could reduce their ability to advance political or legal pressure to limit tree cutting. These perspectives are largely focused on how to best maximize leverage for their interests, and they recognize limitations of that perspective on a sustainable outcome.

2.9. Science and data

The availability of credible technical information and science is nearly always a critical component of resolving a policy issue like Elliott State Forest. Interviewees were asked whether there are data gaps that would make it difficult to reach resolution on decoupling. While many noted that additional information, particularly regarding the marbled murrelet, would be valuable, the majority of interviewees did not see a lack of technical information as a significant hurdle.

3. Framing a Path Forward

Oregon Consensus framed options related to potential paths forward in an effort to remain consistent with assumptions derived from Land Board documents, conversations, and direction to date. Stating these Land Board-based assumptions here is intended to help clarify and focus the space relevant to further potential work and avoid re-opening issues previously decided. As the decision makers with respect to Elliott State Forest, the Land Board may choose to disagree with or alter assumptions. But for purposes of this report, Oregon Consensus has attempted to verify assumptions through Land Board assistants in order to promote consistency and clarity related to expectations for future pathways.

Land Board assumptions are as follows:

- *Common School Fund responsibility.* Honoring the state's fiscal duty to the School Fund remains a primary driver and outcome. DSL has indicated that, at present, managing Elliott State Forest as a timber land asset costs the state more than it yields in revenue to the School Fund. The amount of decoupling-based revenue needed to address School Fund fiscal responsibilities and the source of that revenue need resolution. Given the Land Board's expressed level of urgency and desire for certainty in an outcome, re-appraising the forest may not promote expediency. That said, the 2016 Elliott State Forest appraised value has a shelf life, and given the Land Board's sense of urgency, the likelihood of this amount of funding satisfying the Land Board's fiduciary duty to the School Fund is highest if presented in the very near term. Such funds would become School Fund cash assets and, relative to the forest's revenue productivity as a publicly-managed timber land asset, could be invested to produce a potentially higher return to the School Fund. The \$100 million in state bond revenue contributes to the Land Board's fiduciary duty whether the forest remains a School Fund asset or is completely decoupled, but it does not fully address this fiduciary duty alone and, relevant to any decoupling proposal, would need to be applied as part of a broader, comprehensive financing approach.
- *Complete decoupling.* Although continued DSL ownership as a School Fund asset remains an option, removing Elliott State Forest's connection to the School Fund and transferring title as well as management remains the Land Board's preferred approach. In addition, the Land Board prefers a decoupling approach that applies to the entire forest. It does not support an approach—through the use of the \$100 million in state legislative bonds or otherwise—that applies decoupling and financial or legal transactions only to certain parcels rather than a forest-wide vision and approach to ownership, management, and the use of funds. Should the effort to achieve complete decoupling not yield results on a new owner, the \$100 million in bond funds would be applied to "preserve non-economic benefits for the public"⁷ on all or a portion of the forest and relieve those areas from

7. See section 124 at <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB5006>

School Fund revenue production obligations, consistent with legislative intent and as part of a broader plan for the forest as a School Fund asset.

- *Public ownership and access.* The Land Board remains committed to public ownership of Elliott State Forest as opposed to sale to a private owner. Public ownership would include public access consistent with meeting fiduciary, public safety, and forest management responsibilities. The legislature's advancement of \$100 million in bonds is connected to this intent and securing public values. That said, the Land Board's vision would not prohibit a public owner from partnering with private entities for management, fundraising, or other Elliott State Forest work.
- *Conservation values.* The Land Board seeks an outcome that secures conservation values for Elliott State Forest, including protecting ecologically important areas and species, but it does not intend human use and management of the overall forest acreage to be limited as in national parks or wilderness areas. An HCP for the entire forest remains a primary desired approach to securing conservation values. Other conservation options may also exist, including legal instruments or approaches that apply the \$100 million in state bond funds towards advancing conservation outcomes within the HCP process or independent of it (so long as funds are part of a complete decoupling approach).
- *Working forest features.* Elliott State Forest would sustain some level of timber harvest and active management to address economic, job and community interests as well as forest ecosystem health (and possibly related opportunities for forest management research, education, and practice). The HCP (and associated Incidental Take Permit) plays an important role in securing this objective.
- *Workforce and local community benefit.* Elliott State Forest is an important asset to surrounding communities and any decoupling solution should support family wage jobs, community services, and quality of life in rural Oregon.



- *Tribal engagement.* The Land Board desires tribal involvement in shaping Elliott State Forest decoupling and, at a minimum, expects tribal consultation around future potential ownership options.

4. Issues and Considerations for Achieving Decoupling

The following is a compilation of issues that need further clarification, direction, and resolution in order to reach a complete decoupling of Elliott State Forest from the School Fund. This list is not exhaustive but is intended as a summary of priority issues identified through Oregon Consensus's assessment interviews. Following each issue description, Oregon Consensus has also included a description of options for addressing them. The options are informed by Oregon Consensus's professional opinion as applied to the current Elliott State Forest context, including what the assessment team heard from interviewees. This report attempts to describe primary approaches for potentially addressing each issue, but direction and decisions relative to any option ultimately need to come from the Land Board. Options below are best understood as Oregon Consensus's assessment-based view of opportunities for increasing needed clarity, narrowing disagreements, and expanding solutions, either through near-term Land Board direction or additional work with stakeholders.

4.1. Public ownership

Interviewee responses differed regarding who should own Elliott State Forest and whether this ownership would be viable. Perspectives also varied on what constitutes an acceptable public owner. Note that Oregon Consensus's interviews occurred before the August 2018 court decision in *Cascadia Wildlands v. Oregon Department of State Lands*, which has relevance to the issue of future ownership. The Oregon Consensus assessment team discussed the following factors regarding future public ownership of Elliott State Forest with interviewees:

- *Whether a potential owner has access to resources necessary to buy out the School Fund.* Any potential owner would need to obtain additional funds to satisfy School Fund fiduciary responsibilities (if assumed to be the 2016 appraised value this would mean \$120.8 million in addition to \$100 million in bonding). Based on interviews, no entity or group of entities appears to have the funds; however, some potential owners appear more or less likely to be able to gather the resources to buy out the School Fund.
- *Whether a potential owner has forest management capacity.* While opinions about the appropriate harvest level varied widely, there was general agreement that timber harvest would continue under a decoupled scenario. Tribes, Oregon State University, and counties were frequently cited as examples of entities that have forest management experience, but some interviewees raised concerns about their current management capacity for Elliott State Forest given its size. Others were quick to point out that an owner may well work with others (i.e., contract or partner in order to ensure capacity) to manage the forest.

- *Whether a potential owner has stakeholder support.* Interviewees spoke frequently about the need for broad stakeholder support as a key factor in the long-term success of any owner and manager of Elliott State Forest. Many reflected that lack of broad support was a key factor in the dissolution of past efforts to decouple or resolve the issues facing the forest and similar lands. They suggested that any future owner would have to have broad support both in who the entity or entities are and how they intend to manage Elliott State Forest.
- *Whether a proposed new owner itself desires to own and/or manage Elliott State Forest.* Another factor that Oregon Consensus assessed is whether potential owners—when suggested as good candidates by another interviewee—actually wanted to own Elliott State Forest and actively work to address the associated complexities.

4.2. Potential public owners:

There were a limited number of potential public owners that interviewees discussed frequently. The following section describes potential public owners and challenges and opportunities interviewees associated with each. Although we have described each individually, some interviewees also suggested that a coalition of public partners could be joint-owners or exist in an owner-manager relationship.

4.2.1. State agencies

- All state agencies reported that they feel at capacity in their current programs. Without a way to cover the assumed cost of \$120+ million to completely decouple Elliott State Forest, as well as a corresponding appropriation or other path to increasing their capacity to own and manage it, state agencies are reluctant to take on the forest. That said, Oregon Department of Forestry (ODF) has managed the Elliott State Forest since its establishment, possesses significant data about the forest, and shares an interest in a similar role as a future public owner or manager if cost and capacity issues could be addressed.

ODF believes in its mission and ability to manage public forest land, and could manage Elliott State Forest as a public forest for a range of state mandates. The agency would implement a management plan consistent with a future HCP and the Land Board or Oregon Legislature's direction. It could do so if Elliott State Forest were to remain a School Fund asset or under a complete decoupling scenario as title holder or in partnership with others. Stakeholders were skeptical about whether ODF has the culture, management cost structure and capacity to satisfy conservation or timber interests. They also questioned where ODF would obtain funds, and whether the legislature or other source would provide the needed management capacity.

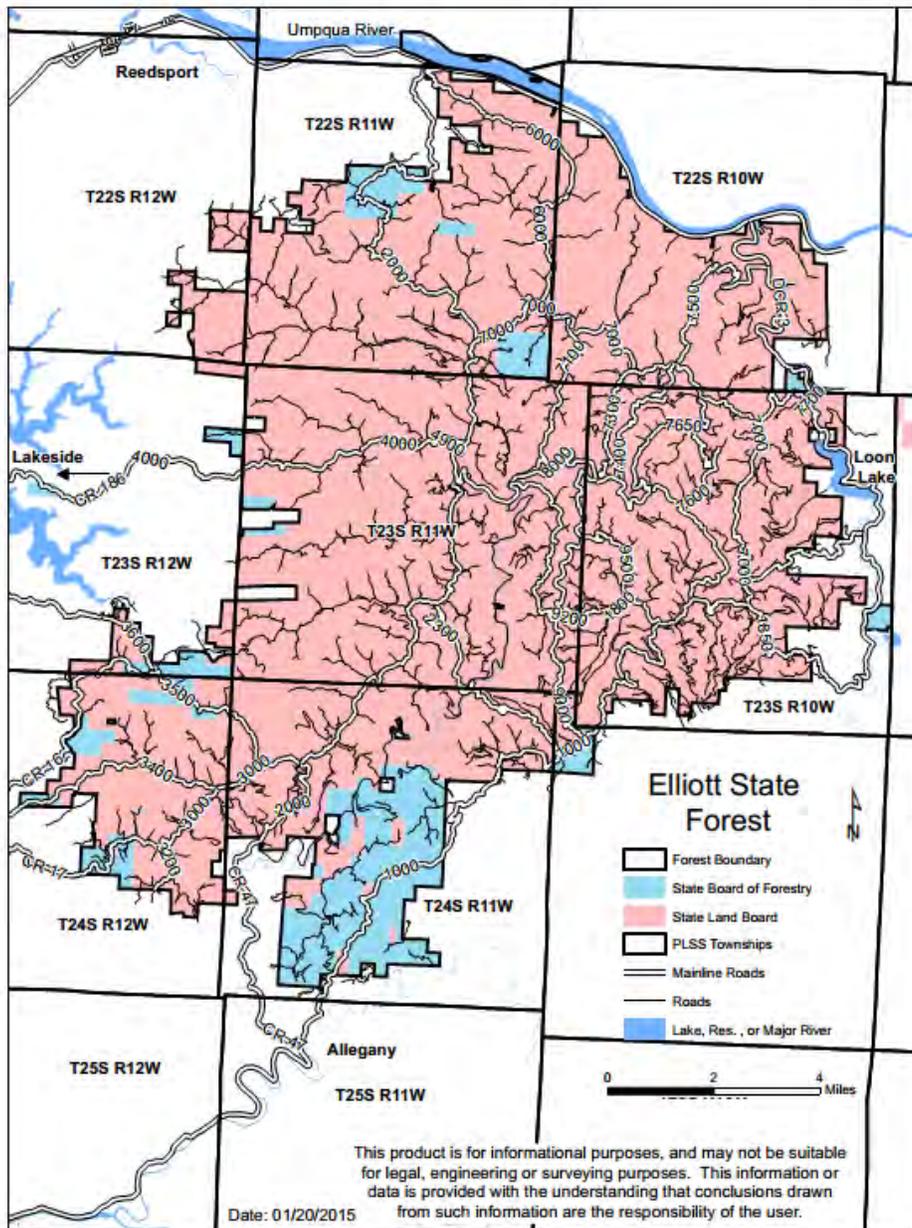
- Approximately 9,000 acres of BOF lands are within the Elliott State Forest boundary. (See figure 3.) Any decoupling would need to consider the effect of ownership and management of these BOF lands relative to their location within and adjacent to the

Elliott State Forest. Opportunities may exist to support a broader decoupling solution through options that look across state-owned lands (i.e., BOF lands as well as School Fund lands). All of this involves collaboration and partnership with ODF and perhaps the BOF or beyond.

DSL ownership remains a default option, under which Elliott State Forest would remain a School Fund asset. However, many interviewees were skeptical about DSL's ability to meet the fiduciary responsibilities to the School Fund given Elliott State Forest history, as well as the agency's limited timber land management experience and capacity. While some felt an HCP would help address these concerns, others were dubious of DSL's ability to negotiate an HCP that properly honors Elliott State Forest's timber production capacity and revenue responsibility to the School Fund. Indeed many interviewees suggested that maintaining DSL management of Elliott State Forest as a School Fund asset that derives revenue from timber production would likely result in litigation from education beneficiaries, assuming revenue production from that approach remained significantly less than other potential investment or revenue approaches. It is worth noting that some interviewees were more enthusiastic about Elliott State Forest remaining a School Fund asset because they view the School Fund revenue production mandate as a driver that favors public timber resource management in a manner that produces local jobs, economic outputs, and contributes directly to the education of future generations.

- Other agencies, such as Oregon Department of Fish and Wildlife and Oregon Parks and Recreation Department, are interested in participating in conversations about Elliott State Forest management—including HCP development—and finding synergies between their missions, programs, and forest management approaches. But they do not want to own and manage Elliott State Forest on their own.

Figure 3



4.2.2. United States Forest Service

As an adjacent landowner and manager, the United States Forest Service (USFS) indicated interest in seeing Elliott State Forest consolidated into and managed as part of the Siuslaw National Forest. The similar forest type and proximity were seen as advantages, as well as the historic connection between acreage on the Elliott State Forest and National Forest lands. USFS indicated they would likely need a congressional appropriation to pay the School Fund.

Stakeholder support for USFS ownership is relatively limited to conservation interests, with opposition from many other interests.

4.2.3. County

- Douglas and Coos County are closest to Elliott State Forest. Both counties already own and manage forest lands, and the counties expressed interest in owning Elliott State Forest. Elliott State Forest is larger than the counties' current ownership and management base, but the counties could manage in partnership with the private sector, tribes, or others. The counties, however, also recognize the legal, political, and financial challenges associated with Elliott State Forest. Funding necessary to acquire the forest through a School Fund payment does not currently appear to be at the counties' disposal.
- Some at the county level envisioned Elliott State Forest generating timber revenue to support funding needs for other county services and local jobs. Others envisioned economic benefits through a different owner who manages with local community interests in mind.
- Support for county ownership is relatively limited to the forest product sector and potentially others such as tribes if done in partnership. Conservation interests are skeptical about or oppose county ownership.

4.2.4. Tribal

- Several federally-recognized tribes have voiced an interest in future ownership and management of Elliott State Forest; however, no tribe appears to be crafting a proposal for ownership. Tribes may be interested in partnering with others on an ownership and management framework or in other ways that ensure tribal interests are addressed. Tribal history and connections to Elliott State Forest are complicated. Past non-tribal government actions (i.e., reservation termination and military and policy actions) have increased this complexity through the resulting movement of people and family members off of and across ancestral lands.
- Numerous interviewees spoke of the potential for restoration of tribal lands through a forest decoupling process. Some suggested that Elliott State Forest lands be transferred to tribal communities and others suggested transfer of other lands outside the forest boundary to achieve a decoupling approach that supports tribal interests.
- All five federally-recognized western Oregon tribes own and manage forest lands. With the inclusion of lands recently restored through the Western Oregon Tribal Fairness Act of 2018 (H.R. 1306),⁸ relative acres of tribal forest land ownership is in the order of the Cow Creek Tribe, CTCLUSI, Confederated Tribes of Grand Ronde (Grand Ronde Tribe), Coquille Indian Tribe (Coquille), and Confederated Tribes of Siletz Indians of Oregon (Siletz Tribe). Tribal management, and related programs as well as staff, includes timber

8. <https://www.congress.gov/115/bills/s508/BILLS-115s508rs.pdf>

production on these lands. But tribal forest management interests and approaches also cover conservation, goods and material gathering, and other uses tied to culture and history. Many interviewees also described the unique historic ties of certain tribes to the Elliott State Forest area.



- Stakeholder support for tribal ownership is relatively broad. County and forest product sector members have working relationships with tribes and are open to partnership. Several conservation organizations also have working relationships with tribes, and some are actively interested in promoting an Elliott State Forest decoupling outcome with a strong tribal role (ownership or otherwise). Other conservation interests indicated some concern that tribal ownership and management could potentially advance timber harvest to the detriment of conservation outcomes. Within as well as beyond the tribal and conservation categories of interests, some interviewees noted the protocol process had resulted in tension between some in the tribal and conservation community, and that relatively recent history likely influences parties' willingness to engage with one another in the current context.

4.2.5. Oregon State University

- OSU provided a written framework to the Land Board in April 2017 articulating the university's position at that time related to its engagement as a potential Elliott State Forest owner. OSU is further examining ownership and management considerations related to the forest. OSU anticipates communicating the results of its evaluation to the Land Board as early as December 2018.
- OSU's College of Forestry currently owns and manages approximately 15,000 acres of research forest land across the state,⁹ which supports student work and education as well as timber production, public recreation, and conservation. Timber sales from these forests are used to support the college and its mission. Many interviewees questioned OSU's capacity to take on an additional 80,000 acres farther away from Corvallis. Capacity could be enhanced through partnerships.
- Stakeholder support for OSU ownership and management is varied. Interests generally hold OSU in high regard as an educational institution. Some in the forest products sector question whether OSU has the capacity or should play an increased role in forest land

9. <http://www.Forestry.oregonstate.edu/about>

ownership and timber management. Members of the conservation community range from being open to further conversation over a potential OSU management scenario to skeptical that the College of Forestry would manage in a manner consistent with conservation values (as opposed to timber production).

4.3. Habitat Conservation Plan

Nearly all interviewees saw the successful development and implementation of an HCP (and associated Incidental Take Permit) as critical—or at least very valuable—to achieving future economic, revenue, management efficiency, and conservation outcomes related to Elliott State Forest. That being said, the current lack of clarity over the forest’s future ownership caused many interviewees to question the HCP process or their level of support. In general, interviewees said that obtaining an HCP before decoupling would provide additional certainty related to forest ownership and management; however, most interviewees acknowledged that the time is ripe to advance decoupling, and that the HCP’s formal process is likely to take too long to provide clarity about ownership.

Some felt that DSL should continue its pursuit of an HCP concurrent with discussions related to decoupling, while others saw a need to determine ownership first, since a new owner would likely wish to be involved in HCP development. Others expressed skepticism and distrust in the ability to get agreement and closure on a reasonable HCP, particularly in light of other efforts that have failed in this and similar landscapes. Because these interviewees, like most others, see an HCP as a necessary element in reaching resolution on decoupling, they were skeptical of the state’s ability to achieve decoupling. The option of advancing a terrestrial species-only HCP with one Endangered Species Act agency is a viable and potentially necessary option in their eyes. Further, by signaling an intent to decouple Elliott State Forest and remove the School Fund connection as well as advancing \$100 million in bond funds, these interests view the state as already having conceded significant leverage in negotiating an HCP.

Finally, it is worth noting that a number of interviewees suggested that the blend of forest type, condition, and conservation opportunities associated with Elliott State Forest may uniquely afford the opportunity to advance timber harvest approaches such as longer rotation harvest (in combination with early seral management, and riparian management). Such an approach they suggested would capitalize on unique market values of the forest and would perhaps be a more creative approach to harvest than those used on adjacent private and federal lands for meeting conservation and timber objectives. An HCP was viewed as critical to achieving these approaches.

4.4. Use of the \$100 million in state bond funds

Nearly all interviewees discussed the 2017 Oregon Legislature’s advancement of \$100 million in state bonds as a significant development and significant factor in changing the potential shape of Elliott State Forest’s future. Additional agreement exists that the \$100 million has relevance to the forest’s future regardless of whether the forest remains a Common School Fund asset or is decoupled and transferred to new ownership. However, as stated in section 2 of this report, a great deal of uncertainty remains over how the \$100 million would be applied. Gaining clarity

about this \$100 million is relevant to new ownership, satisfying the fiduciary responsibility to the School Fund, decoupling, and the HCP process.

The 2017 Oregon Legislature included language about the purpose and use of these bond funds. In relevant part, they exist “to finance the release of all or a portion of the Elliott State Forest from restrictions from ownership of that forest by the Common School Fund, or to compensate the Common School Fund for the preservation of noneconomic benefits of the forest...”¹⁰ While this language is specific to Elliott State Forest and the particular bond funds, it is not exactly clear to interviewees how those funds will be applied in practice.



Interviewees generally understand that February 2019 is the estimated date for formal bond sale and issuance of funds. But what happens from there remains unclear to most interviewees. In order to address competing stakeholder views and create a clear framework for moving forward, Land Board direction remains needed on how and when these funds will be used.

4.5. Revenue

Many interviewees said they believe the value of Elliott State Forest is higher than the current 2016 real estate appraised value, especially if viewed strictly from a timber productivity perspective (although, interviewees often noted that whether timber can be accessed and legally harvested is another question.) However, only a limited number of interviewees suggested that reappraisal is necessary, and even fewer felt pushing for it now would be helpful in achieving decoupling. Some indicated re-appraising could cut in the opposite direction of their interests by either resulting in a potentially lower value, or at least by prolonging the path to a potential solution and introducing uncertainty. All but a few interviewees agreed that the 2016 appraisal value of \$220.8 million, if contributed to the School Fund in the near-term, could allow for a plausible decoupling solution. Many also noted that this appraised value has a limited shelf life, suggesting that, should a path to decoupling not emerge fairly quickly, reappraisal may be appropriate. Again, Oregon Consensus conducted its interviews before the decision in *Cascadia Wildlands v. Oregon Department of State Lands*.

There was general agreement across interviewees that timber harvest is likely to be part of the revenue that would allow decoupling. Questions remain about how much it will contribute and from what Elliott State Forest locations. Other revenue options that interviewees offered for consideration are included below.

10. See Section 124 of HB5006 at: <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB5006>

- *Carbon.* Many interviewees expressed interest in the potential for carbon to contribute financial resources but there is general skepticism about the reality of the carbon market to contribute significant resources. Among the constraints cited were the relatively large and older class of trees already on Elliott State Forest, which reduces their potential carbon uplift and, therefore, value on the carbon market. In addition, carbon markets are relatively new and some interviewees also described challenges, perhaps not insurmountable, to the ability of publicly-owned land to enter and achieve valuable credits in the current carbon market.
- *Recreation.* Some interviewees noted recreational permits such as hunting fees as one opportunity for funding, though most noted likely opposition from the public and others. Many interviewees felt recreation and public access in particular is a critical component of a decoupling solution, and interviewees noted the potential in Elliott State Forest for enhanced public recreational opportunities (e.g., biking and hiking trails, campgrounds, and hunting). Some interests have put work into concepts related to recreational opportunities and/or would like to see efforts advanced. But few, if any, saw recreation as a significant source of revenue, particularly given the rugged landscape and limited opportunities for developed recreation on the forest. While interest and potential exists for recreational enhancements in Elliott State Forest, this work will come with costs, and several interviewees noted that increased resources and capacity around management and enforcement of even current recreational use is a matter that needs attention.
- *Concessionaire approach.* By itself, Elliott State Forest is a relatively large, isolated, and wild piece of land. To some, however, this may be an attribute, and interviewees indicated the potential of revenue from research permits. In addition, some expressed interest in working with surrounding communities around lodging and other business opportunities—whether enhancement of existing or creation of new lodging or other business—that could connect to recreational enhancement, promotion of Elliott State Forest and local communities, and generation of potential value. Some ideas around this included lodging tax revenue, private concessionaire businesses working with existing local lodging businesses, or use of existing relevant private land or DSL land parcels to promote a concessionaire model (lodging or other forms of concessions). Some concepts related to this form of concession revenue (research, lodging, or other concessions) stem from approaches advanced by the National Park Service on other public lands.
- *Local support.* Some existing local capacity may exist to partner in advancing a revenue package related to Elliott State Forest and decoupling. While this was not a focus for many interviewees, some noted that local entities have a demonstrated ability to put revenue into models or programs that support local jobs, conservation, and cultural heritage. Should local support be a component of interest in a decoupling effort, then conversations would benefit from a more specific form of engagement with entities such as the Wild Rivers Coast Alliance, tribal casinos, and others.

- *Legislative.* Most interviewees shared skepticism regarding the legislature providing the remaining funding needed for complete decoupling, believing that the legislature provided \$100 million in state bonds towards decoupling in 2017 and is unlikely to have a strong appetite for providing the remaining funds. That said, depending on the scope of a decoupling solution, the nature of partnership and outcomes to be attained, and the opportunity to leverage non-state funds, many interviewees expressed that continued connection with the legislature should not be taken off the table. Further, the Trust Land Transfer bill¹¹ passed in the 2017 Oregon Legislative session was mentioned frequently as a potential mechanism to help resolve Elliott State Forest’s future, although interviewees acknowledged that the legislature had not allocated resources to the program, leaving it as a potential tool but not a viable mechanism at present.
- *Equity investors and philanthropy.* Numerous interviewees described the potential that an entity, philanthropic organization, or individual might consider investing resources in Elliott State Forest based on an outcome that advances their values or those of their investors. Most often, this was voiced by interviewees as a potential mechanism for supporting long-term conservation or tribal equity values for the forest. Some other interviewees viewed it with skepticism, noting it hadn’t happened over the forest’s long history of debate to date or believing that philanthropic dollars were unlikely to fund protection of lands that were already public. In addition, some raised the potential for investment by entities whose missions are tied to rural communities or economic health, or from timber equity investors, believing this option should remain on the table so long as the ownership entity was public.

4.6. Tribal considerations

Elliott State Forest’s history is nested in a broader landscape of tribal relationships and history. Many interviewees described the importance of the forest as a culturally-significant location for tribal communities and suggested approaches to tribal engagement. While this report does not attempt to describe all aspects of tribal relationships and interests related to Elliott State Forest, the following issues were seen by many as components that should be considered in future Elliott State Forest work.

The CTCLUSI, Grand Ronde, Siletz, Coquille, and Cow Creek tribes are all sovereign, federally-recognized tribes with varying connections to Elliott State Forest. Aboriginal or ancestral land title has not been determined regarding the forest, a matter which some interviewees described as sensitive. This report does not attempt to delve into or settle that matter, other than to note that (a) within the tribes interviewed, there does not appear to be a consensus that a single tribe is recognized as the primary entity associated with Elliott State Forest and its geography, and (b)

11. Senate Bill 847 was signed into law on August 8, 2017, with an effective date of January 1, 2018. It does not appear to have been assigned an Oregon Revised Statute citation number as of the writing of this report, but contents can be viewed at: <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/SB847/Enrolled>

any decoupling conversation or potential solution should understand that this is an unsettled issue. Further, tribes generally support any conversation or intentional effort the state seeks to advance related to the restoration of tribal homelands, whether tied to Elliott State Forest or beyond.

Many interviewees saw the Lone Rock/Cow Creek/CTCLUSI proposal during the protocol process as an opportunity for some tribes to regain and maintain stewardship of land that is culturally and economically important to tribal communities. More specifically, the proposal was seen as an opportunity to preserve culturally significant resources as well as a mechanism to support tribal communities, including through potential future tribal ownership of certain forest lands. For this reason, many interviewees—including but not limited to tribes—expressed disappointment with the Land Board’s 2017 decision not to move forward with an Elliott State Forest protocol process, and indicated a negative impact on their trust in working with the state. Despite this disappointment, and while no single tribe appeared to have an ownership proposal in mind at present that would also meet the Land Board’s assumed fiduciary duty, all the tribes interviewed wished to remain apprised of and engaged in future conversations related to the forest. Tribes expressed multiple values and ways in which future Elliott State Forest management could support tribal interests. Some noted, in particular, the potential for developing a comprehensive inventory of cultural resources in the forest.

Many interviewees suggested that in considering the future of Elliott State Forest, it is important—irrespective of who owns the forest—for DSL or any potential owner to further engage all five tribes around any options under consideration. This would hold true if any particular tribe decided to pursue ownership but also around a potential partnership or the shape of any other entity’s potential ownership and management scenario, including HCP development. Additionally, it was suggested that if the Land Board decides to use an advisory group, all five tribes should be invited to participate.



4.7. Additional considerations

4.7.1. Looking beyond Elliott State Forest and its School Fund lands.

In addition to the above topics, interviewees raised a number of issues that they felt could or should be addressed through a decoupling process. In some cases these issues were raised as topics where broader buy in for a decoupling solution might be achieved by increasing the opportunity to meet the diversity of interests around Elliott State Forest. The following are examples that arose during interviews:

- Given the diversity of tribal interests and history related to Elliott State Forest, some suggested it may be beneficial to explore other geographic areas to achieve goals like restoration of tribal lands. It is worth noting that in 2017, the CTCLUSI and Cow Creek tribes received restoration of land through the Western Oregon Tribal Fairness Act of 2018 (H.R. 1306).¹² The act placed 17,519 acres of federal land (previously managed by the Bureau of Land Management) into trust for the Cow Creek Tribe, and 14,742 acres of federal land to the CTCLUSI. This tribal ownership is in addition to land already owned and managed by the Coquille, Cow Creek, and Siletz tribes. Interviewees did not suggest that an approach of exploring other areas beyond Elliott State Forest should mean leaving tribal interests out of the forest decoupling conversation, but rather that satisfying the many tribal interests within just Elliott State Forest's limited land area may not be possible. Further, tribes do not regard the passage of the Western Oregon Tribal Fairness Act as a full measure of equity (i.e., that no further or future work is needed by non-tribal sovereign governments to address or restore tribal homelands and interests).
- Some suggested looking to BOF lands outside Elliott State Forest, but in areas relevant to the tribes, as a partial solution. Such an approach could also trigger discussion of exchanges with other, non-Elliott State Forest School Fund lands, or what to do with the approximately 9,000 acres of BOF lands within Elliott State Forest.
- Interviewees reported that these approaches could potentially help consolidate ownership boundaries related to Elliott State Forest and elsewhere for the benefit of fire management, timber management, habitat conservation, or other values including tribal equity. The Trust Land Transfer legislation passed by the Oregon Legislature in 2017 could be a relevant vehicle for such conversations.
- Others raised the potential for the South Slough National Estuarine Research Reserve (South Slough Reserve) to be a part of a forest decoupling deal. The South Slough Reserve is a 5,900-acre natural area located in the Coos estuary on the south coast of Oregon that is managed by DSL. Due to its proximity to the forest, it was viewed by these interviewees as a natural component of an Elliott State Forest deal, particularly if the forest has a future research component.

4.7.2. Recreation

Many interviewees expressed an interest in enhanced public recreation in Elliott State Forest. Interests ranged from potential motorized and/or non-motorized (biking, hiking or pack) trails, to increased hunting and fishing opportunities, to wildlife watching. Partnerships with and opportunities for local businesses in marketing or serving these opportunities often arose during these recreation-focused conversations. Those engaged or working in the recreation sector also often indicated opportunities in expanding connections with students and volunteers. Several

12. <https://www.congress.gov/115/bills/s508/BILLS-115s508rs.pdf>

interviewees also expressed concern over management of current recreation being inadequate, with resource impacts or human conflicts as a current or likely reality needing attention. They expressed a desire to see more management and enforcement capacity.

5. Process Recommendations for Addressing Issues and Considerations

5.1. Public ownership

Changing ownership and management of Elliott State Forest is a significant undertaking, especially given the timelines associated with an HCP and addressing the Land Board's other values, such as public ownership of the forest, active management, conservation, equity, and community and economic benefit. Stakeholder and tribal interests will have only a measure of clarity and certainty before Land Board decisions about a potential new ownership pathway will likely need to be made. Given this reality, there may be significant value in the future owner developing a governance structure sooner than later.

Governance structure work could occur in tandem with near-term efforts to secure a future public owner. The Land Board, however, would first need to narrow the pathway to ownership. Interviews revealed several entities potentially interested in owning Elliott State Forest. Because of this interest and the Land Board's urgency to resolve School Fund fiduciary responsibility, the Land Board could narrow the decision space by setting a deadline for communication to DSL of an affirmative response or formal indication of interest from any potential owner in response to this report, and requiring that such a response be, in substance, less than a formal proposal for purchase but more than a letter of interest. This approach could be used to distinguish between entities who are interested in being part of future conversations about Elliott State Forest and those who have a serious interest in owning and managing the forest. Relevant considerations in evaluating the seriousness of any potential ownership interest include:

- How an entity would secure the money necessary to meet the Land Board's School Fund responsibilities, and approximately when.
- How they would ensure public values and other Land Board's assumptions (see section 3) are met.
- What partners they have or anticipate in any ownership and management scenario.

After having narrowed the ownership pathway, the Land Board could then direct entities to work on a governance structure that helps ensure that other interests are represented in the forest's future. This approach could increase support for decoupling and management decisions, thereby providing value to the Land Board and any future owner.

There are numerous ways to structure a governance arrangement, ranging from informal to formal and with decision making authority ranging from high to advisory only. ORS 190.010 and the formation of an ORS 190 entity (see appendix c for additional information) is a potentially useful option for consideration in developing an intergovernmental entity. Any additional process or advisory group work could engage in this governance work along with other areas of focus deemed relevant by the Land Board.

5.2. Habitat Conservation Plan

To some degree, a chicken-and-egg situation exists: The existence and shape of an HCP is critical to any entity's ability to fully commit to future ownership of Elliott State Forest, and sorting out future ownership is critical to informing the existence and shape of an HCP. Most interviewees acknowledged that, while perhaps not ideal, the HCP process and decoupling effort would need to be managed on parallel paths. Some noted this could be challenging given that the National Environmental Policy Act (NEPA) analysis, public input, and decision process associated with obtaining any HCP is often lengthy in time (relative to the Land Board's stated level of urgency around decoupling) and would likely occur subsequent to relevant Land Board action related to a proposed decoupling approach. How that proposed action and thus any HCP process is informed by, connected to or related to a decoupling scenario (and vice-versa) remains less than clear. To address this and other issues above, interviewees suggested the Land Board could:

- *Clarify the HCP path and its connection to the decoupling effort.* This clarification has two facets:
 - Direction on HCP development. The Land Board could address the chicken-and-egg problem by indicating that, given the lack of an entity with the desire and funding to pay for Elliott State Forest, the state will negotiate the HCP based on the status quo. DSL would lead HCP negotiations. The Land Board could indicate that any negotiated HCP would be transferable to another public owner.
 - Direction on connection to decoupling. Assuming the Land Board uses a process or advisory group to shape ownership and management of a decoupled Elliott State Forest, the Land Board could direct that the process or group both be informed by and inform the HCP process. This approach would connect the decoupling and HCP before any formal NEPA process tied to the HCP, thereby potentially clarifying and narrowing the focus of any approaches analyzed through the NEPA process once it begins. It would precede and potentially help shape a formal, final proposal to satisfy School Fund obligations to achieve decoupling.

- *Clarify how the \$100 million in bonding can be used to support HCP development.* As part of clarifying the use of the \$100 million in state bond funding (see section 5.3), the Land Board should clarify how these funds relate to the state’s positioning in the HCP process. More explicitly, Land Board clarification could be beneficial to understanding what the \$100 million’s existence means for the state in its



negotiation with the federal agencies over the shape of the HCP’s commitments as compared to pursuing an HCP on Elliott State Forest in the absence of such bond funding.

- *Advance alignment between state agencies.* There seems to be work within other state agencies that relates to or directly impacts Elliott State Forest-related topics of either an HCP or decoupling (e.g., the ODF/BOF land within the forest boundary, marbled murrelet reviews, and coho recovery plans). Limited communication and coordination appears to be occurring across those agencies. Better integrated communication during HCP development—through a multi-agency technical and/or advisory team—could help advance agency program objectives and advance a unified voice from the family of state agencies when negotiating with HCP federal consultation agencies.
- *Clarify connection to other governments.* It is not clear how the HCP will connect, integrate with or benefit from management on adjacent lands or with other governments. USFS, Bureau of Land Management, county, and tribally-owned lands all exist adjacent to or near Elliott State Forest. Management strategies on those lands may assist the state’s HCP negotiations by offering opportunities to integrate efforts or advance conservation and/or management options. Further, whether it is through the NEPA process or otherwise, how the HCP process will involve or engage tribal, federal, or county governments is unclear. The Land Board could help clarify this in conversation with DSL.

5.3. Use of \$100 million in state bond funds

In order to be consistent with the Land Board’s framework and direction to date (as articulated in section 3 of this report), and based on conversations with Land Board assistants, the following clarification of the use of the \$100 million appears to exist. That said, in light of current lack of clarity among stakeholders and competing stakeholder views, Land Board verification of this or any other approach is important.

- The \$100 million represents a buy-down of the total asset value of Elliott State Forest. If the forest remains a School Fund asset under DSL management, the amount of revenue

the forest would need to produce for School Fund-related fiscal obligations would be reduced correspondingly based on the legislative direction regarding the “release of a portion of the Elliott State Forest from restrictions”¹³ related to the School Fund’s otherwise applicable revenue production mandate. This has implications for future management including timber harvest levels.

- If decoupling of Elliott State Forest occurs and ownership is transferred to a new public entity, the \$100 million enables complete decoupling by reducing the cost of the forest to a new public owner. That potential new owner could articulate how it proposes to satisfy the Land Board’s overall School Fund fiduciary responsibilities and the Legislature’s bond-related direction through a proposal that includes application of the \$100 million in the context of additional financing of a complete decoupling vision.
- When the bonds sell, revenues would be deposited into the School Fund. This would in part contribute to, but not fully resolve, the Land Board’s fiduciary responsibilities to the School Fund with respect to Elliott State Forest.
- The HCP process would be employed to secure outcomes tied to the legislature’s intended use of the bond funds. The particular “portion of” the Elliott State Forest or overall approach that is dedicated to preserving “non-economic benefits of Elliott State Forest” (conservation values in particular) would be identified through this process. While the \$100 million need not be the limit or the only approach to securing conservation and other public values, it should be clear how these values have been secured on Elliott State Forest due to the existence of the \$100 million relative to what would have otherwise occurred without the funds.

5.4. Revenue

It would be helpful for the Land Board to clarify the following:

- Given its expressed sense of urgency, as well as the sense of a limited shelf life for the 2016 appraisal, how soon it wants to see a proposal for potential decoupling that meets its School Fund fiduciary duties and related direction, as detailed earlier in this report (see assumptions beginning on page 14).
- Whether and/or to what degree it desires other approaches to revenue than timber to be considered as part of any decoupling proposal that aims to meet its fiduciary responsibilities to the School Fund and its broader desired public values. The Land Board could leave deeper examination of whether other revenue sources are viable to the consideration of a particular entity interested in pursuing forest ownership or a related advisory group.

13. <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB5006>

6. Process Elements and Next Steps

Oregon Consensus's assessment revealed that, in order to advance success and stability, no one entity considering ownership or management of Elliott State Forest should operate in a vacuum. Any future ownership and management of the forest, or pathway the Land Board chooses, will require partnership, collaboration, and meaningful engagement with the relevant stakeholders and interests. Given the diverse and high level of interest in future ownership and management of the forest, any future approach to decoupling with a future interested entity or entities should



also engage representation from the range of interests associated with the forest. One near-term mechanism for advancing such an effort is an advisory group or similar collaborative group. Oregon Consensus does not recommend that the Land Board or DSL form such a group as a matter of course or without consideration, but should either entity determine that conditions argue for moving an advisory group process forward around a particular pathway, the following key process elements are likely to support group success:

- *Communicate a clear scope and charge.* If an advisory committee is formed, the issues to be addressed, the level of influence that parties will have on the process, and a clear timeline and work plan will all be necessary.
- *Use a neutral process manager and facilitator.* Oregon Consensus recommends the use of a neutral third-party facilitator to support any advisory or collaborative process, maintain meeting structure, and provide a balanced participatory process. This is especially important in the decoupling context, where one entity (i.e., DSL) is the current forest owner and an interested buyer might be stepping forward. Having either entity lead a group or process would create a situation where other stakeholders limit their participation due to perceptions of bias, or where the potential owner's ability to participate in shaping an outcome is compromised.
- *Engage a stepwise approach to a consensus-based process.* Given the complexity of potential issues being considered, and related questions at hand, Oregon Consensus recommends using a stepwise approach to collaboration beginning with the following:
 - *Identifying values and interests.* There are diverse interests and values around forest management in western Oregon and in Elliott State Forest. Most often, these values

are discussed among parties as positions (i.e., what parties want) rather than as the underlying interests that motivate their positions (i.e., why it is important to them). Formation of an advisory committee would provide an opportunity for parties to understand the underlying interests that shape positions.

- *Clarifying purpose and vision for Elliott State Forest:* A consensus-based approach benefits from clarity of purpose and vision. The Land Board can help promote this clarity by verifying the assumptions identified in this report and clarifying the issues and options in need of attention before any process. In the absence of an agreed-upon vision and purpose, the advisory or collaborative group can work to further develop the purpose and vision for a particular issue, project, or group. The vision strives to address the multiple interests of the advisory group or collaborative process, and articulates a shared outcome or future state the group would like to see.
- *Representation:* Invite a balanced group of participants from across sectors who have a genuine interest in participating in good faith (i.e., they feel themselves as likely, if not more likely, to achieve their overall goals through using a collaborative advisory approach as they would through other alternatives available to them).

Oregon Consensus suggests that before moving forward with decoupling, the Land Board confirm existing direction and assumptions related to the future of the forest (detailed in section 3) and also clarify its direction related to the areas of uncertainty described in section 5.

In addition, it is Oregon Consensus's understanding that at some point following the Land Board's October 2018 meeting and as early as December, OSU will, in accordance with its April 2017 framework, present DSL and the Land Board with an updated evaluation of its potential interest in future ownership of Elliott State Forest. As noted above, several other public entities also expressed potential interest in owning the forest. Given this, Oregon Consensus feels the field of potential serious public ownership entities needs to be clarified. Given the Land Board's desire to move rapidly towards resolution of Elliott State Forest potential decoupling and fulfillment of its obligation to the School Fund, at its October 16, 2018, meeting the Land Board could ensure potentially serious ownership entities are notified of the Land Board's desired timeline for action and have the ability to express their ownership interest to DSL in response to this report. As noted earlier in the report, the Land Board would likely wish to ensure any indication of interest is, while substantively less than a formal proposal for purchase, something more in substance and content than a letter of interest.

7. Conclusion

The Elliott State Forest is treasured by Oregonians. Not only has Elliott State Forest represented a precious gem to many, it has become for some, the epicenter of broader conversations around public lands, tribal sovereignty, habitat, jobs and economic opportunities, and deep cultural and historic ties to the land. The affinity that people feel for this forest makes finding a solution to the present situation a difficult proposition. Finding a solution for Elliott State Forest will require strong leadership—leadership that can overcome lack of trust, boldly clarify areas



of uncertainty, and provide clear direction and a vision for the future of Elliott State Forest. Numerous substantive challenges remain, including who the new public owner will be, whether an HCP can be achieved, how to balance timber harvest and conservation, and how to finance a complete buyout of the School Fund. The challenge in finding a solution lies in identifying a space that is sufficiently acceptable to the varied interests. But it is likely that no solution will satisfy everyone; there are those who would prefer that no compromises are made. Yet, among those whom we interviewed, there was a persistent theme of practicality and, for many, optimism that now is the time to resolve the issues that have long challenged Elliott State Forest.

Appendix A: Interview List

State Land Board Members

Jason Miner, Governor Brown's Office
Steve Elzinga, Secretary of State's Office
Dmitri Palmateer and Ryan Mann, State Treasurer's Office

Oregon State Legislature

Representative Caddy McKeown
Senator Arnie Roblan

Federal Agencies

Kim Kratz, NOAA Fisheries
Paul Henson, Richard Szlemp, US Fish and Wildlife Service
Jerry Ingersoll, US Forest Service-Siuslaw NF

State Government

Richard Whitman, Oregon Department of Environmental Quality
Curt Melcher, Doug Cottam, Dave Jepsen, Rod Krahmer, Oregon Department of Fish & Wildlife
Peter Daugherty, Liz Dent, and Ryan Greco (Coos Unit), Oregon Department of Forestry
MG Devereux, Oregon Parks and Recreation Department
Jim Paul, formerly Oregon Department of State Lands

Education Beneficiaries

Mayor Chuck Bennett, City of Salem
Morgan Allen, Confederation of Oregon School Administrators
Laurie Wimmer, Oregon Education Association
Jim Green & Lori Sattenspiel, Oregon School Board Association
David Gould, North Bend School District
Jerry Price

Recreation

Ken McCall, Oregon Hunters Association
Bill Richardson, Rocky Mountain Elk Foundation
Kyle Smith, Trout Unlimited

County Government

Commissioner John Sweet, Coos County
Commissioner Chris Boice, Douglas County

Tribes

Chief Warren Brainard, Doc Slyter, Debbie Bossley, Teresa Spangler, Doug Barrett, Margaret Corvi, Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians
Mike Wilson, Confederated Tribes of Grand Ronde
Robert Kentta, Mike Kennedy, Confederated Tribes of Siletz Indians of Oregon
Tim Vredenburg, Cow Creek Band of Umpqua Tribe of Indians

Timber Interests

Jake Gibbs, formerly with Lone Rock Timber Management Company
Toby Luther, Lone Rock Timber Management Company
Heath Curtiss, Oregon Forest and Industries Council
Scott Folk & Eric Geyer, Roseburg Forest Products
Matt Hill & Bob Ragon, Douglas Timber Operators
Jim Geisinger & Ralph Saperstein, Association of Oregon Loggers
Cameron Krauss & Casey Roscoe, Seneca Jones Timber

Conservation

Bob Sallinger (and Mike Selvaggio of Direct Action Partners), Audubon Society of Portland
Josh Laughlin, Cascadia Wildlands
Maria Farinacci & Clark McMahon, Coast Range Forest Watch
Evan Smith, The Conservation Fund
Brent Davies, Ken Margolis & Lisa Watt, EcoTrust
Andy Kerr, Larch Company
Peggy Lynch, League of Women Voters
Paige Spence, Oregon League of Conservation Voters
Rhett Lawrence, Sierra Club
Bob Van Dyk, Wild Salmon Center

Other

John Charles, Cascade Policy Institute
Julia Meier, City Club of Portland (former Coalition of Communities of Color)
Kelley Beamer, Coalition of Oregon Land Trusts
Anthony Davis & Geoff Huntington, Oregon State University
Keith Tymchuk, Port of Tillamook
Se-ah-dom Edmo, Western State Center

Note: Three interviewees (one beneficiary, labor, and tribal nation) were invited to participate but declined or did not respond

Appendix B: What is an Assessment?

A situation assessment is an interview-based information-gathering process undertaken to better understand issues and interests of involved parties and situation dynamics related to a complex public policy issue. Information gathered may include:

- What are the issues and opportunities?
- Who are the key parties and what are their interests?
- What options could be helpful to address those interests and what parameters would help ensure the greatest likelihood for success?

Typically, such an assessment involves a neutral, third-party who interviews a range of affected and potentially affected individuals to understand the interests and substantive issues that need to be addressed, as well as the likely challenges, barriers and opportunities for moving forward. The third party uses information from interviewees to identify cross-cutting themes, challenges and opportunities. Information gained is given freely and analyzed without bias. All interviews are private and no input is attributed to interviewees by name or affiliation. At the conclusion of the interviews, the neutral third party provides a summary report that identifies key issues, themes and options that might be useful. This report is made available to everyone who participated in the assessment and other interested parties. The procedural options that are identified by an assessment are meant to inform, rather than dictate a particular course of action.

Interview Questions

1. Please share your background, involvement, knowledge and/or role with respect to the Elliott State Forest.
2. What do you perceive are the major topics that, from your perspective, need to be addressed through a decoupling effort?
3. What are the challenges or barriers to addressing these topics? Do you have any suggestions for how they might be overcome? Are there any approaches or ideas that are non-starters for you?
4. What does success look like, from your perspective? What happens if the status quo continues?
5. How would you describe what the financial requirement is for achieving decoupling? What are some of the revenue streams and/or business models to meet financial requirements needed to complete decoupling?
6. Do you have specific thoughts on the timeline and relationship between decoupling and HCP efforts?
7. Do you have specific thoughts on who a long-term public ownership entity could be? Would this entity also be the land manager?

8. Are there lessons learned (positive or negative) from past efforts (on the Elliott State Forest or elsewhere) that should be applied to this process?
9. Are there information, data, or other technical resource needs (sources of data and resources) that you think should be addressed, utilized and considered as part of informing a decoupling solution?
10. What resources do you have that could be brought to bear in support of a decoupling effort?
11. Is there anyone else you think we should interview and why?
12. Do you have any questions for us? Is there anything we didn't ask that we should be asking?

Appendix C: ORS 190.010 Governance Example

One formal mechanism for establishing an intergovernmental entity is ORS Chapter 190, which provides for the formation of an intergovernmental cooperative agreement between local governments (ORS 190.010) and between local governments/public agencies and state agencies (ORS 190.110). Intergovernmental agreements (IGA) create the authority and form the basis for the delivery of government services by two or more agencies or local governments. One advantage of establishing an ORS 190 intergovernmental agency is that doing so does not need legislative approval. However, a less formal mechanism may be more appropriate depending on the long-term governance approach taken by the future owner of Elliott State Forest.

One model of a creative approach to governance and partnerships that could be applied to long-term management solutions of Elliott State Forest would be the Salmonberry Trail Intergovernmental Agency (STIA). The Salmonberry Trail is an 86-mile long multi-use non-motorized trail that stretches from the Port of Tillamook Bay to the Portland area. The trail runs through a large number of local government jurisdictions with logistical issues, including permitting development of new construction projects within a trail right-of-way, signage, public safety issues, and sharing of responsibilities associated with operations and maintenance.

In 2016 with the assistance of Oregon Solutions at Portland State University, the group identified opportunities for sharing and leveraging resources between the agencies to coordinate activities across jurisdictional boundaries for trail planning and development, and established the STIA through establishing an intergovernmental agency. The STIA is comprised of the State of Oregon, Oregon Department of Forestry, Oregon Parks and Recreation District, Tillamook County and the Port of Tillamook Bay. Ex-officio members on the board include a coalition of partners such as the Confederate Tribes of Grand Ronde, Tillamook Forest Heritage Trust, Cycle Oregon, Washington County Visitors Association, Governor's Regional Solutions Team North Coast Coordinator, Oregon State Senator from district 16, Oregon State Representative from district 32, among other stakeholders and interest groups.



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State Land Board

Kate Brown

Governor

M E M O R A N D U M

Dennis Richardson

Secretary of State

Date: October 16, 2018

Tobias Read

State Treasurer

To: Governor Kate Brown
Secretary of State Dennis Richardson
State Treasurer Tobias Read

From: Vicki L. Walker
Director

Subject: RFI Forest Management Update

As reported to the Board in a May 9, 2017 Memorandum by former DSL Director, Jim Paul, approximately 118,000 acres of trust lands (or 15%) are currently not generating positive revenues for the Common School Fund. It is estimated these acres make up about 60% of the total asset value of the Common School Fund trust lands.

Most of these acres – 82,500 – comprise the Elliott State Forest which up until the close of FY17 was managed by Oregon Department of Forestry (ODF). Titan-Kelly, LLC currently manages the Elliott under contract, providing forest road maintenance, tree planting services, refuse removal and disposal, general forestland management, including wildfire prevention, detection and notification to Coos Fire Protection Association for fire suppression. Timber harvest has ceased on the Elliott while the Department engages in the decoupling and HCP process.

Approximately 33,000 acres are forestlands managed for the Department by ODF, also referred to as “certified” forestlands. The remaining 2500 acres, known as “noncertified” forestlands, are managed by the Department, although at present the Department does not have a forester to perform this function. The Department has struggled for months to hire a forester to work with our contractor on the Elliott, as well as to provide advice

and guidance on how to manage and harvest timber on our noncertified forestlands. The Department is currently engaging in alternative strategies to expand the forester recruitment.

The Department and ODF engaged in some spirited conversation in May and June of 2018 regarding our current management contract and fees. We worked through those issues with the help of our fiscal analysts to solve the discrepancies in the budget; the Board approved the ODF budget at the June 12, 2018 meeting.

At that same meeting, the Department recommended proceeding with a Request for Information (RFI) from the vendor community to see if there are other entities who could provide forest management at lower cost. The RFI was posted July 31 on the Oregon Procurement Information Network, and closed August 16. Thirty-six companies downloaded the RFI but only one responded.

Disappointed in the outcome, the Department asked our intern from Oregon State University, School of Public Policy, Angela Patricia Lavado Alvarado, to conduct interviews and provide an analysis of the results. Angela's work tells us:

- 44% of the companies indicated the RFI was outside their range of services
- 28% indicated they did not have enough time to complete the document, though 72% said the time was adequate
- 11% indicated they do not respond to RFIs
- 78% considered the information in the RFI sufficient to provide answers
- 56% would not have responded even if it had been a Request for Proposal (RFP), yet 44% would have responded if it had been an RFP

For now, the Department will continue with its management agreement with Oregon Department of Forestry. Once we have a forester on board, the Department will once again examine our options in light of Goal 2 in our Strategic Plan to develop a forestlands management strategy for currently underperforming forestlands; review and assess forest operations on actively managed forestlands to ensure proper management; and to pursue active management of decertified or currently underperforming forestlands to gain revenue from timber (or other) resources.

As part of the Department's exploration to evaluate options for management of the Common School Forestlands, our intern conducted an analysis of the land classes of properties adjacent to the Department's wide-ranging forestlands across 18 counties. The properties are classified by land management class, title holder and land manager. GIS mapping provided valuable information about the types of ownership around the Common School Fund properties by county.

The study is attached as Appendix A. This information will be extremely valuable to the Department as we pursue strategies to improve management of these properties or decide to dispose of them.

Land Class Adjacent to Common School Forest Lands

Prepared By

Angela Patricia Lavado Alvarado

Document submitted as part of internship deliverables

Oregon Department of State Lands

Oregon State University, School of Public Policy

October 1, 2018

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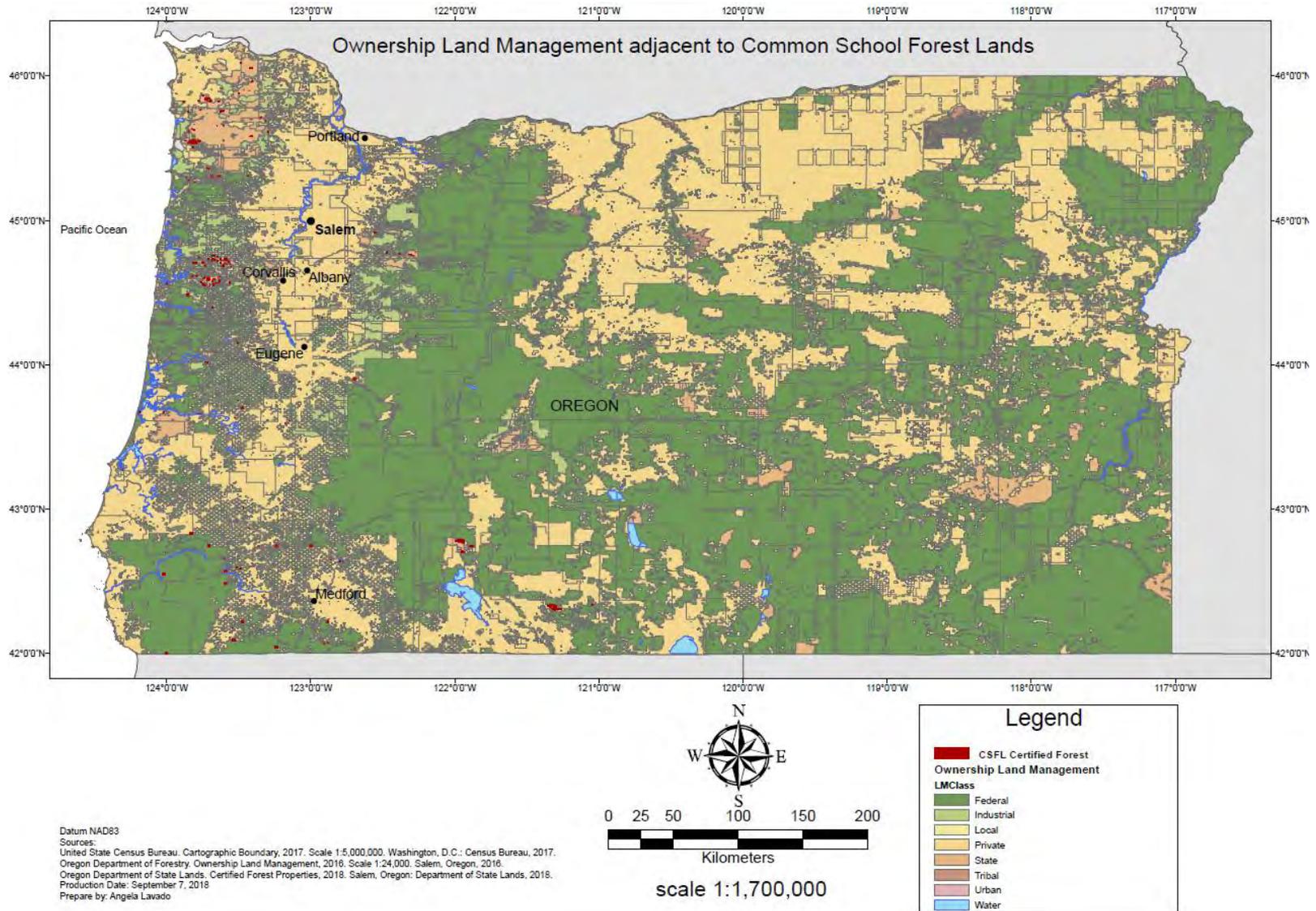
Introduction

The Common School Forest Lands (CSFL) are forested areas devoted to the commercial growing and harvesting of forest products. The revenue obtained from CSFL forest products is set aside for Oregon public schools, K-12. CSFL properties are located in 18 counties and managed by the Oregon Department of Forestry (ODF). Due to concerns about current operating costs, the State Land Board (SLB) has asked the Department State of Lands (DSL) to develop alternative strategies for management of these CSFL.

As part of DSL's exploration to evaluate options for the management of CSFL, this study identifies the land classes around the CSFL properties. Property types were classified by land management class, titleholder and land manager. Among the land management classes are federal, industrial, county, private and state. The title holder was classified by private, company name, county name, Oregon Board of Forestry, Oregon State Land Board, US Forest Service, and US Bureau of Land Management. The land manager was classified as county government, ODF, industrial, private, US Bureau of Land Management, and US Forest Service. Data for this study was collected from the ODF and DSL.

Cartographic information pertaining to ownership, land management entity and CSFL properties was used to identify the properties around the CSFL. This document contains a map of the location of the CSFLs and the types of land classification, percentages of the identified land management class types, and a listing and map of the types of ownership around CSFL properties by county. Two appendixes of the CSFL that have a border with the properties managed by ODF and federal land ownership are also attached.

1. Ownership adjacent to CSFL in Oregon



The data analyzed indicates that 35.4% of the land management class around the CSFL is state. Followed by private (24.4%) and federal (22.2%) class (Fig 1). Similarly, most of the titleholders adjacent to CSFL is the Oregon Board of Forestry (34.8%), followed by private holders (24.5%) and the US Bureau of Land Management (11.7%) (Fig. 2). Regarding the type of land manager adjacent to CSFL properties, the data shows that the Oregon Department of Forestry manages 33.9% of the parcels adjacent to the CSFL, 24.8% are managed by private ownership and 16.2% by forest industry ownership (Fig. 3).

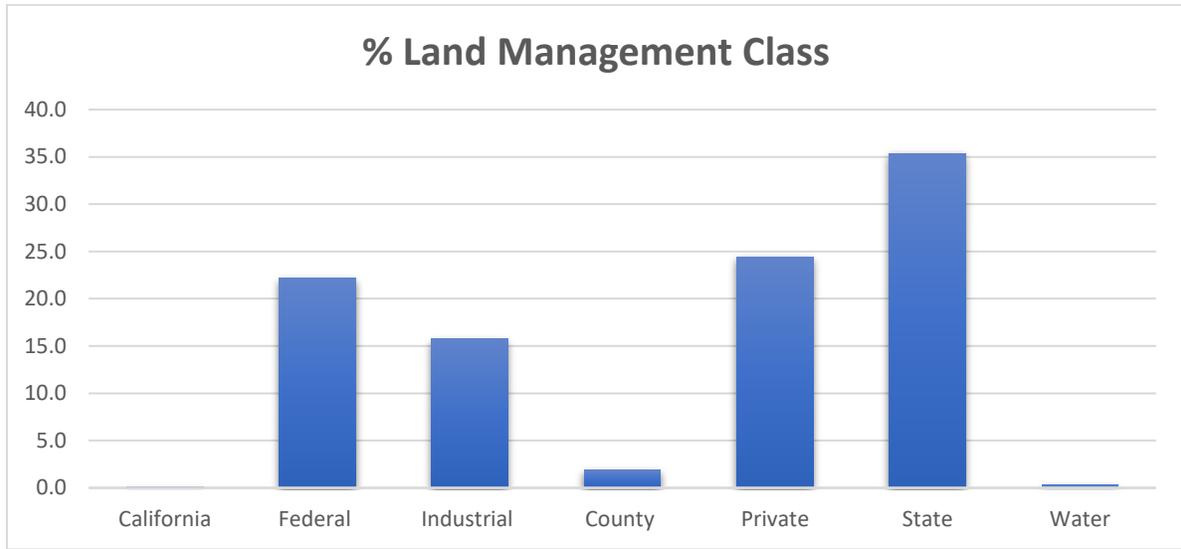


Figure 1. Percentage land management class around CSFL parcels

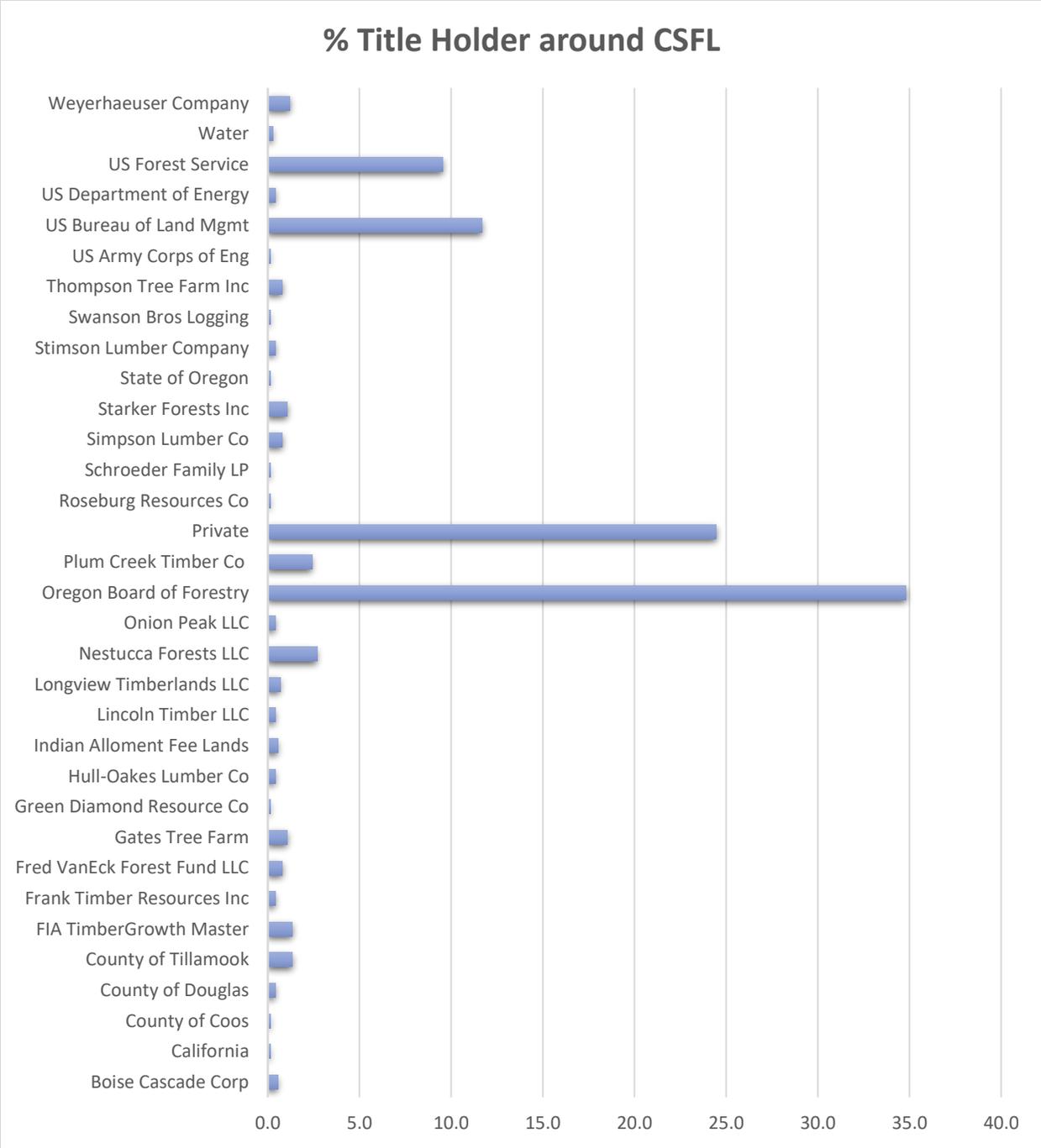


Figure 2. Title holder around CSFL parcels



Figure 3. Type of land manager around CSFL parcels

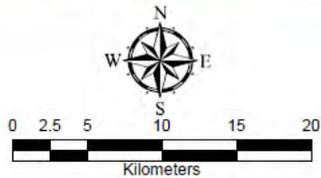
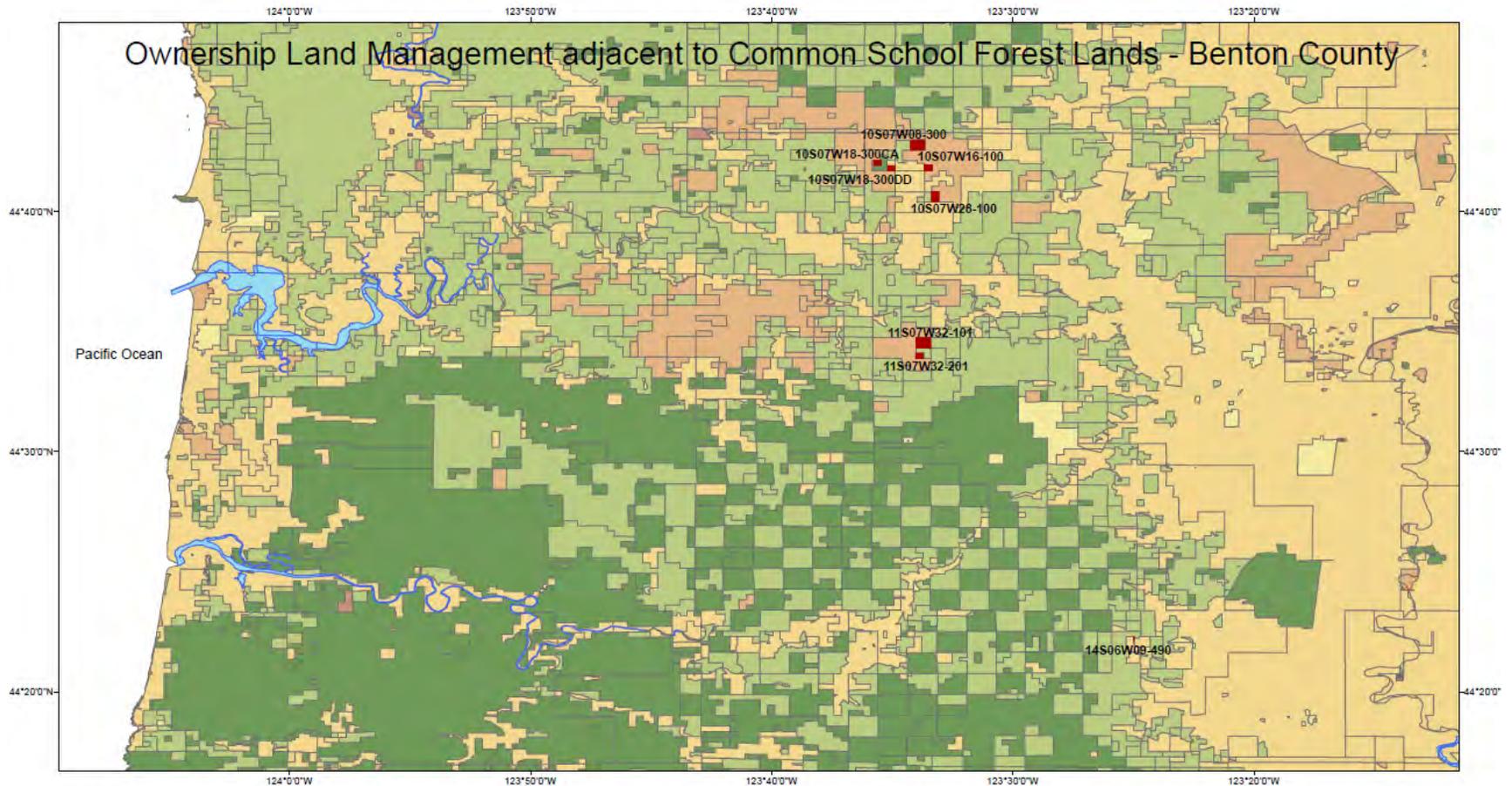
2. Ownership adjacent to CSFL by County

Below is a list of the types of ownership around the CSFL parcels by county and a map of the CSFLs and the type of ownership is presented.

2.1 Ownership adjacent to Common School Forest Lands – Benton County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Benton	se4	10S07W08-300	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	Industrial	Hull-Oakes Lumber Co	Private Industrial Ownership
Benton	ne4sw4	10S07W18-300CA	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	State	Oregon Board of Forestry	ODF
Benton	se4se4	10S07W18-300DD	Yes	40.00	North	Private	Private	Private Ownership
					South	State	Oregon Board of Forestry	ODF
					East	Private	Private	Private Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Benton	sw4sw4	10S07W16-100	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
Benton	e2nw4	10S07W28-100	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					South	Private	Private	Private Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Industrial	Starker Forest Inc	Private Industrial Ownership
Benton	sw4se4	11S07W32-101	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	Industrial	Starker Forests Inc	Private Industrial Ownership
					East	Industrial	Starker Forests Inc	Private Industrial Ownership
					West	State	Oregon Board of Forestry	ODF
Benton	sw4se4	11S07W32-201	Yes	40.00	North	Industrial	Starker Forests Inc	Private Industrial Ownership
					South	State	Oregon Board of Forestry	ODF
					East	Industrial	Starker Forests Inc	Private Industrial Ownership
					West	State	Oregon Board of Forestry	ODF
Benton		14S06W09-490	Yes	3.40	North	Industrial	Weyerhaeuser Company	Private Industrial Ownership
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Total acres for this county				563.40				

Ownership Land Management adjacent to Common School Forest Lands - Benton County



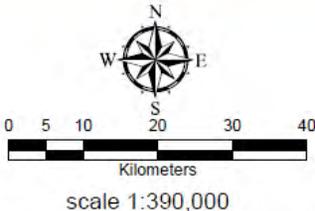
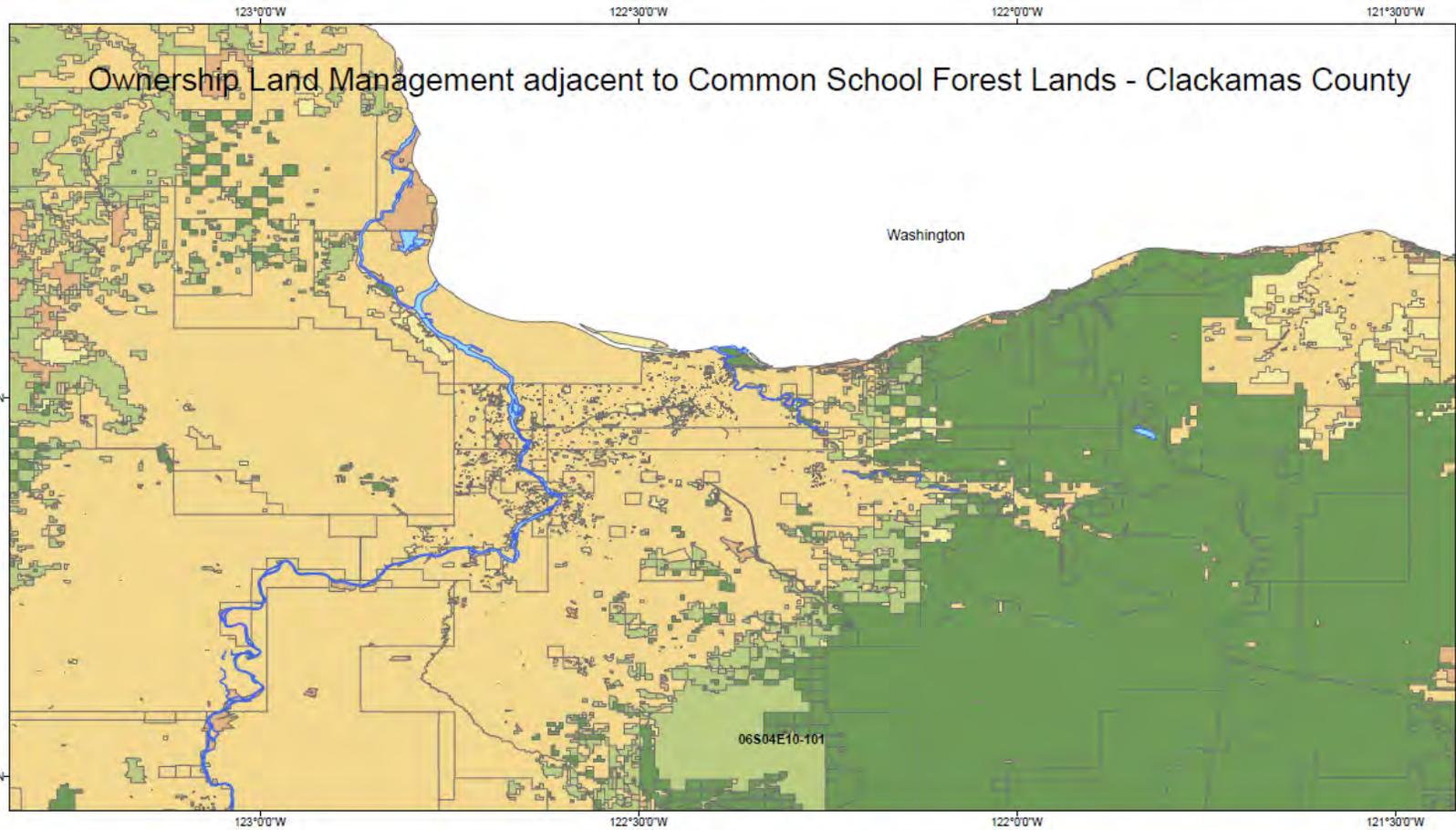
scale 1:194,300

Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2019
 Prepare by: Angela Lavado

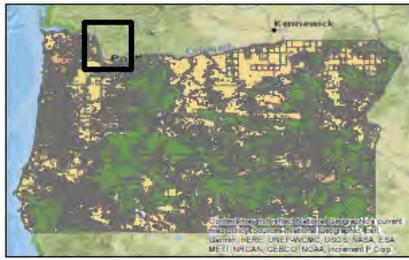


2.2 Ownership adjacent to Common School Forest Lands – Clackamas County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Clackamas	Lot 1,2,3,4	02.5S06E-36	Yes	72.99		No Data	No Data	No Data
Clackamas	ne4sw4	06S04E10-101	Yes	40.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Industrial	Weyerhaeuser Company	Private Industrial Ownership
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Total acres for this county				112.99				



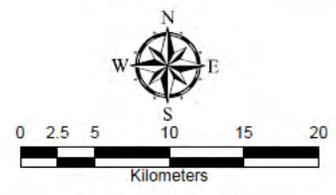
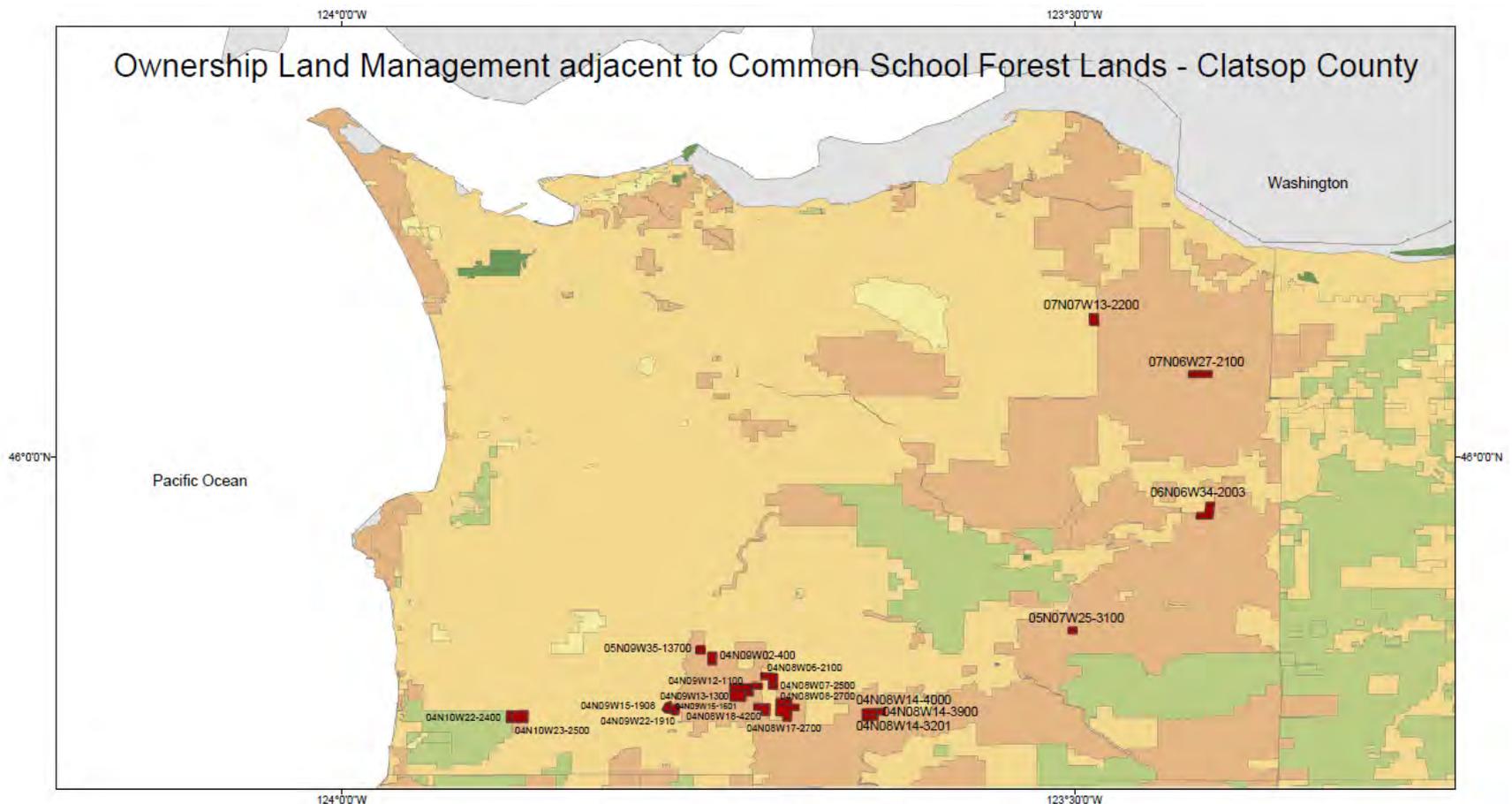
Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado



2.3 Ownership adjacent to Common School Forest Lands – Clatsop County

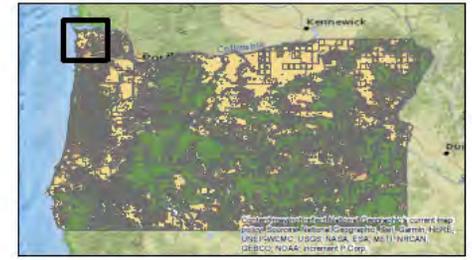
County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Clatsop	e2ne4	07N07W13-2200	Yes	80.00	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
Clatsop	se4sw4-s2se4	07N06W27-2100	Yes	120.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	w2ne4-ne4sw4-nw4se4	06N06W34-2003	Yes	160.00	North	Private	Private	Private Ownership
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
Clatsop	sw4nw4	06N06W35	Yes	38.80		No Data	No Data	No Data
					North	State	Oregon Board of Forestry	ODF
Clatsop	sw4sw4	05N07W25-3100	Yes	40.00	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Clatsop	lot 7	04N08W14-3900	Yes	39.59	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Clatsop	lots 5 and 6	04N08W14-4000	Yes	79.19	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Clatsop	lot 11 & 12 Section 14	04N08W14-3201	Yes	76.18	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Clatsop	lots 2, 3, 4, 5, 6, and 11	04N08W17-2700	Yes	235.52	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
					North	State	Oregon Board of Forestry	ODF
Clatsop	lots 13 and 14	04N08W08-2700	Yes	78.52	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
					North	Private	Private	Private Ownership
Clatsop	w2ne4-ne4nw4	04N08W18-4200	Yes	120.00	South	State	Oregon Board of Forestry	ODF
					East	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	ODF
					North	Private	Private	Private Ownership
Clatsop	NE1/4NE1/4 Sec. 7 T04N R08W	04N08W07-2500	Yes	39.50	South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
					North	Private	Private	Private Ownership
Clatsop	n2se4-se4se4	04N08W06-2100	Yes	120.00	South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	ODF
					SW	Private	Private	Private Ownership
Clatsop	NE/14NW1/4, Govt. Lot 1 Sec. 7 T04N R08W	04N08W07-2300	Yes	48.71	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	ODF
Clatsop	se4sw4-s2se4	04N09W12-1100	Yes	120.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	e2nw4-w2ne4	04N09W13-1300	Yes	157.48	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	n2ne4-sw4ne4-e2nw4	04N09W13-1200	Yes	42.52	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	lot 2, nw4se4	04N09W02-400	Yes	80.01	North	Private	Private	Private Ownership
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	se4se4	05N09W35-13700	Yes	41.20	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	ODF
Clatsop	se4sw4	04N09W15-1601	Yes	41.32	NW	Private	Private	Private Ownership
					NE	State	Oregon Board of Forestry	ODF
					South	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Clatsop	w2sw4	04N09W15-1908	Yes	50.38	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
Clatsop	SE4SE4	04N09W16-1907	Yes	0.20	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
Clatsop	N2NW4	04N09W22-1910	Yes	37.50	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
Clatsop	nw4	04N10W23-2500	Yes	160.00	North	Private	Private	Private Ownership
					South	State	Oregon Board of Forestry	ODF
					East	Private	Private	Private Ownership
					West	Industrial	Onion Peak LLC	Private Industrial Ownership
Clatsop	e 880 feet of ne4	04N10W22-2400	Yes	53.33	North	Private	Private	Private Ownership
					South	Industrial	Onion Peak LLC	Private Industrial Ownership
					East	Private	Private	Private Ownership
					West	Industrial	Onion Peak LLC	Private Industrial Ownership
Total acres for this county				2059.95				

Ownership Land Management adjacent to Common School Forest Lands - Clatsop County



scale 1:195,400

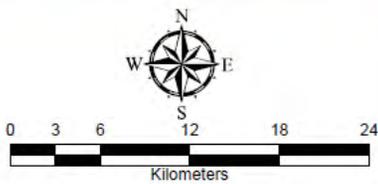
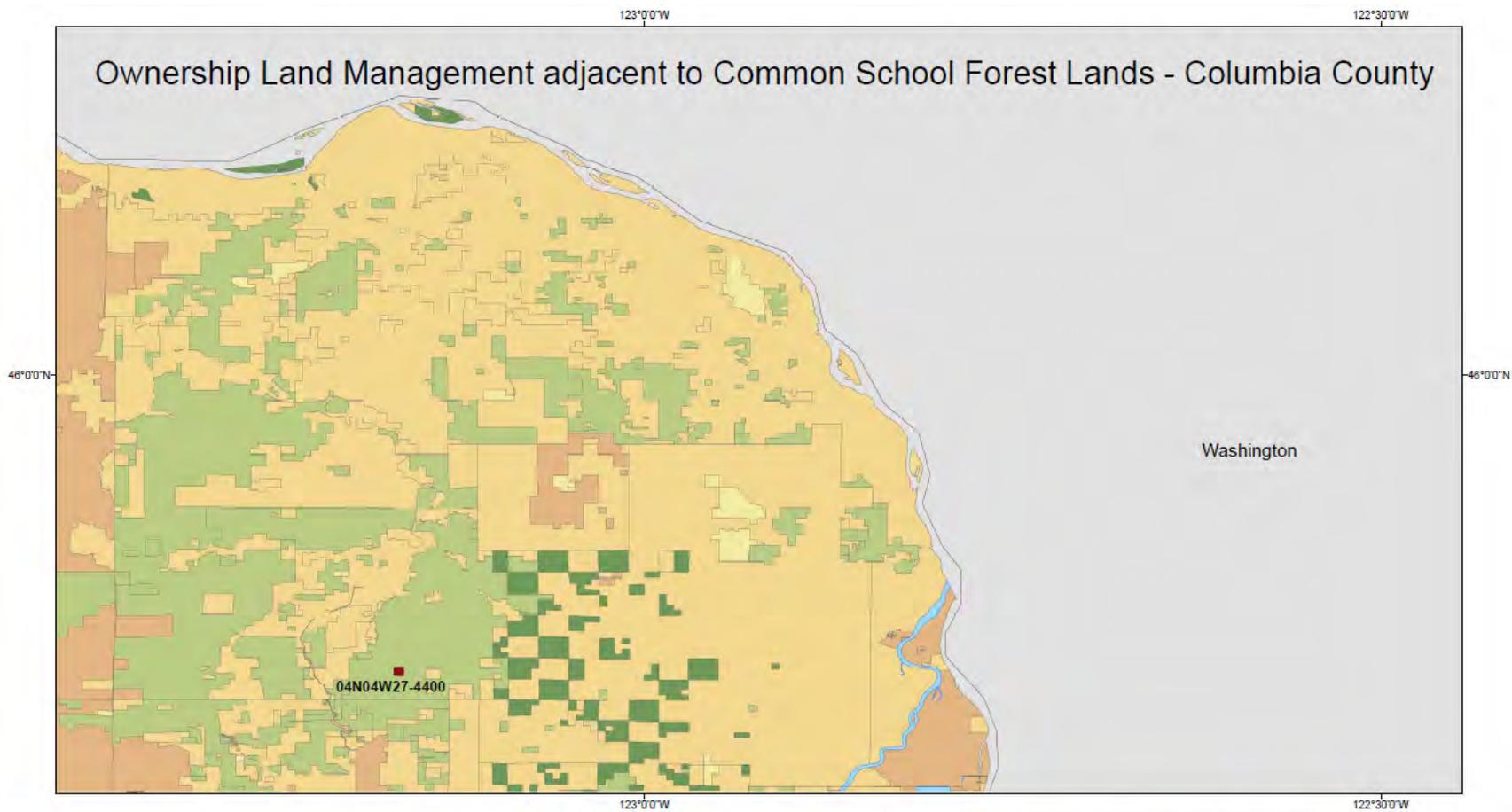
Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado



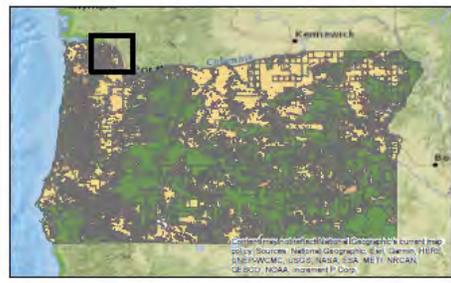
2.4 Ownership adjacent to Common School Forest Lands – Columbia County

Total acres for this county				2059.95	Type of property around			
County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Columbia	NW4NE4	05N04W08	Yes	40.00		No Data	No Data	No Data
Columbia	ne4sw4	04N04W27-4400	Yes	40.00	North	Industrial	Weyerhaeuser Company	Private Industrial Ownership
					South	Industrial	Weyerhaeuser Company	Private Industrial Ownership
					East	Industrial	Weyerhaeuser Company	Private Industrial Ownership
					West	Industrial	Weyerhaeuser Company	Private Industrial Ownership
Total acres for this county				80.00				

Ownership Land Management adjacent to Common School Forest Lands - Columbia County

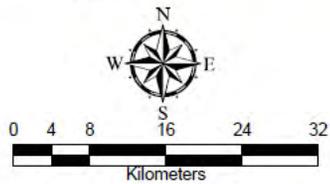
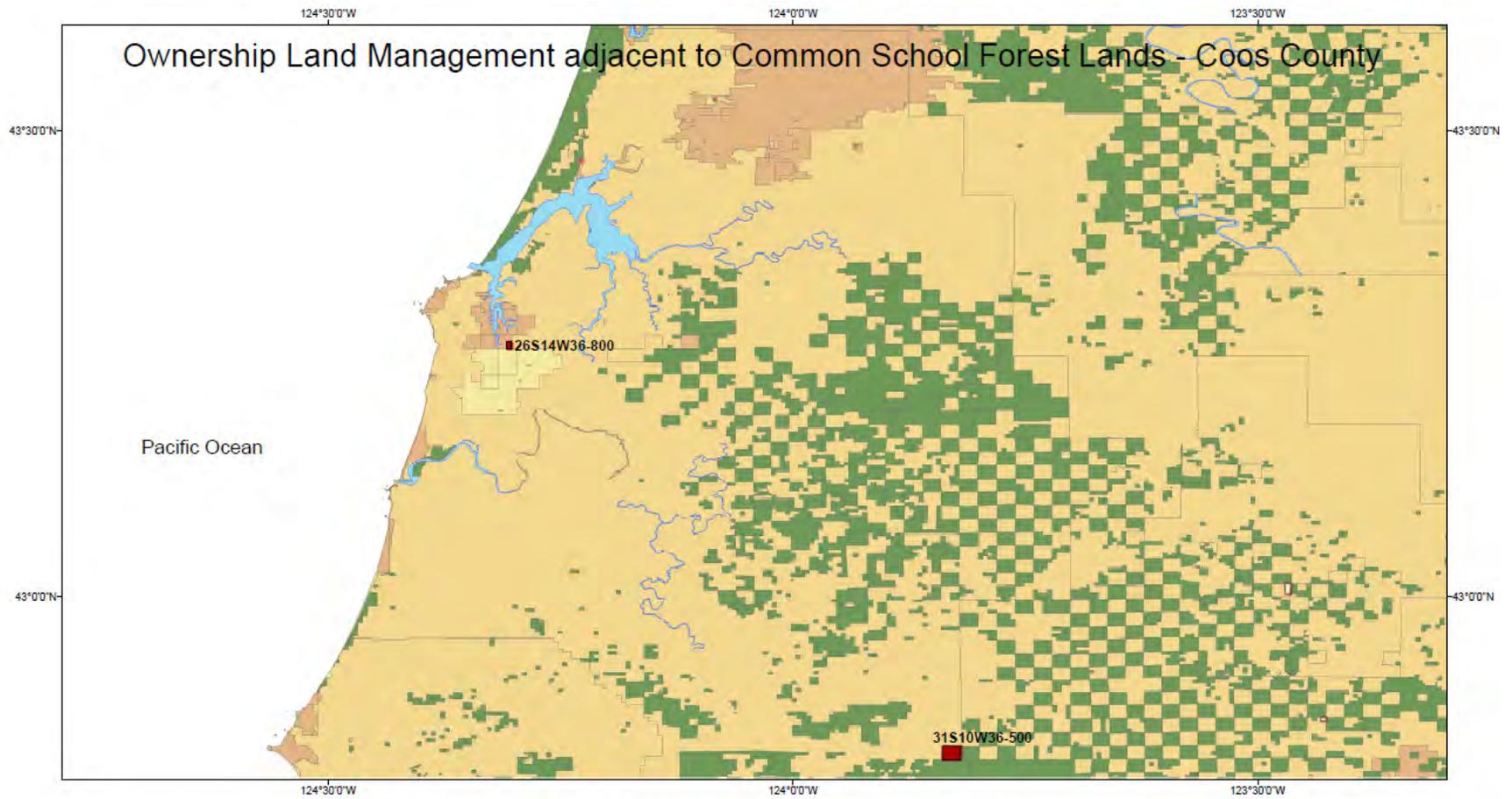


Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017, Scale 1:5,000,000, Washington, D.C.; Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016, Scale 1:24,000, Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018, Salem, Oregon; Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado



2.5 Ownership adjacent to Common School Forest Lands – Coos County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Coos	W2SE4	26S14W36-800	Yes	80.00	North	State	Oregon State Land Board	DSL
					South	County	County of Coos	County Government
					East	Private	Private	Private Ownership
					West	State	Oregon State Land Board	DSL
Coos	ALL	31S10W36-500	Yes	640.00	North	Private	Private	Private Ownership
					SW	Federal	US Forest Service	US Forest Service
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					SE	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Private	Private	Private Ownership
Total acres for this county				720.00				



scale 1:305,000

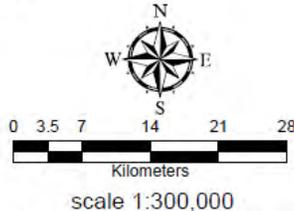
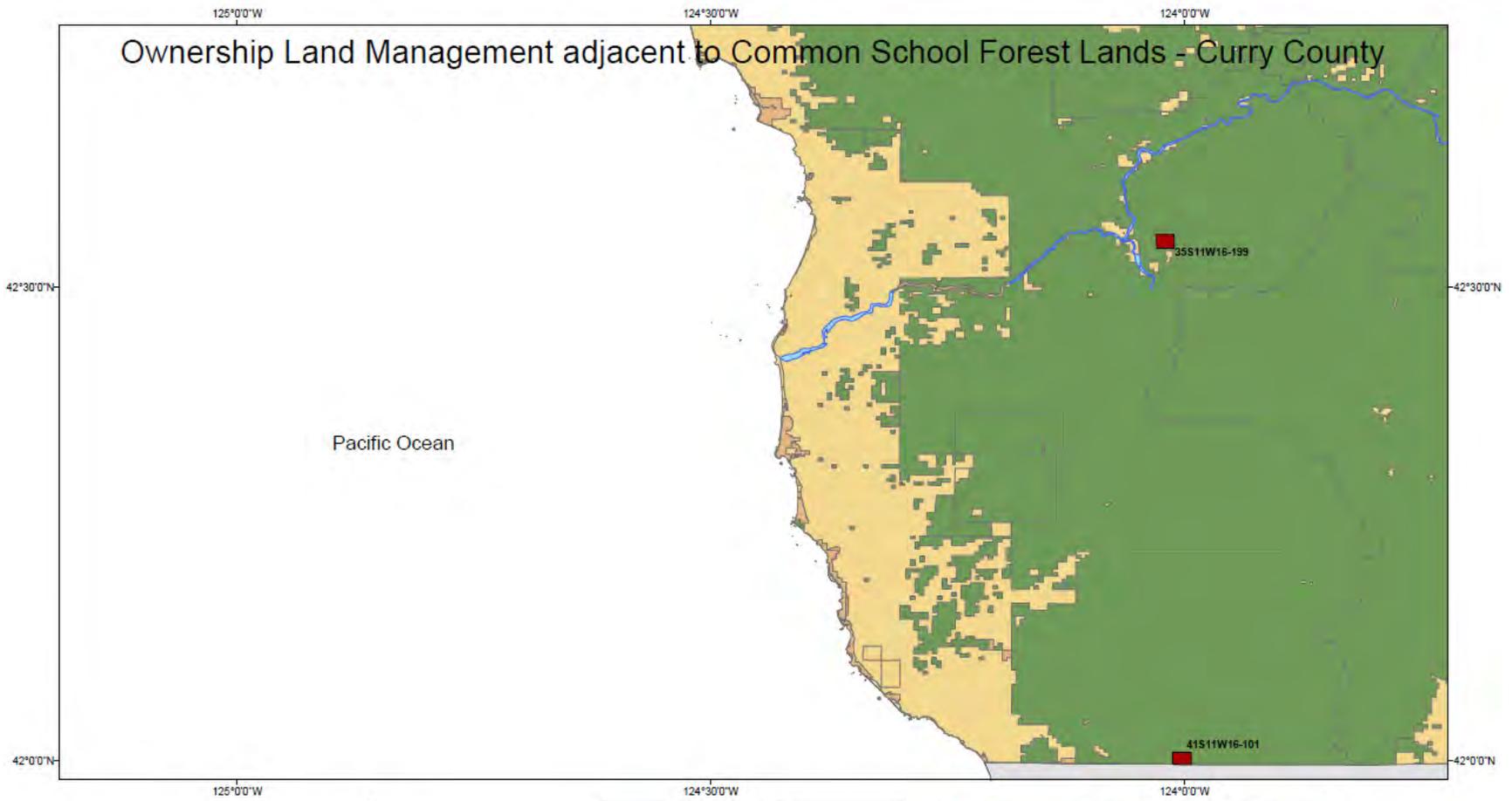
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 Sources:
 United State Census Bureau. Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry. Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands. Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado



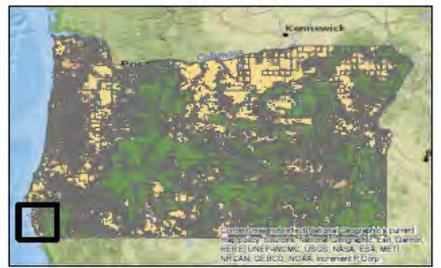
2.6 Ownership adjacent to Common School Forest Lands – Curry County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Curry	e2-e2w2-lot 1-4	35S11W16-199	Yes	607.76	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Curry	lot 1-4-n2-n2s2, School Lands	41S11W16-101	Yes	555.08	North	Federal	US Forest Service	US Forest Service
					South	California	California	California
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Curry	LOTS 13, 14, 15, 17, 18, 19, 20	41S12W16	Yes	189.40		No Data	No Data	No Data
Total acres for this county				1352.24				

Ownership Land Management adjacent to Common School Forest Lands - Curry County



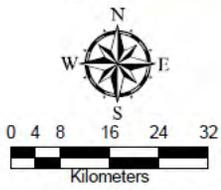
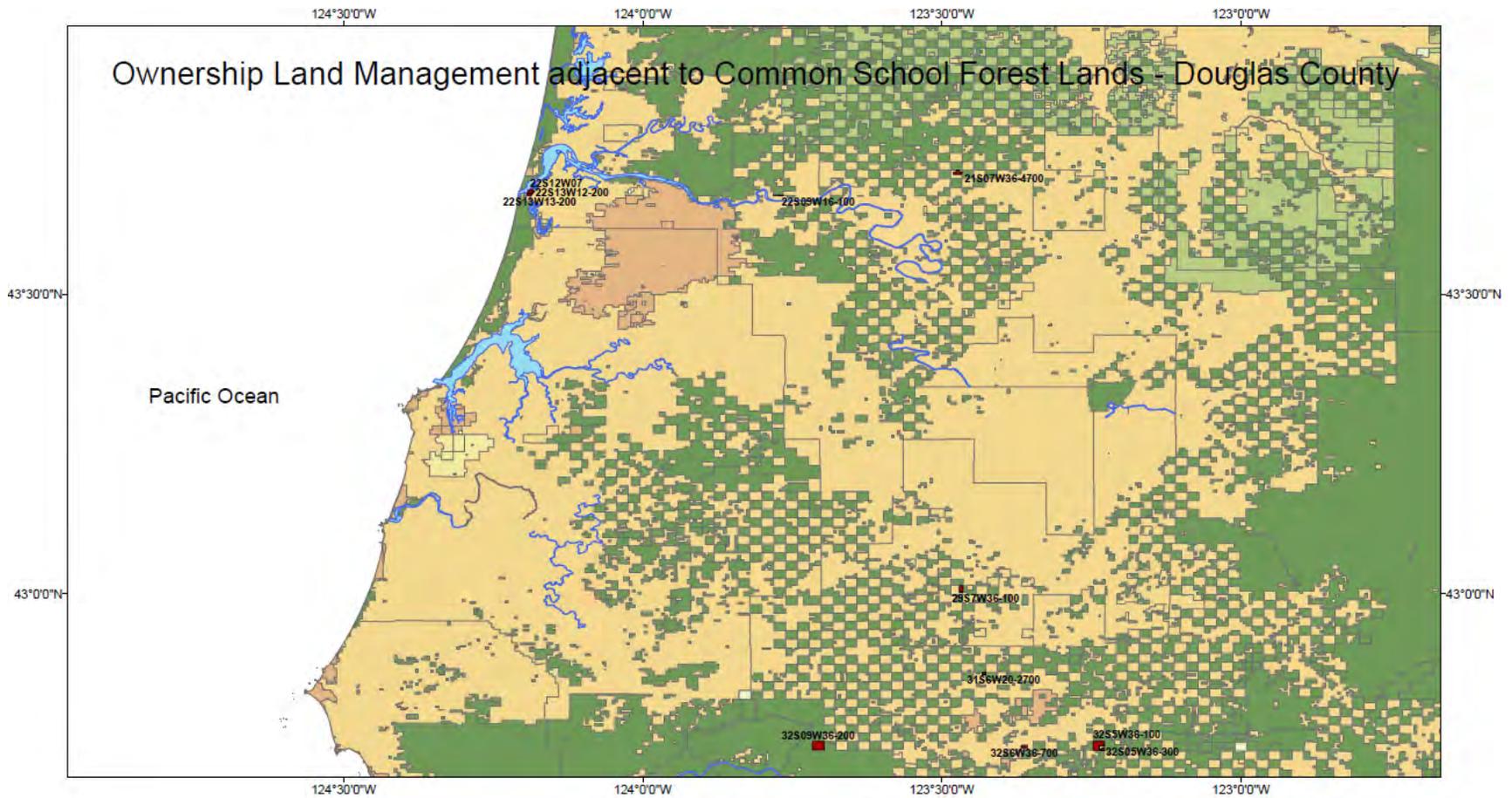
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 Sources:
 United State Census Bureau. Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry. Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands. Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado



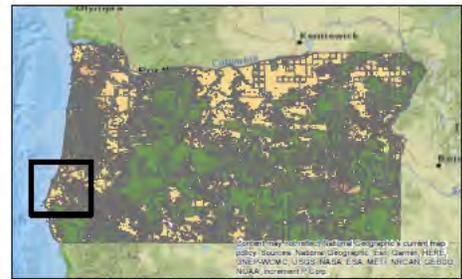
2.7 Ownership adjacent to Common School Forest Lands – Douglas County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Douglas	LOTS 9, 10, 11, 12	22S09W16-100	Yes	28.31	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Private	Private	Private Ownership
Douglas	SW4SW4	22S12W07	Yes	7.30	North	County	County of Douglas	County Government
					South	State	Oregon State Land Board	DSL
					East	Private	Private	Private Ownership
					West	State	Oregon State Land Board	DSL
Douglas	Lots 3, 4, W2SE4	23S09W06	Yes	124.78		No Data	No Data	No Data
Douglas	Lot 1	23S10W11	Yes	4.40		No Data	No Data	No Data
Douglas	w2ne4-se4ne4-se4nw4	21S07W36-4700	Yes	160.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Private	Private	Private Ownership
Douglas	lots 1,2,3	29S7W36-100	Yes	140.03	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Private	Private	Private Ownership
Douglas	ne4ne4	31S6W20-2700	Yes	40.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Private	Private	Private Ownership
Douglas	Govt. Lots 1,2,4,5, W1/2NE/14, NW1/4, N1/2SW1/4 Sec. 36 T32S R05W	32S05W36-100	Yes	463.54	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	Portions of Govt. Lots 3, 6, 7, see DSL Bk41Pg141 for land sale description	32S05W36-300	Yes	46.29	North	Private	Private	Private Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	n2sw4	32S6W36-700	Yes	80.00	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Douglas	w2-w2e2-lots 1-4	32S09W36-200	Yes	637.02	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					NE	Private	Private	Private Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	n2ne4	22S13W13-200	Yes	62.61	North	Elliot State Forest	Oregon State Land Board	DSL
					South	State	State of Oregon	Parks and Recreation Dept
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Douglas	Lots 1 & 2	22S13W12-200	Yes	113.55	North	County	County of Douglas	County Government
					South	State	Oregon State Land Board	DSL
					East	County	County of Douglas	County Government
					West	Water	Water	Water
Total acres for this county				1907.83				

Ownership Land Management adjacent to Common School Forest Lands - Douglas County

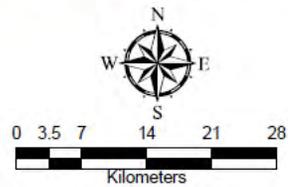
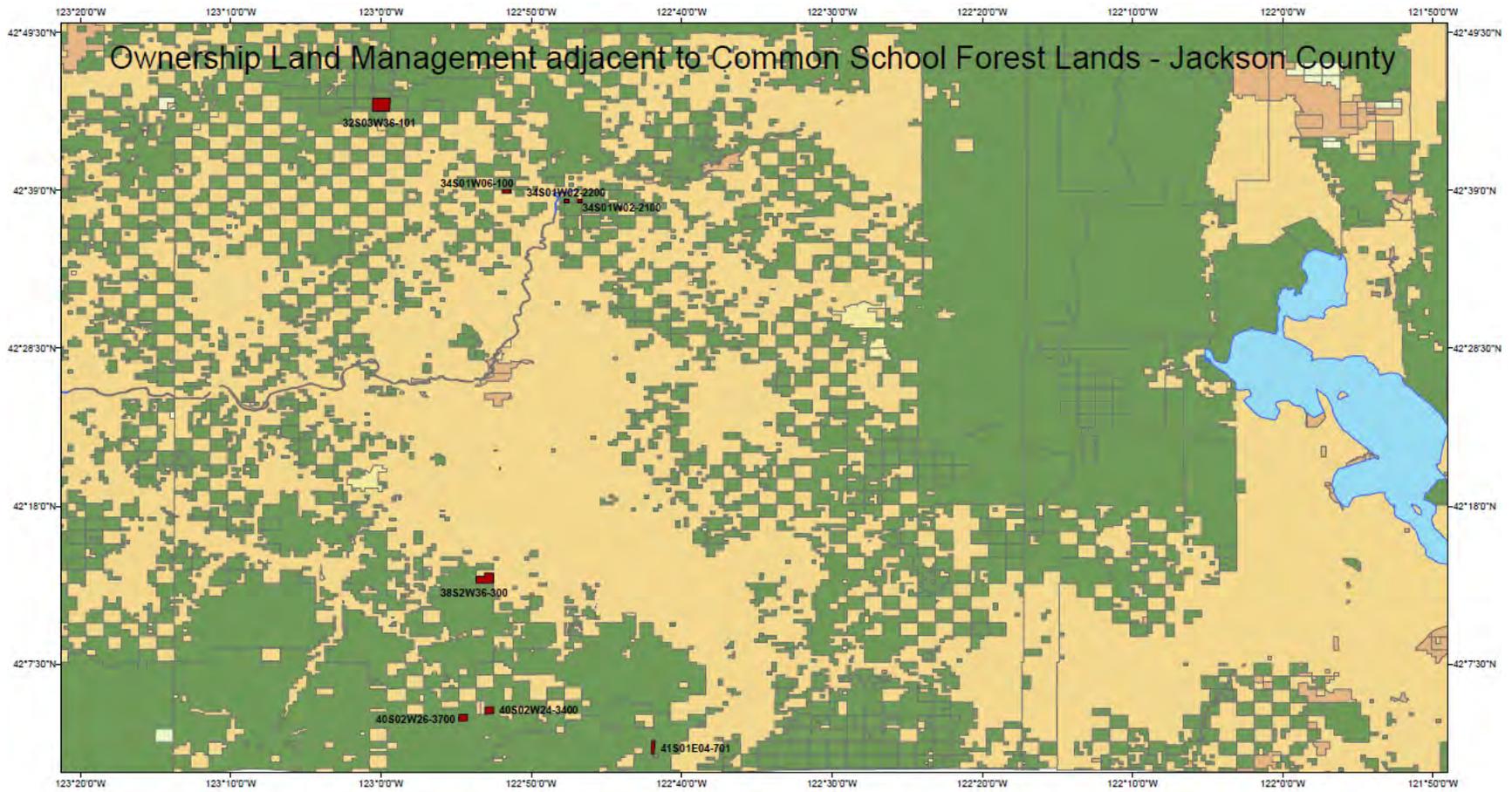


Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2016. Salem, Oregon: Department of State Lands, 2016.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado

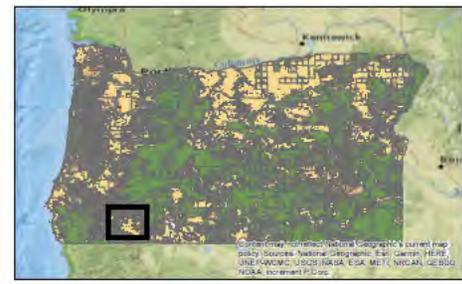


2.8 Ownership adjacent to Common School Forest Lands – Jackson County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Jackson	n2-n2s2-lots 1-4	32S03W36-101	Yes	639.85	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Forest Service	US Forest Service
					SE	Private	Private	Private Ownership
					SW	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Jackson	NE1/4NE1/4, NW1/4NE1/4 Sec 6 T34S R01W	34S01W06-100	Yes	78.95	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Jackson	SW1/4/SW1/4 Sec 2 T34S R01W	34S01W02-2200	Yes	40.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Jackson	SE1/4SE1/4 Sec 2 T34S R01W	34S01W02-2100	Yes	40.00	North	Private	Private	Private Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Jackson	s2ne4-n2s2-lots 1-4	38S2W36-300	Yes	395.04	North	Private	Private	Private Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Private	Private	Private Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Jackson	se4	40S02W24-3400	Yes	160.00	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Private	Private	Private Ownership
Jackson	lots 1,6,7,12	41S01E04-701	Yes	107.72	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Jackson	nw4	40S02W26-3700	Yes	160.00	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Total acres for this county				1621.56				

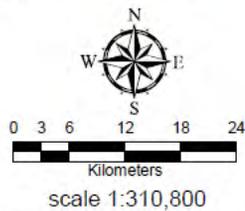
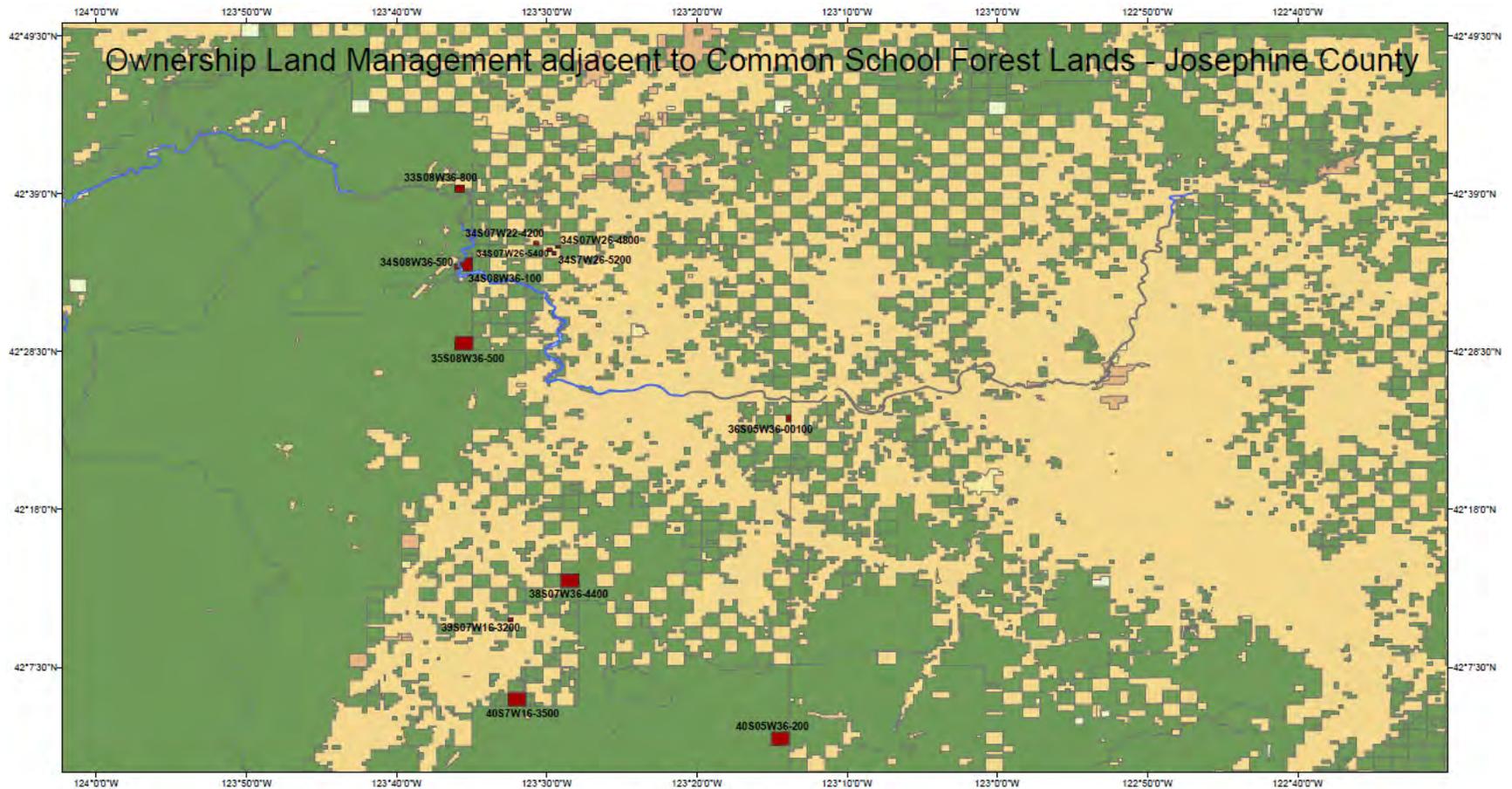


Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017, Scale 1:5,000,000, Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016, Scale 1:24,000, Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018, Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado

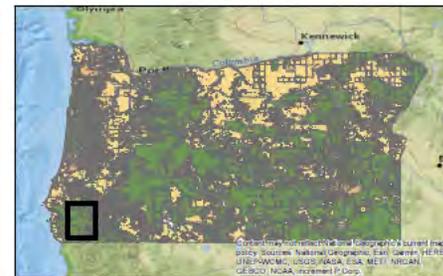


2.9 Ownership adjacent to Common School Forest Lands – Josephine County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Josephine	sw4	33S08W36-800	Yes	160.00	North	Private	Private	Private Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					SE	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					NE	Private	Private	Private Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	SW1/4SE1/4 Sec. 22 T34S R07W	34S07W22-4200	Yes	40.00	North	Private	Private	Private Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Josephine	NE1/4NE1/4 Sec. 26 T34S R07W	34S07W26-4800	Yes	39.51	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Private	Private	Private Ownership
Josephine	SE1/4NW1/4 Sec. 26 T34S R07W	34S07W26-5400	Yes	40.18	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Josephine	NE1/4SE1/4 Sec. 26 T34S R07W	34S07W26-5200	Yes	40.31	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Josephine	lots 1,6,7,11-e2e2-nw4se4	34S08W36-100	Yes	334.02	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Water	Water	Water
Josephine	lots 1,6,7,11-e2e2-nw4se4	34S08W36-500	Yes	41.95	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	w2-w2e2-lots 1-4	35S08W36-500	Yes	638.28	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Forest Service	US Forest Service
Josephine	nw4-n2sw4-w2ne4-nw4sw4-lots1-4,5,7	38S07W36-4400	Yes	668.89	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	w2-w2e2-lots 1-4	40S05W36-200	Yes	637.92	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Josephine	ALL	40S7W16-3500	Yes	640.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	ALL	39S09W36	Yes	640.00		No Data	No Data	No Data
Josephine	SW1/4NW1/4 Sec 4 T39S R09W	39S07W16-3200	Yes	40.00	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Total acres for this county				3961.06				

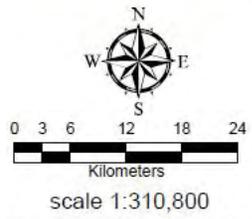
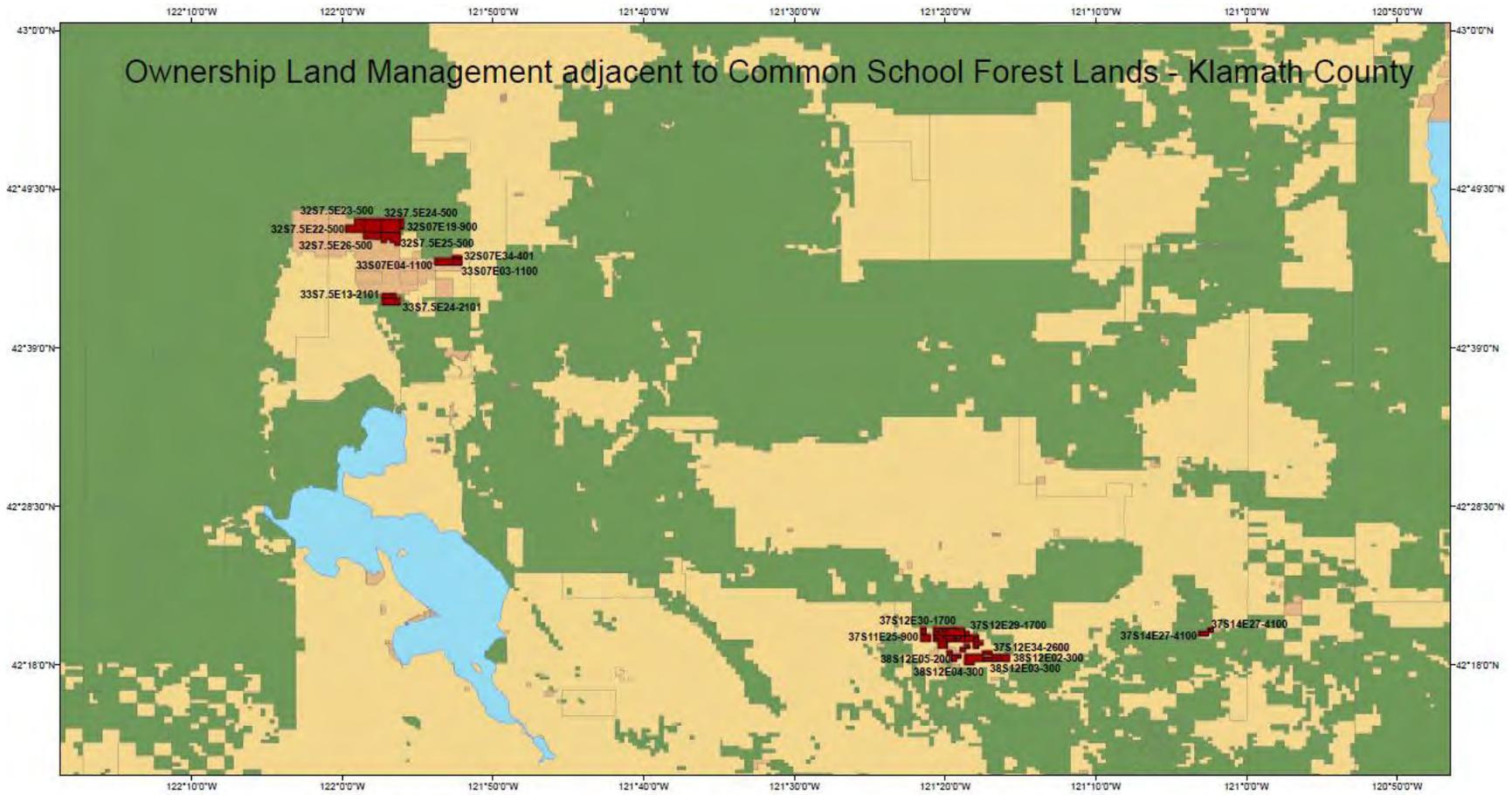


Datum NAD83
 Sources:
 United State Census Bureau. Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry. Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands. Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado

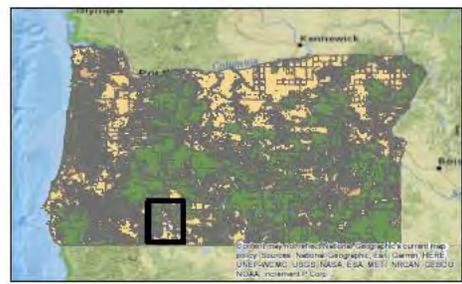


2.10 Ownership adjacent to Common School Forest Lands – Klamath County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Klamath	NE4, S2	3257.5E22-500	Yes	480.00	North	Federal	US Forest Service	US Forest Service
					South	State	Oregon Board of Forestry	ODF
					East	CSFL	Oregon State Land Board	ODF
Klamath	ALL	3257.5E23-500	Yes	640.00	West	State	Oregon Board of Forestry	ODF
					North	Federal	US Forest Service	US Forest Service
					South	CSFL	Oregon State Land Board	DSL
Klamath	ALL	3257.5E24-500	Yes	640.00	East	CSFL	Oregon State Land Board	DSL
					West	CSFL	Oregon State Land Board	DSL
					North	Federal	US Forest Service	US Forest Service
Klamath	lots 7,8,13	32507E19-900	Yes	100.22	South	State	Oregon Board of Forestry	ODF
					East	Federal	US Forest Service	US Forest Service
					West	CSFL	Oregon State Land Board	DSL
Klamath	n2	3257.5E26-500	Yes	320.00	North	CSFL	Oregon State Land Board	DSL
					South	State	Oregon Board of Forestry	ODF
					East	CSFL	Oregon State Land Board	DSL
Klamath	N2, NW4SW4, N2SE4, SE4SE4	3257.5E25-500	Yes	480.00	West	State	Oregon Board of Forestry	ODF
					North	CSFL	Oregon State Land Board	DSL
					East	Private	Private	Private Ownership
Klamath	lots 1-4-s2n2	33507E04-1100	Yes	319.20	West	Federal	US Forest Service	US Forest Service
					South	State	Oregon Board of Forestry	ODF
					East	CSFL	Oregon State Land Board	DSL
Klamath	lots 3,4, s2nw4	33507E03-1100	Yes	160.00	West	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	Private	Private	Private Ownership
Klamath	s2s2sw4-s2n2s2sw4	32507E34-401	Yes	60.00	West	CSFL	Oregon State Land Board	DSL
					North	Private	Private	Private Ownership
					South	State	Oregon Board of Forestry	ODF
Klamath	lots 5,6,7	3357.5E13-2101	Yes	143.66	East	Private	Private	Private Ownership
					West	Federal	US Forest Service	US Forest Service
					North	CSFL	Oregon State Land Board	DSL
Klamath	n2	3357.5E24-2101	Yes	320.00	South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Klamath	se4nw4, sw4ne4	37514E27-4100	Yes	80.00	North	Federal	US Forest Service	US Forest Service
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
Klamath	ne4ne4	37514E27-4100	Yes	40.00	West	Federal	US Forest Service	US Forest Service
					North	Federal	US Forest Service	US Forest Service
					South	Private	Private	Private Ownership
Klamath	lots3,4-s2nw4	38512E02-300	Yes	159.60	East	State	Oregon Board of Forestry	ODF
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
Klamath	lots 1,2-s2n2	38512E03-300	Yes	240.32	East	Private	Private	Private Ownership
					West	CSFL	Oregon State Land Board	DSL
					North	Private	Private	Private Ownership
Klamath	lots 3,4	37512E34-2600	Yes	77.08	South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Klamath	lots 1-4-s2n2-n2sw4	38512E04-300	Yes	404.21	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
Klamath	lots 2,3-se4nw4	38512E05-200	Yes	123.44	West	Private	Private	Private Ownership
					North	State	Oregon Board of Forestry	ODF
					South	Private	Private	Private Ownership
Klamath	ne4se4	37512E32-2400	Yes	39.60	East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
					North	Private	Private	Private Ownership
Klamath	ne4se4	37512E32-2500	Yes	39.63	South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Klamath	SW1/4NW1/4 Sec. 33 T37S R12W	37512E33-2500	Yes	39.00	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
Klamath	N1/2NE1/4, SW1/4NE1/4 Sec. 33 T37S R12W	37512E33-1700	Yes	121.00	West	Private	Private	Private Ownership
					North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
Klamath	sw4nw4-sw4-w2se4	37512E28-1700	Yes	280.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
Klamath	ALL	37512E29-1700	Yes	640.00	West	CSFL	Oregon State Land Board	DSL
					North	Federal	US Forest Service	US Forest Service
					South	Private	Private	Private Ownership
Klamath	e2-e2w2	37512E30-1700	Yes	480.00	East	CSFL	Oregon State Land Board	DSL
					West	CSFL	Oregon State Land Board	DSL
					North	Federal	US Forest Service	US Forest Service
Klamath	ne4	37512E31-1700	Yes	160.00	South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Klamath	w2ne4-se4	37511E25-900	Yes	240.00	North	Federal	US Forest Service	US Forest Service
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
Total acres for this county				6826.96				

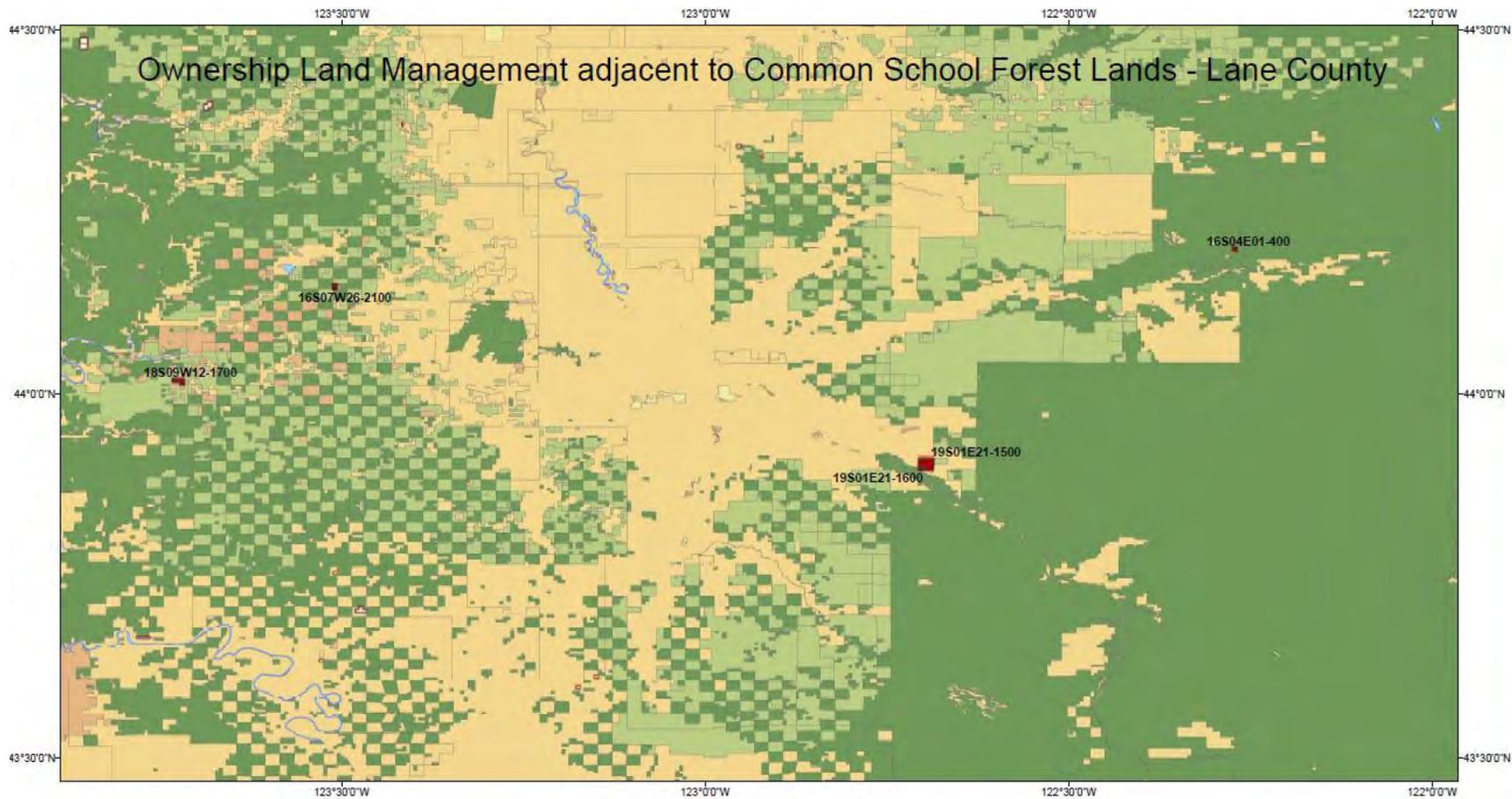


Datum NAD83
 Sources:
 United State Census Bureau. Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry. Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands. Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
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 Prepare by: Angela Lavado

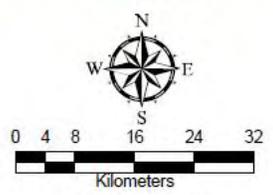


2.11 Ownership adjacent to Common School Forest Lands – Lane County

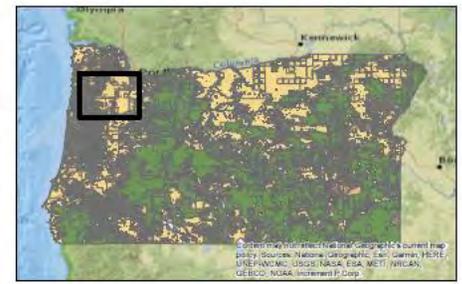
County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Lane	w2se4-n2sw4	18S09W12-1700	Yes	160.00	North	Industrial	Lincoln Timber LLC	Private Industrial Ownership
					South	State	Oregon Board of Forestry	ODF
					East	Industrial	Lincoln Timber LLC	Private Industrial Ownership
					West	Industrial	Lincoln Timber LLC	Private Industrial Ownership
Lane	lots 12,13	16S07W26-2100	Yes	78.29	North	Industrial	Roseburg Resources Co	Private Industrial Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Lane	sw4se4	16S04E01-400	Yes	40.00	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Lane		19S01E21-1500	Yes	578.00	North	Private	Private	Private Ownership
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Industrial	Weyerhaeuser Company	Private Industrial Ownership
Lane		19S01E21-1600	Yes	51.10	North	Private	Private	Private Ownership
					South	Federal	US Army Corps of Eng	US Army Corps of Eng
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Total acres for this county				907.39				



Ownership Land Management adjacent to Common School Forest Lands - Lane County



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 Sources:
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 Oregon Department of Forestry. Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands. Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
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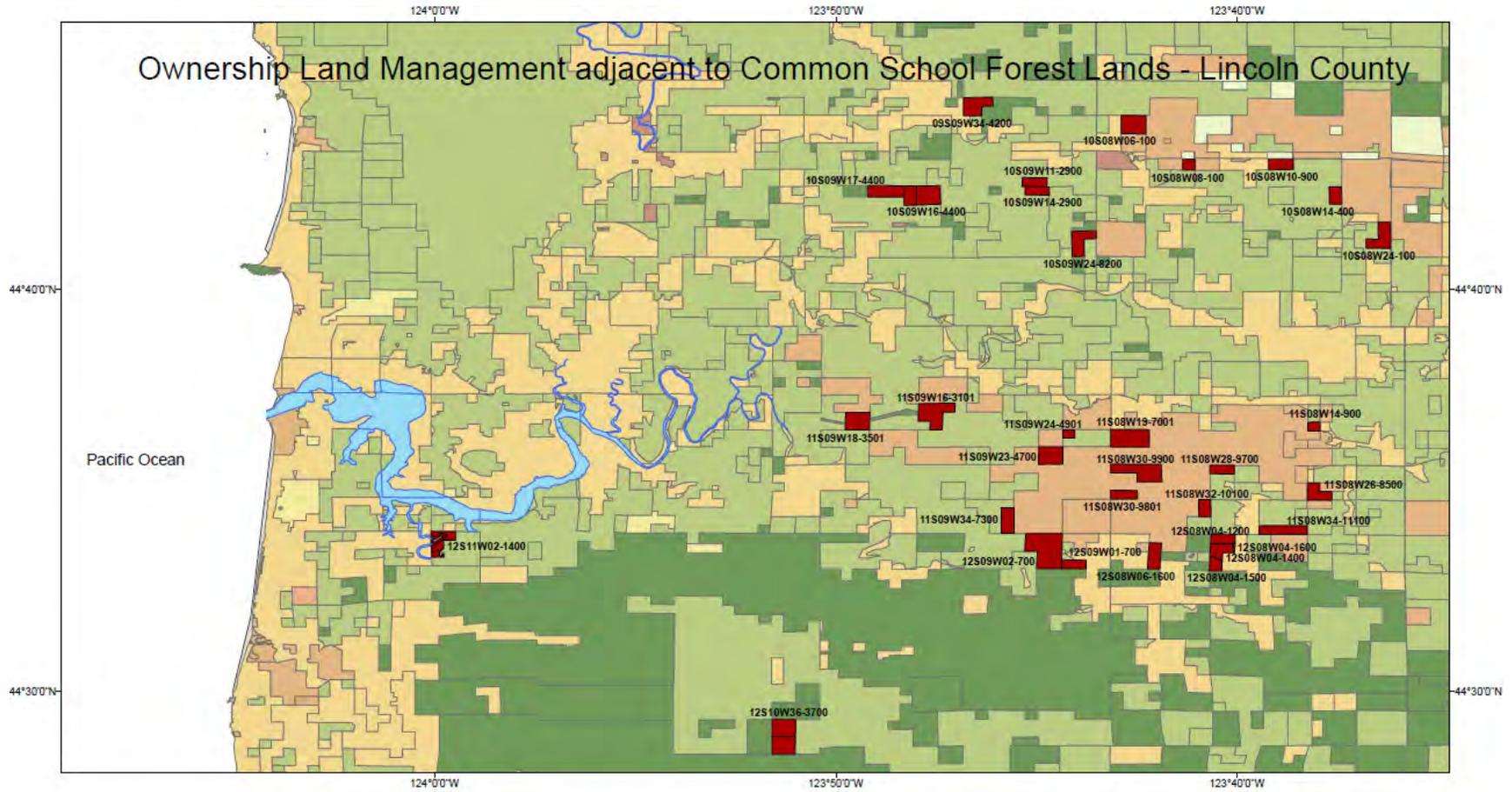
2.12 Ownership adjacent to Common School Forest Lands – Lincoln County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Lincoln	e2sw4-w2ne4se4-nw4se4-w2sw4se4	09S09W34-4200	Yes	160.00	North	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					South	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					South	Private	Private	Private Ownership
					East	Federal	Indian Alloment Fee Lands	US Bureau of Indian Affairs
					West	Private	Private	Private Ownership
Lincoln	lots 1,2-s2ne4	10S08W06-100	Yes	165.08	North	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
Lincoln	ne4ne4-se4ne4	10S08W08-100	Yes	49.10	North	State	Oregon Board of Forestry	ODF
					South	Industrial	Green Diamond Resource Co	Private Industrial Ownership
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	ne4	10S08W10-900	Yes	98.20	North	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					South	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					East	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					West	Private	Private	Private Ownership
Lincoln	e2ne4	10S08W14-400	Yes	80.00	North	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					South	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Industrial	Nestucca Forests LLC	Private Industrial Ownership
Lincoln	e2ne4-n2se4	10S08W24-100	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	Industrial	Hull-Oakes Lumber Co	Private Industrial Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Industrial	Hull-Oakes Lumber Co	Private Industrial Ownership
Lincoln	lot 7-s2ne4-nw4se4	10S09W24-8200	Yes	162.06	North	Federal	Indian Alloment Fee Lands	US Bureau of Indian Affairs
					South	Federal	Indian Alloment Fee Lands	US Bureau of Indian Affairs
					East	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Industrial	Staker Forests Inc	Private Industrial Ownership
					West	Industrial	Nestucca Forests LLC	Private Industrial Ownership
Lincoln	s2se4	10S09W11-2900	Yes	80.00	North	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
					South	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
					East	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
					West	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
Lincoln	lots 1,2	10S09W14-2900	Yes	75.53	North	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
					South	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
					East	Industrial	Staker Forests Inc	Private Industrial Ownership
					West	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
Lincoln	lot 2,3-se4nw4-sw4nw4-lot 4-sw4ne4	10S09W16-4400	Yes	269.51	North	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					North	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
					South	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					East	Industrial	FIA TimberGrowth Master	Private Industrial Ownership
					West	Industrial	Nestucca Forests LLC	Private Industrial Ownership

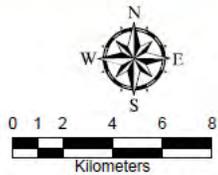
County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Lincoln	lots 1,2,3	10S09W1 7-4400	Yes	154.44	North	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					South	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					East	CSFL	Oregon State Land Board	DSL
					West	Federal	Indian Alloment Fee Lands	US Bureau of Indian Affairs
Lincoln	sw4sw4	11S08W1 4-900	Yes	40.00	North	Industrial	Thompson Tree Farm Inc	Private Industrial Ownership
					South	State	Oregon Board of Forestry	DSL
					East	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	DSL
Lincoln	nw4sw4-s2sw4	11S08W2 6-8500	Yes	120.00	North	Private	Private	Private Ownership
					North	Industrial	Staker Forests Inc	Private Industrial Ownership
					South	State	Oregon Board of Forestry	DSL
					East	State	Oregon Board of Forestry	DSL
					East	Industrial	Gates Tree Farm	Private Industrial Ownership
					West	State	Oregon Board of Forestry	DSL
Lincoln	s2s2	11S08W3 4-11100	Yes	160.00	North	Industrial	Thompson Tree Farm Inc	Private Industrial Ownership
					South	State	Oregon Board of Forestry	DSL
					South	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					East	Industrial	Gates Tree Farm	Private Industrial Ownership
					West	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	DSL
Lincoln	n2nw4	11S08W2 8-9700	Yes	80.00	North	State	Oregon Board of Forestry	DSL
					South	Industrial	Thompson Tree Farm Inc	Private Industrial Ownership
					East	Industrial	Fred VanEck Forest Fund LLC	Private Industrial Ownership
					West	State	Oregon Board of Forestry	DSL
Lincoln	e2ne4	11S08W3 2-10100	Yes	80.00	North	State	Oregon Board of Forestry	DSL
					South	Industrial	Gates Tree Farm	Private Industrial Ownership
					East	Industrial	Gates Tree Farm	Private Industrial Ownership
					West	State	Oregon Board of Forestry	DSL
Lincoln	Govt. Lots 3, 4 Sec. 4 T12S R08W	12S08W0 4-1200	Yes	83.40	North	Industrial	Gates Tree Farm	Private Industrial Ownership
					South	CSFL	Oregon State Land Board	DSL
					East	Private	Private	Private Ownership
					West	Federal	US Forest Service	US Forest Service
Lincoln	S1/2NW1/4, W1/2SW1/4 Sec. 4 T12S R08W	12S08W0 4-1400	Yes	96.87	North	CSFL	Oregon State Land Board	DSL
					South	CSFL	Oregon State Land Board	DSL
					East	Private	Private	Private Ownership
					West	Industrial	Fred VanEck Forest Fund LLC	Private Industrial Ownership
					West	Federal	US Forest Service	US Forest Service
Lincoln	S1/2NW1/4, W1/2SW1/4 Sec. 4 T12S R08W	12S08W0 4-1500	Yes	58.35	North	CSFL	Oregon State Land Board	DSL
					South	Federal	US Forest Service	US Forest Service
					East	Private	Private	Private Ownership
					West	Federal	US Forest Service	US Forest Service
					West	Industrial	Fred VanEck Forest Fund LLC	Private Industrial Ownership
Lincoln	se4ne4-e2se4	12S08W0 6-1600	Yes	120.00	North	State	Oregon Board of Forestry	ODF
					South	Federal	US Forest Service	US Forest Service
					East	State	Oregon Board of Forestry	ODF
					East	Federal	US Forest Service	US Forest Service
					East	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	ODF
Lincoln	lot 1,2-e2nw4- w2ne4	11S08W1 9-7001	Yes	248.49	North	Private	Private	Private Ownership
					North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Lincoln	lot 4-se4sw4	11S08W3 0-9900	Yes	245.12	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	lot 4-se4sw4	11S08W3 0-9801	Yes	85.87	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	nw4nw4	11S09W2 4-4901	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					East	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					West	State	Oregon Board of Forestry	ODF
Lincoln	se4	11S09W2 3-4700	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	se4ne4-e2se4	11S09W3 4-7300	Yes	120.00	North	Industrial	Gates Tree Farm	Private Industrial Ownership
					South	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Industrial	Gates Tree Farm	Private Industrial Ownership
Lincoln	s2sw4	12S09W0 1-700	Yes	80.00	North	Industrial	Thompson Tree Farm Inc	Private Industrial Ownership
					North	Private	Private	Private Ownership
					South	Federal	US Forest Service	US Forest Service
					East	Private	Private	Private Ownership
					West	CSFL	Oregon State Land Board	DSL
					North	State	Oregon Board of Forestry	ODF
Lincoln	lots 1,2,3-s2ne4- se4nw4-se4	12S09W0 2-700	Yes	399.25	South	Federal	US Forest Service	US Forest Service
					East	State	Oregon Board of Forestry	ODF
					East	Private	Thompson Tree Farm Inc	Private Industrial Ownership
					West	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					West	Industrial	Gates Tree Farm	Private Industrial Ownership
					North	State	Oregon Board of Forestry	ODF
Lincoln	sw4ne4-s2nw4- n2sw4-se4sw4	11S09W1 6-3101	Yes	240.00	North	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					South	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					East	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					West	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					West	Federal	US Department of Energy	US Department of Energy
					West	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					North	State	Oregon Board of Forestry	ODF
Lincoln	se4	11S09W1 8-3501	Yes	160.00	South	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					East	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					East	Federal	US Department of Energy	US Department of Energy
					East	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					West	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					West	Federal	US Department of Energy	US Department of Energy
					North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Lincoln	nw4 and sw4	12S10W3 6-3700	Yes	320.00	South	Federal	US Forest Service	US Forest Service
					East	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					North	Industrial	Fred VanEck Forest Fund LLC	Private Industrial Ownership
Lincoln	lot 3,4-nw4sw4- sw4nw4	12S11W0 2-1400	Yes	150.15	North	Private	Private	Private Ownership
					South	Industrial	Fred VanEck Forest Fund LLC	Private Industrial Ownership
					East	Industrial	Fred VanEck Forest Fund LLC	Private Industrial Ownership
					West	Private	Private	Private Ownership
					North	CSFL	Oregon State Land Board	DSL
Lincoln	S1/2NW1/4, W1/2SW1/4 Sec. 4 T12S R08W	12S08W0 4-1600	Yes	4.13	South	CSFL	Oregon State Land Board	DSL
					East	CSFL	Oregon State Land Board	DSL
					West	CSFL	Oregon State Land Board	DSL
					North	CSFL	Oregon State Land Board	DSL
Lincoln	Govt. Lots 3, 4 Sec. 4 T12S R08W	12S08W0 4-1300	Yes	0.65	South	CSFL	Oregon State Land Board	DSL
					East	CSFL	Oregon State Land Board	DSL
					West	CSFL	Oregon State Land Board	DSL
					North	CSFL	Oregon State Land Board	DSL
Total acres for this county				4546.20				

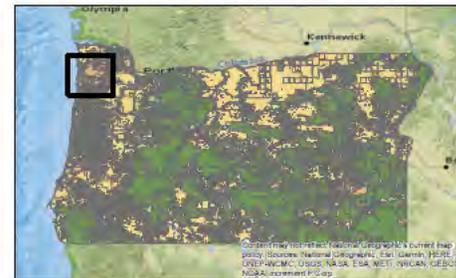
Ownership Land Management adjacent to Common School Forest Lands - Lincoln County



Pacific Ocean

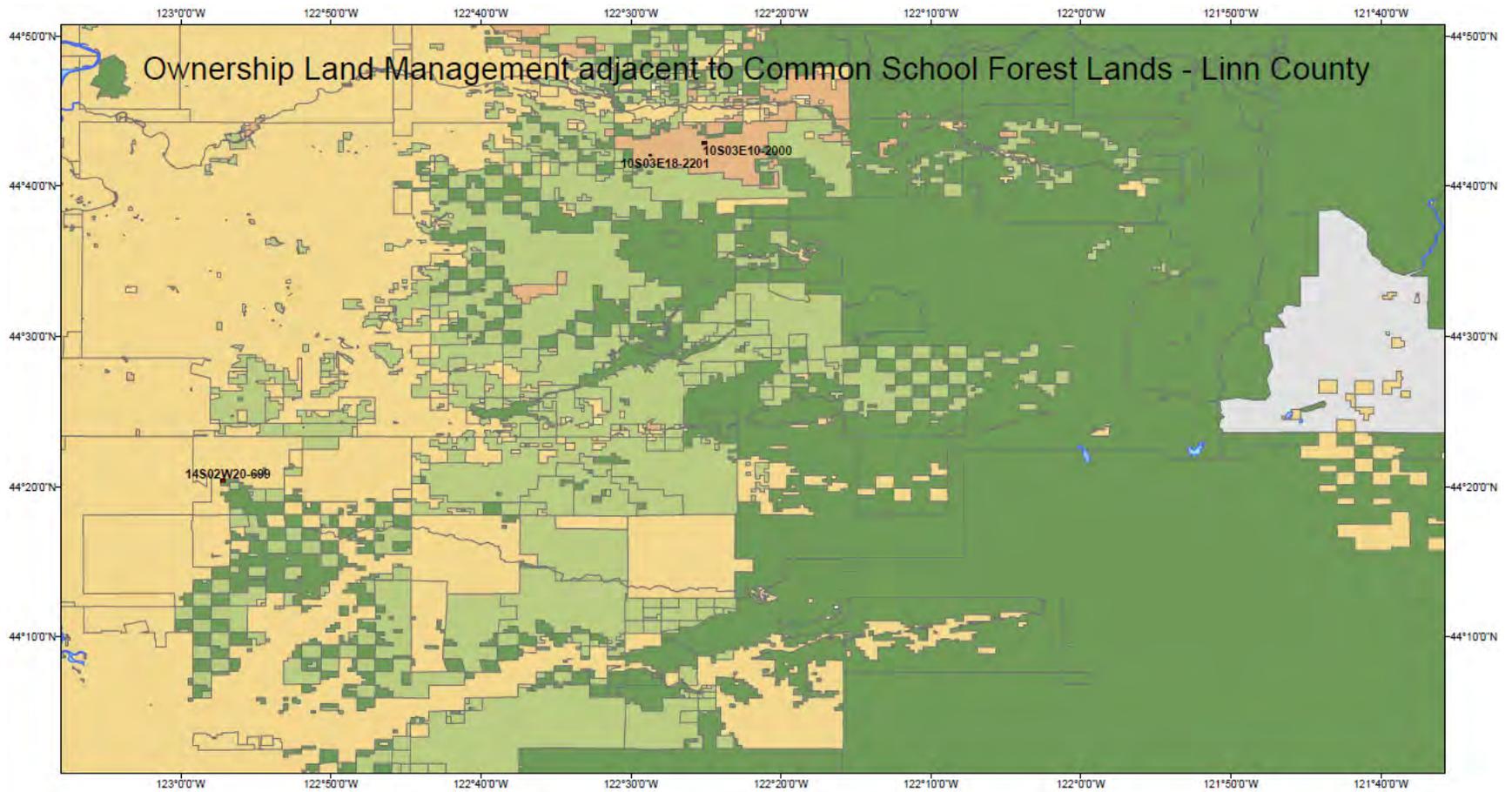


Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado

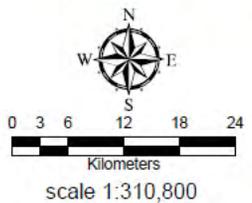


2.13 Ownership adjacent to Common School Forest Lands – Linn County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Linn	NE1/4SE1/4 Sec. 10 T10S R03E	10S03E10-2000	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Linn	NE1/4NE1/4SE1/4 Sec. 18 T10S R03E	10S03E18-2201	Yes	10.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Linn	SW1/4NE1/4 Sec. 20 T14S R02W	14S02W20-699	Yes	40.00	North	Private	Private	Private Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Private	Private	Private Ownership
Total acres for this county				90.00				



Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017, Scale 1:5,000,000, Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016, Scale 1:24,000, Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018, Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado

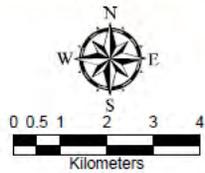
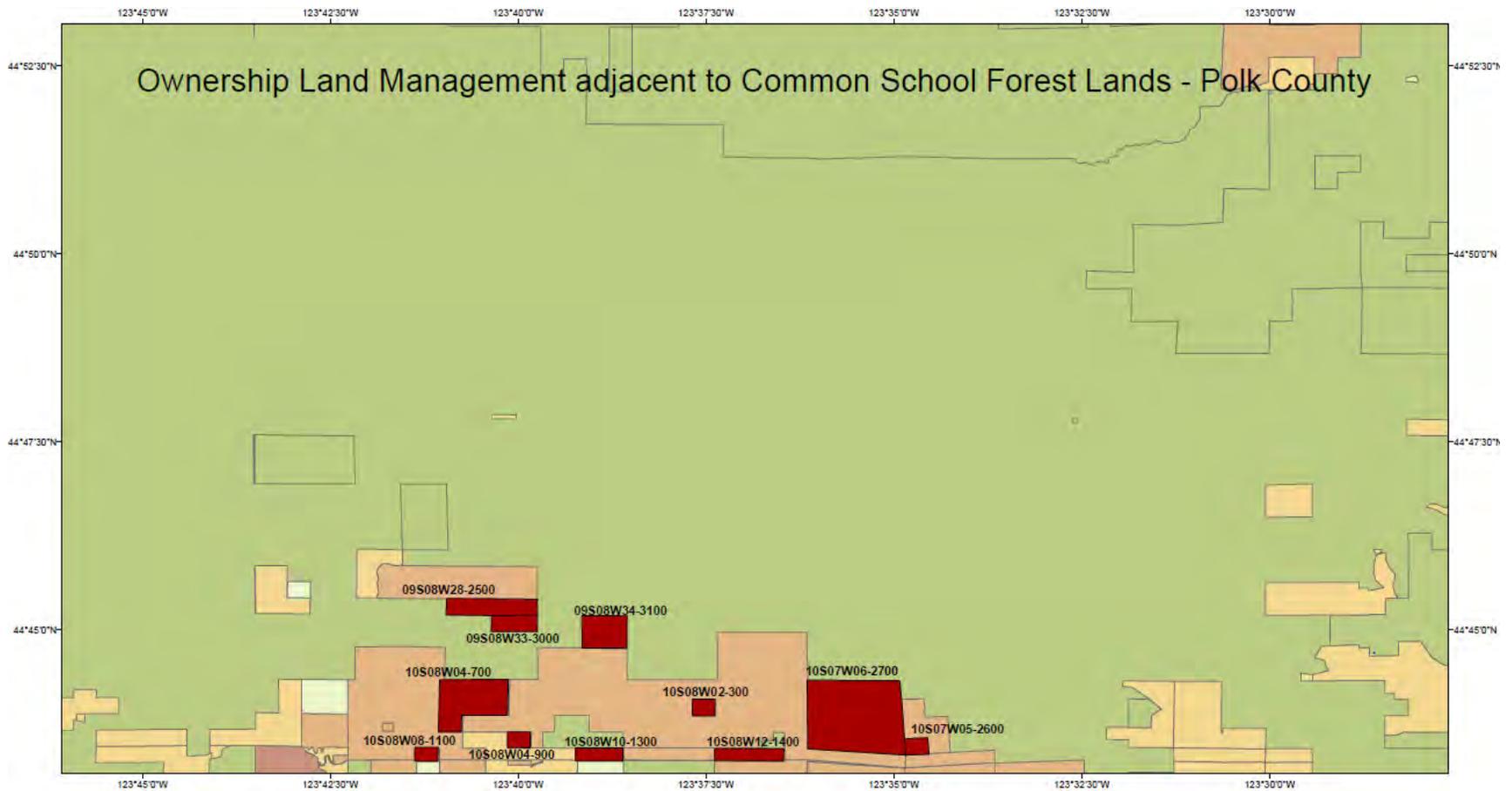


2.14 Ownership adjacent to Common School Forest Lands – Marion County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Marion	sw4-w2se4	07S02E34-400	Yes	240.00	North	Industrial	Longview Timberlands LLC	Private Industrial Ownership
					North	State	Oregon Board of Forestry	ODF
					South	Industrial	Longview Timberlands LLC	Private Industrial Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	State	Oregon Board of Forestry	ODF
					West	Industrial	Longview Timberlands LLC	Private Industrial Ownership
Marion	se4sw4	09S03E17-800	Yes	40.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	CSFL	Oregon State Land Board	DSL
					East	Industrial	Frank Timber Resources Inc	Private Industrial Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Marion	n2nw4-sw4nw4	09S03E20-200	Yes	120.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Private	Private	Private Ownership
					East	Industrial	Frank Timber Resources Inc	Private Industrial Ownership
					West	Industrial	Frank Timber Resources Inc	Private Industrial Ownership
Marion	e2se4	09S03E24-700	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Industrial	Schroeder Family LP	Private Industrial Ownership
					West	Industrial	Longview Timberlands LLC	Private Industrial Ownership
Marion	NE1/4NE1/4 Sec. 28 T09S R04E	09S04E28-200	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	Private	Private	Private Ownership
					East	CSFL	Oregon State Land Board	DSL
					West	State	Oregon Board of Forestry	ODF
Marion	NE1/4SE1/4 Sec. 27 T09S R04E	09S04E27-500	Yes	62.00	North	State	Oregon Board of Forestry	ODF
					South	Private	Private	Private Ownership
					East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
Marion	NW1/4NE1/4, N1/2NW1/4 Sec. 27 T09S R04E	09S04E27-400	Yes	98.00	North	State	Oregon Board of Forestry	ODF
					South	Private	Private	Private Ownership
					East	State	Oregon Board of Forestry	ODF
Marion	NE1/4SW1/4 Sec. 26 T09S R04E	09S04E26-300	Yes	40.00	West	CSFL	Oregon State Land Board	DSL
					North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Total acres for this county				720.00				

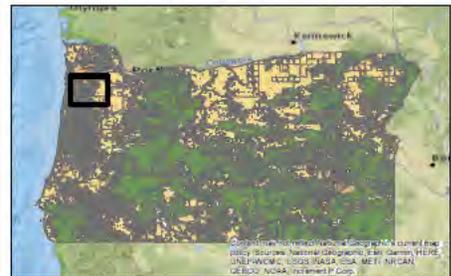
2.15 Ownership adjacent to Common School Forest Lands – Polk County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Polk	s2s2	09S08W28-2500	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Industrial	Plum Creek Timber Co	Private Industrial Ownership
Polk	n2ne4	09S08W33-3000	Yes	80.00	North	CSFL	Oregon State Land Board	DSL
					South	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					East	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					West	Industrial	Plum Creek Timber Co	Private Industrial Ownership
Polk	ne4	09S08W34-3100	Yes	160.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	State	Oregon Board of Forestry	ODF
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Industrial	Plum Creek Timber Co	Private Industrial Ownership
Polk	se4ne4	10S08W02-300	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Polk	ALL	10S07W06-2700	Yes	688.22	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	State	Oregon Board of Forestry	ODF
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	State	Oregon Board of Forestry	ODF
Polk	NW1/4NE1/4, N1/2NW1/4 Sec. 12 T10S R08W	10S08W12-1400	Yes	91.00	West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
					North	Industrial	Thompson Tree Farm Inc	Private Industrial Ownership
					South	State	Oregon Board of Forestry	ODF
Polk	ne4	10S08W10-1300	Yes	61.80	East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
					North	Industrial	Nestucca Forests LLC	Private Industrial Ownership
					South	CSFL	Oregon State Land Board	DSL
Polk	SE1/4SE1/4 Sec. 4 T10S R08W	10S08W04-900	Yes	38.52	East	State	Oregon Board of Forestry	ODF
					West	Private	Private	Private Ownership
					North	State	Oregon Board of Forestry	ODF
					South	Private	Private	Private Ownership
Polk	Govt. Lots 2,3,4, SW1/4NE1/4, S1/2NW1/4, NW1/4SW1/4 Sec. 4	10S08W04-700	Yes	300.00	West	Private	Private	Private Ownership
					North	Industrial	Plum Creek Timber Co	Private Industrial Ownership
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Polk	ne4ne4-se4ne4	10S08W08-1100	Yes	30.90	West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					South	CSFL	Oregon State Land Board	DSL
Polk		10S07W05-2600	Yes	40.00	West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Total acres for this county				1690.44				



scale 1:62,160

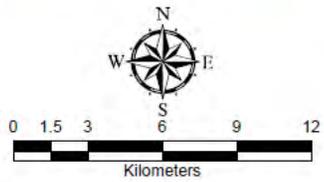
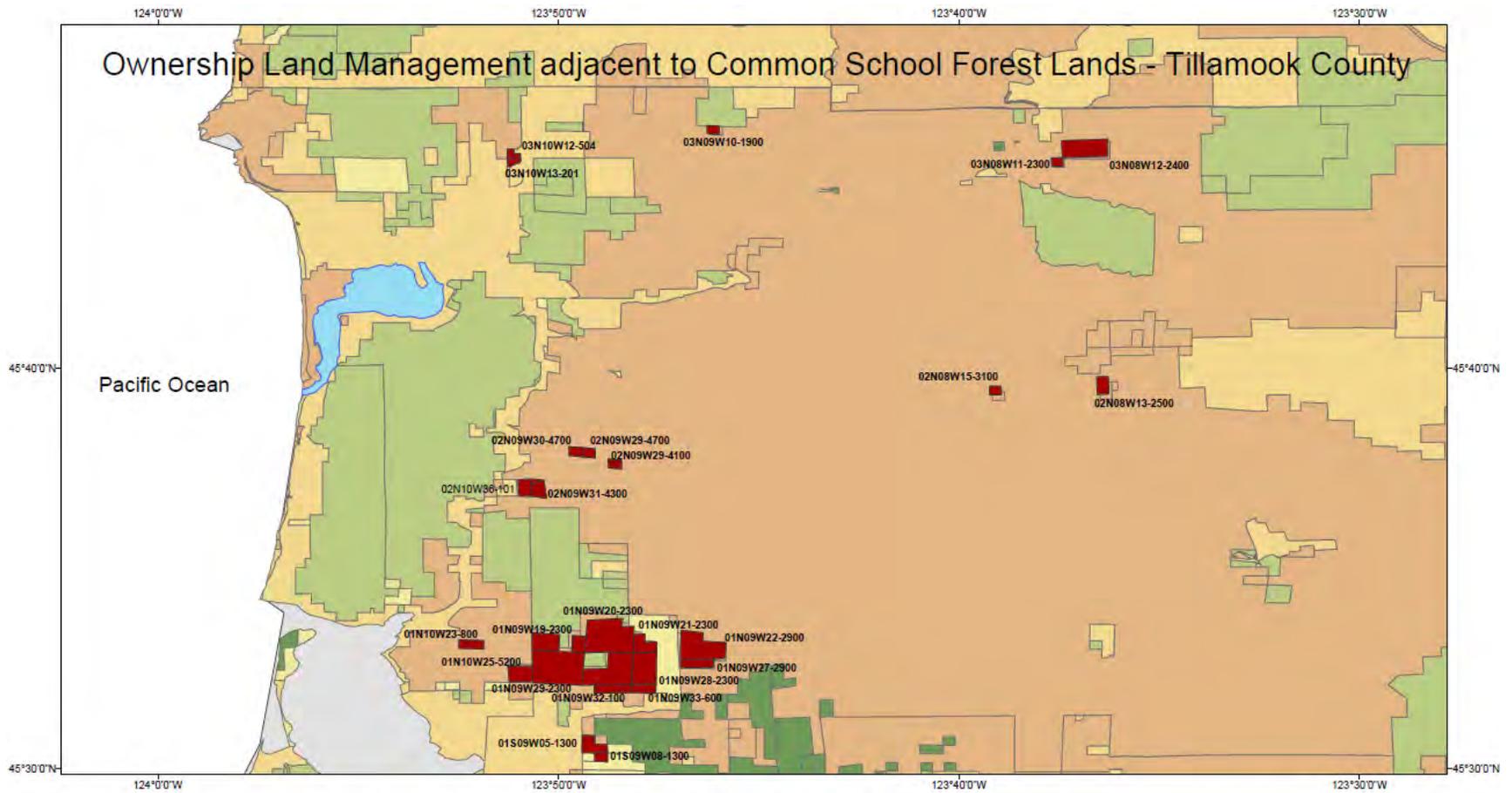
Datum NAD83
 Sources:
 United State Census Bureau. Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry. Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands. Certified Forest Properties, 2016. Salem, Oregon: Department of State Lands, 2016.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado



2.16 Ownership adjacent to Common School Forest Lands – Tillamook County

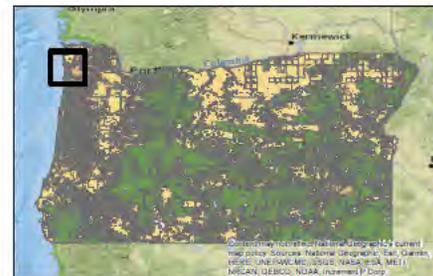
County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Tillamook	w2sw4se4-se4sw4se4	03N10W12-504	Yes	30.00	North	State	Oregon Board of Forestry	ODF
					South	CSFL	Oregon State Land Board	DSL
					East	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	ODF
Tillamook	nw4ne4	03N10W13-201	Yes	29.29	North	CSFL	Oregon State Land Board	DSL
					South	Private	Private	Private Ownership
					East	Private	Private	Private Ownership
					West	Private	Private	Private Ownership
Tillamook	nw4ne4	03N09W10-1900	Yes	40.00	North	Industrial	Longview Timberlands LLC	Private Industrial Ownership
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	n2	03N08W12-2400	Yes	320.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	ne4se4	03N08W11-2300	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	sw4ne4	02N08W15-3100	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	e2ne4	02N08W13-2500	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	ne4sw4-s2sw4-w2se4	01N06W10-1100	Yes	200.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	s2nw4-n2sw4-sw4sw4-w2se4-se4se4	03S08W14-3000	Yes	320.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					North	Industrial	Simpson Lumber Co	Private Industrial Ownership
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Tillamook	ne4sw4	03S08W16-3600	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	Federal	US Forest Service	US Forest Service
Tillamook	se4ne4-n2se4-se4se4	03S08W17-3901	Yes	160.00	North	Industrial	Simpson Lumber Co	Private Industrial Ownership
					South	Federal	US Forest Service	US Forest Service
					East	State	Oregon Board of Forestry	ODF
					East	Federal	US Forest Service	US Forest Service
					West	Industrial	Simpson Lumber Co	Private Industrial Ownership
					West	Federal	US Forest Service	US Forest Service
Tillamook	nw4sw4	03S09W33-6401	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	Industrial	Simpson Lumber Co	Private Industrial Ownership
					East	Industrial	Simpson Lumber Co	Private Industrial Ownership
					West	State	Oregon Board of Forestry	ODF
Tillamook	SE1/4NE1/4, NE1/4SE1/4 Sec 25 T03S R10W	03S10W25-5000	Yes	80.00	North	Industrial	Boise Cascade Corp	Private Industrial Ownership
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	Industrial	Boise Cascade Corp	Private Industrial Ownership
Tillamook	w2nw4ne4	03S09W19-400	Yes	20.00	North	Private	Private	Private Ownership
					South	State	Oregon Board of Forestry	ODF
					East	Industrial	Simpson Lumber Co	Private Industrial Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Tillamook	W1/2NW1/4 Sec 24 T03S R10W	03S10W24-4700	Yes	80.00	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Tillamook	lots 3,4-e2sw4-s2se4	02S08W3 0-5300	Yes	263.20	North	State	Oregon Board of Forestry	ODF
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	State	Oregon Board of Forestry	ODF
Tillamook	ne4nw4	01S09W0 8-1300	Yes	40.00	West	Industrial	Stimson Lumber Company	Private Industrial Ownership
					North	CSFL	Oregon State Land Board	DSL
					South	County	County of Tillamook	County Government
					East	County	County of Tillamook	County Government
Tillamook	w2sw4-se4sw4	01S09W0 5-1300	Yes	120.00	West	County	County of Tillamook	County Government
					North	State	Oregon Board of Forestry	ODF
					South	County	County of Tillamook	County Government
					East	County	County of Tillamook	County Government
Tillamook	n2ne4-ne4nw4	01N09W3 2-100	Yes	120.00	West	Private	Private	Private Ownership
					North	CSFL	Oregon State Land Board	DSL
					South	State	Oregon Board of Forestry	ODF
					East	CSFL	Oregon State Land Board	DSL
Tillamook	n2nw4	01N09W3 3-600	Yes	80.00	West	State	Oregon Board of Forestry	ODF
					North	CSFL	Oregon State Land Board	DSL
					South	Private	Private	Private Ownership
					East	County	County of Tillamook	County Government
Tillamook	w2	01N09W2 8-2300	Yes	320.00	West	CSFL	Oregon State Land Board	DSL
					North	CSFL	Oregon State Land Board	DSL
					South	CSFL	Oregon State Land Board	DSL
					East	County	County of Tillamook	County Government
Tillamook	w2sw4-se4sw4	01N09W2 1-2300	Yes	120.00	West	CSFL	Oregon State Land Board	DSL
					North	County	County of Tillamook	County Government
					South	CSFL	Oregon State Land Board	DSL
					East	County	County of Tillamook	County Government
Tillamook	W1/2, SE1/4, W1/2NE1/4, SE1/4NE1/4 Sec. 20 T01N R09W	01N09W2 0-2300	Yes	600.00	North	State	Oregon Board of Forestry	ODF
					North	Industrial	Boise Cascade Corp	Private Industrial Ownership
					South	CSFL	Oregon State Land Board	DSL
					East	CSFL	Oregon State Land Board	DSL
Tillamook	ne4-s2	01N09W2 9-2300	Yes	480.00	West	CSFL	Oregon State Land Board	DSL
					North	CSFL	Oregon State Land Board	DSL
					South	CSFL	Oregon State Land Board	DSL
					East	CSFL	Oregon State Land Board	DSL
Tillamook	ALL	01N09W3 0-2300	Yes	637.67	North	CSFL	Oregon State Land Board	DSL
					South	State	Oregon Board of Forestry	ODF
					East	CSFL	Oregon State Land Board	DSL
					West	CSFL	Oregon State Land Board	DSL
Tillamook	se4	01N10W2 5-5200	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	CSFL	Oregon State Land Board	DSL
					West	State	Oregon Board of Forestry	ODF
Tillamook	e2se4	01N09W1 9-2300	Yes	239.29	North	Industrial	Boise Cascade Corp	Private Industrial Ownership
					South	CSFL	Oregon State Land Board	DSL
					East	CSFL	Oregon State Land Board	DSL
					West	State	Oregon Board of Forestry	ODF
Tillamook	s2se4	01N10W2 3-800	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	n2ne4-sw4ne4-nw4	01N09W2 7-2900	Yes	280.00	North	CSFL	Oregon State Land Board	DSL
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	County	County of Tillamook	County Government
Tillamook	sw4-s2se4	01N09W2 2-2900	Yes	240.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	SW1/4NE1/4 Sec. 29 T02N R09W	02N09W2 9-4100	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tillamook	NW/14NW1/4 Sec. 29 T02N R09W	02N09W2 9-4700	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	CSFL	Oregon State Land Board	DSL
Tillamook	ne4ne4	02N09W3 0-4700	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	CSFL	Oregon State Land Board	DSL
					West	State	Oregon Board of Forestry	ODF
Tillamook	lot 1,2	02N09W3 1-4300	Yes	84.30	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	CSFL	Oregon State Land Board	DSL
Tillamook	e2ne4	02N10W3 6-101	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	CSFL	Oregon State Land Board	DSL
					West	State	Oregon Board of Forestry	ODF
Total acres for this county				5583.75				



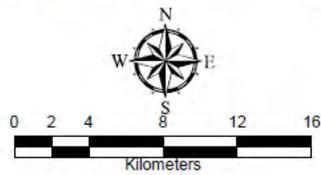
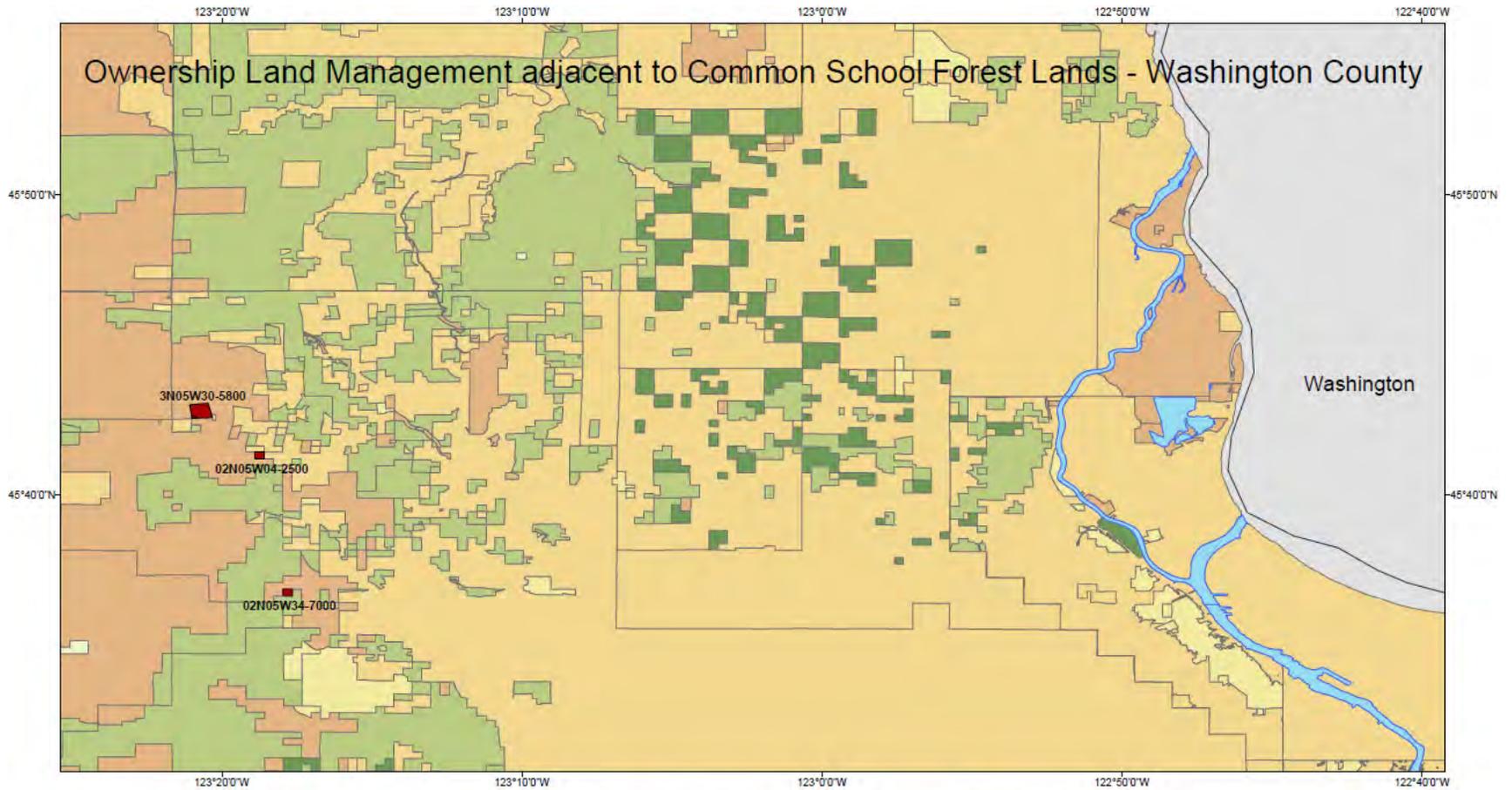
scale 1:116,550

Datum NAD83
 Sources:
 United State Census Bureau. Cartographic Boundary, 2017. Scale 1:5,000,000. Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry. Ownership Land Management, 2016. Scale 1:24,000. Salem, Oregon, 2016.
 Oregon Department of State Lands. Certified Forest Properties, 2018. Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado



2.17 Ownership adjacent to Common School Forest Lands – Washington County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Washington	SE1/4 Sec. 30 T03N R05W	03N05W30-5800	Yes	170.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Washington	SE1/4NW1/4 Sec. 4 T02N R05W	02N05W04-2500	Yes	40.00	North	Private	Private	Private Ownership
					South	State	Oregon Board of Forestry	ODF
					East	Private	Private	Private Ownership
					West	State	Oregon Board of Forestry	ODF
Washington	NW/14SW1/4 Sec. 34 T02N R05W	02N05W34-7000	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	Industrial	Stimson Lumber Company	Private Industrial Ownership
					East	Industrial	Stimson Lumber Company	Private Industrial Ownership
					West	State	Oregon Board of Forestry	ODF
Total acres for this county				250.00				

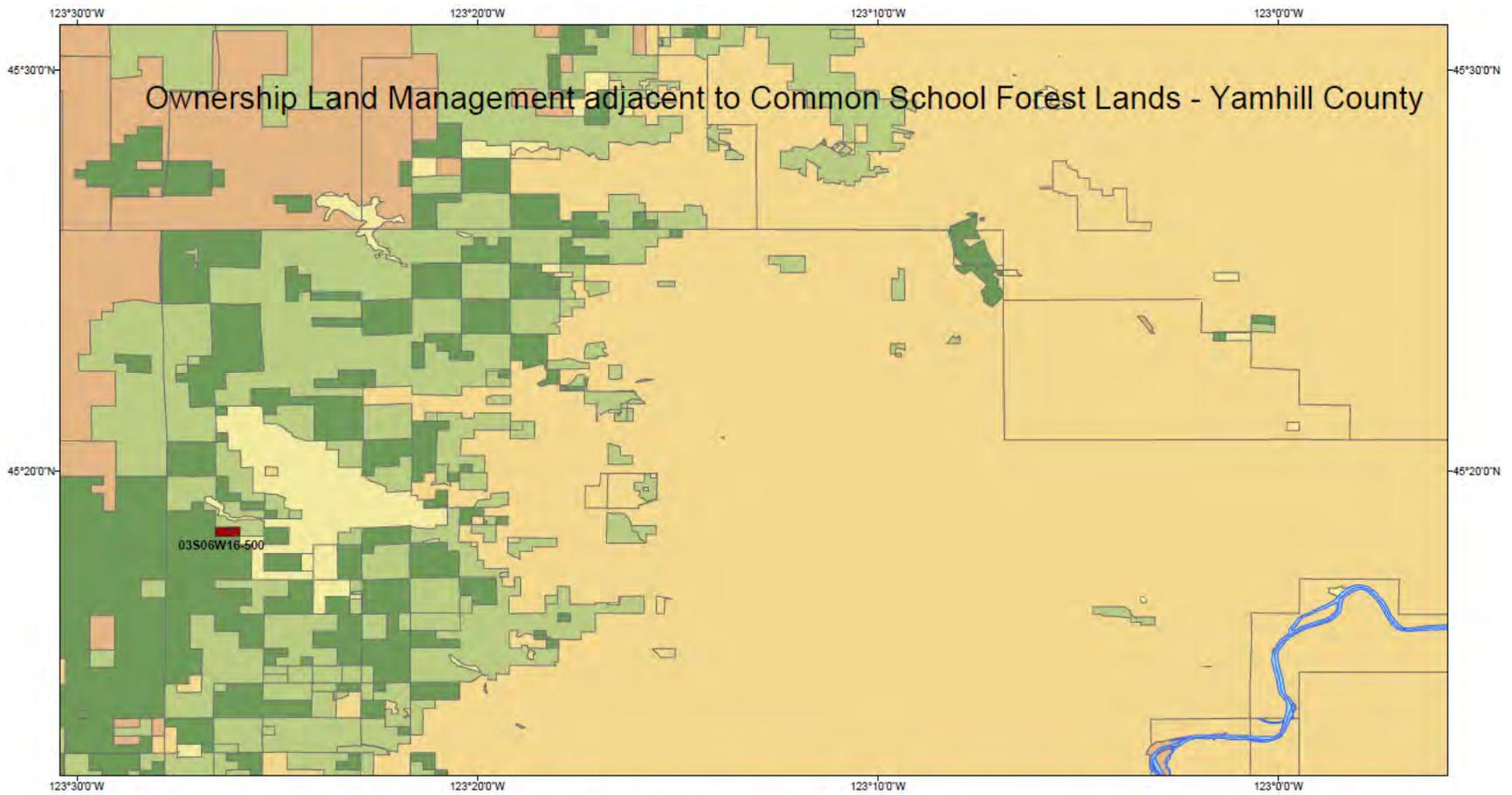


Datum: NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017, Scale 1:5,000,000, Washington, D.C.: Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016, Scale 1:24,000, Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018, Salem, Oregon: Department of State Lands, 2018.
 Production Date: September 7, 2019.
 Prepare by: Angela Lavado



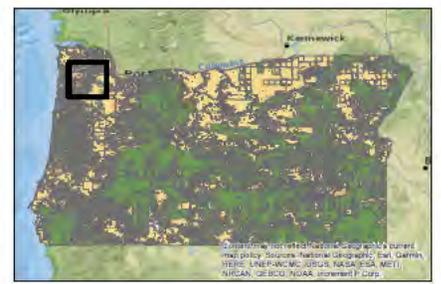
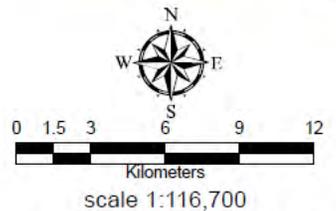
2.18 Ownership adjacent to Common School Forest Lands – Yamhill County

County	Legal Description	Parcel	Certified Forest	Acres	Type of property around			
					Location	Land Management Class	Title Holder	Land Manager
Yamhill	n2sw4	03S06W16-500	Yes	80.00	North	Industrial	Weyerhaeuser Company	Private Industrial Ownership
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Industrial	Weyerhaeuser Company	Private Industrial Ownership
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Total acres for this county				80.00				



Ownership Land Management adjacent to Common School Forest Lands - Yamhill County

03S06W16-500



Datum NAD83
 Sources:
 United State Census Bureau, Cartographic Boundary, 2017, Scale 1:5,000,000, Washington, D.C.; Census Bureau, 2017.
 Oregon Department of Forestry, Ownership Land Management, 2016, Scale 1:24,000, Salem, Oregon, 2016.
 Oregon Department of State Lands, Certified Forest Properties, 2018, Salem, Oregon; Department of State Lands, 2018.
 Production Date: September 7, 2018
 Prepare by: Angela Lavado

Annex 1 – CSFL adjacent to ODF

County	Legal Description	Parcel	Certified Forest	Acres	Location	Land Management Class	Title Holder	Land Manager
Benton	se4	10S07W08-300	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Benton	ne4sw4	10S07W18-300CA	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Benton	se4se4	10S07W18-300DD	Yes	40.00	South	State	Oregon Board of Forestry	ODF
Benton	sw4sw4	10S07W16-100	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Benton	e2nw4	10S07W28-100	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Benton	sw4se4	11S07W32-101	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Benton	sw4se4	11S07W32-201	Yes	40.00	South	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	e2ne4	07N07W13-2200	Yes	80.00	East	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Clatsop	se4sw4-s2se4	07N06W27-2100	Yes	120.00	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Clatsop	w2ne4-ne4sw4-nw4se4	06N06W34-2003	Yes	160.00	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Clatsop	sw4sw4	05N07W25-3100	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	lot 7	04N08W14-3900	Yes	39.59	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	lots 5 and 6	04N08W14-4000	Yes	79.19	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	Lot 11 & 12 Section 14	04N08W14-3201	Yes	76.18	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	lots 2, 3, 4, 5, 6, and 11	04N08W17-2700	Yes	235.52	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Clatsop	lots 13 and 14	04N08W08-2700	Yes	78.52	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Clatsop	w2ne4-ne4nw4	04N08W18-4200	Yes	120.00	South	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	n2se4-se4se4	04N08W06-2100	Yes	120.00	West	State	Oregon Board of Forestry	ODF
Clatsop	NE/14NW1/4, Govt. Lot 1 Sec. 7 T04N R08W	04N08W07-2300	Yes	48.71	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	se4sw4-s2se4	04N09W12-1100	Yes	120.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	e2nw4-w2ne4	04N09W13-1300	Yes	157.48	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	n2ne4-sw4ne4-e2nw4	04N09W13-1200	Yes	42.52	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	lot 2, nw4se4	04N09W02-400	Yes	80.01	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Clatsop	se4se4	05N09W35-13700	Yes	41.20	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Clatsop	se4sw4	04N09W15-1601	Yes	41.32	NE	State	Oregon Board of Forestry	ODF

County	Legal Description	Parcel	Certified Forest	Acres	Location	Land Management Class	Title Holder	Land Manager
Clatsop	w2sw4	04N09W15-1908	Yes	50.38	East	State	Oregon Board of Forestry	ODF
Clatsop	SE4SE4	04N09W16-1907	Yes	0.20	East	State	Oregon Board of Forestry	ODF
Clatsop	N2NW4	04N09W22-1910	Yes	37.50	East	State	Oregon Board of Forestry	ODF
Clatsop	nw4	04N10W23-2500	Yes	160.00	South	State	Oregon Board of Forestry	ODF
Klamath	NE4, S2	32S7.5E22-500	Yes	480.00	South	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Klamath	n2	32S7.5E26-500	Yes	320.00	South	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Klamath	N2, NW4SW4, N2SE4, SE4SE4	32S7.5E25-500	Yes	480.00	South	State	Oregon Board of Forestry	ODF
Klamath	lots 1-4-s2n2	33S07E04-1100	Yes	319.20	South	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Klamath	lots 3,4, s2nw4	33S07E03-1100	Yes	160.00	South	State	Oregon Board of Forestry	ODF
Klamath	s2s2sw4-s2n2s2sw4	32S07E34-401	Yes	60.00	South	State	Oregon Board of Forestry	ODF
Klamath	Lots 5,6,7	33S7.5E13-2101	Yes	143.66	North	State	Oregon Board of Forestry	ODF
Klamath	ne4ne4	37S14E27-4100	Yes	40.00	East	State	Oregon Board of Forestry	ODF
Klamath	lots 2,3-se4nw4	38S12E05-200	Yes	123.44	North	State	Oregon Board of Forestry	ODF
Klamath	ne4se4	37S12E32-2400	Yes	39.60	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Lane	w2se4-n2sw4	18S09W12-1700	Yes	160.00	South	State	Oregon Board of Forestry	ODF
Lincoln	lots 1,2-s2ne4	10S08W06-100	Yes	165.08	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Lincoln	ne4ne4-se4ne4	10S08W08-100	Yes	49.10	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	e2ne4	10S08W14-400	Yes	80.00	East	State	Oregon Board of Forestry	ODF
Lincoln	e2ne4-n2se4	10S08W24-100	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Lincoln	lot 7-s2ne4-nw4se4	10S09W24-8200	Yes	162.06	East	State	Oregon Board of Forestry	ODF
Lincoln	se4ne4-e2se4	12S08W06-1600	Yes	120.00	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	lot 1,2-e2nw4-w2ne4	11S08W19-7001	Yes	248.49	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	lot 4-se4sw4	11S08W30-9900	Yes	245.12	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	lot 4-se4sw4	11S08W30-9801	Yes	85.87	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	nw4nw4	11S09W24-4901	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF

County	Legal Description	Parcel	Certified Forest	Acres	Location	Land Management Class	Title Holder	Land Manager
Lincoln	se4	11S09W23-4700	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Lincoln	se4ne4-e2se4	11S09W34-7300	Yes	120.00	East	State	Oregon Board of Forestry	ODF
Lincoln	lots 1,2,3-s2ne4-se4nw4-se4	12S09W02-700	Yes	399.25	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Lincoln	sw4ne4-s2nw4-n2sw4-se4sw4	11S09W16-3101	Yes	240.00	North	State	Oregon Board of Forestry	ODF
Lincoln	se4	11S09W18-3501	Yes	160.00	North	State	Oregon Board of Forestry	ODF
Linn	NE1/4SE1/4 Sec. 10 T10S R03E	10S03E10-2000	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Linn	NE1/4NE1/4SE1/4 Sec. 18 T10S R03E	10S03E18-2201	Yes	10.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Marion	sw4-w2se4	07S02E34-400	Yes	240.00	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Marion	e2se4	09S03E24-700	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Marion	NE1/4NE1/4 Sec. 28 T09S R04E	09S04E28-200	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Marion	NE1/4SE1/4 Sec. 27 T09S R04E	09S04E27-500	Yes	62.00	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Marion	NW1/4NE1/4, N1/2NW1/4 Sec. 27	09S04E27-400	Yes	98.00	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Marion	NE1/4SW1/4 Sec. 26 T09S R04E	09S04E26-300	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Polk	s2s2	09S08W28-2500	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Polk	se4ne4	10S08W02-300	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Polk	ALL	10S07W06-2700	Yes	688.22	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Polk	NW1/4NE1/4, N1/2NW1/4 Sec. 12 T10S R08W	10S08W12-1400	Yes	91.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Polk	ne4	10S08W10-1300	Yes	61.80	East	State	Oregon Board of Forestry	ODF
Polk	SE1/4SE1/4 Sec. 4 T10S R08W	10S08W04-900	Yes	38.52	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Polk	Govt. Lots 2,3,4, SW1/4NE1/4,	10S08W04-700	Yes	300.00	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Polk	ne4ne4-se4ne4	10S08W08-1100	Yes	30.90	North	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Polk		10S07W05-2600	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Tilamook	w2sw4se4-se4sw4se4	03N10W12-504	Yes	30.00	East	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Tilamook	nw4ne4	03N09W10-1900	Yes	40.00	West	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Tilamook	n2	03N08W12-2400	Yes	320.00	West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Tilamook	ne4se4	03N08W11-2300	Yes	40.00	East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
Tilamook	sw4ne4	02N08W15-3100	Yes	40.00	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tilamook	e2ne4	02N08W13-2500	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Tilamook	ne4sw4-s2sw4-w2se4	01N06W10-1100	Yes	200.00	West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Tilamook	ne4sw4	03S08W16-3600	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF

County	Legal Description	Parcel	Certified Forest	Acres	Location	Land Management Class	Title Holder	Land Manager
Tilamook	se4ne4-n2se4-se4se4	03S08W17-3901	Yes	160.00	East	State	Oregon Board of Forestry	ODF
Tilamook	nw4sw4	03S09W33-6401	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tilamook	SE1/4NE1/4, NE1/4SE1/4 Sec 25	03S10W25-5000	Yes	80.00	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Tilamook	w2nw4ne4	03S09W19-400	Yes	20.00	South	State	Oregon Board of Forestry	ODF
Tilamook	lots 3,4-e2sw4-s2se4	02S08W30-5300	Yes	263.20	North	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tilamook	w2sw4-se4sw4	01S09W05-1300	Yes	120.00	North	State	Oregon Board of Forestry	ODF
Tilamook	n2ne4-ne4nw4	01N09W32-100	Yes	120.00	South	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tilamook	n2nw4	01N09W33-600	Yes	80.00	South	State	Oregon Board of Forestry	ODF
Tilamook	W1/2, SE1/4, W1/2NE1/4, SE1/4NE1/4 Sec. 20 T01N R09W	01N09W20-2300	Yes	600.00	North	State	Oregon Board of Forestry	ODF
Tilamook	ALL	01N09W30-2300	Yes	637.67	South	State	Oregon Board of Forestry	ODF
Tilamook	se4	01N10W25-5200	Yes	160.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tilamook	e2se4	01N09W19-2300	Yes	239.29	West	State	Oregon Board of Forestry	ODF
Tilamook	s2se4	01N10W23-800	Yes	80.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tilamook	n2ne4-sw4ne4-nw4	01N09W27-2900	Yes	280.00	South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Tilamook	sw4-s2se4	01N09W22-2900	Yes	240.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tilamook	SW1/4NE1/4 Sec. 29 T02N R09W	02N09W29-4100	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Tilamook	NW/14NW1/4 Sec. 29 T02N R09W	02N09W29-4700	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Tilamook	ne4ne4	02N09W30-4700	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Tilamook	lot 1,2	02N09W31-4300	Yes	84.30	West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Tilamook	e2ne4	02N10W36-101	Yes	80.00	East	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Washingt on	SE1/4 Sec. 30 T03N R05W	03N05W30-5800	Yes	170.00	West	State	Oregon Board of Forestry	ODF
					North	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
					East	State	Oregon Board of Forestry	ODF
Washingt on	SE1/4NW1/4 Sec. 4 T02N R05W	02N05W04-2500	Yes	40.00	West	State	Oregon Board of Forestry	ODF
					South	State	Oregon Board of Forestry	ODF
Washingt on	NW/14SW1/4 Sec. 34 T02N R05W	02N05W34-7000	Yes	40.00	North	State	Oregon Board of Forestry	ODF
					West	State	Oregon Board of Forestry	ODF
Total acres				13754.09				

Annex 2 – CSFL adjacent to Federal Land Ownership

County	Legal Description	Parcel	Certified Forest	Acres	Location	Land Management Class	Title Holder	Land Manager
Benton	ne4sw4	10S07W18-300CA	Yes	40.00	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Benton	se4se4	10S07W18-300DD	Yes	40.00	West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Clackamas	ne4sw4	06S04E10-101	Yes	40.00	East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					SW	Federal	US Forest Service	US Forest Service
Coos	ALL	31S10W36-500	Yes	640.00	East	Federal	US Bureau of Land Mgmt	US Forest Service
					SE	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Curry	e2-e2w2-lot 1-4	35S11W16-199	Yes	607.76	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Curry	lot 1-4-n2-n2s2, School Lands	41S11W16-101	Yes	555.08	North	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Douglas	LOTS 9, 10, 11, 12	22S09W16-100	Yes	28.31	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	w2ne4-se4ne4- se4nw4	21S07W36-4700	Yes	160.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	lots 1,2,3	29S7W36-100	Yes	140.03	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	ne4ne4	31S6W20-2700	Yes	40.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	Govt. Lots 1,2,4,5, W1/2NE/14, NW1/4, N1/2SW1/4 Sec. 36 T32S R05W	32S05W36-100	Yes	463.54	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	Portions of Govt. Lots 3, 6, 7, see DSL Bk41Pg141 for land	32S05W36-300	Yes	46.29	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Douglas	w2-w2e2-lots 1-4	32S09W36-200	Yes	637.02	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Jackson	n2-n2s2-lots 1-4	32S03W36-101	Yes	639.85	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Forest Service	US Forest Service
					SW	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Jackson	NE1/4NE1/4, NW1/4NE1/4 Sec 6 T34S R01W	34S01W06-100	Yes	78.95	West	Federal	US Forest Service	US Forest Service
					North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Jackson	SW1/4/SW1/4 Sec 2 T34S R01W	34S01W02-2200	Yes	40.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt

County	Legal Description	Parcel	Certified Forest	Acres	Location	Land Management Class	Title Holder	Land Manager
Jackson	SE1/4SE1/4 Sec 2 T34S R01W	34S01W02-2100	Yes	40.00	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Jackson	s2ne4-n2s2-lots 1-4	38S2W36-300	Yes	395.04	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					North	Federal	US Forest Service	US Forest Service
Jackson	se4	40S02W24-3400	Yes	160.00	South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					North	Federal	US Forest Service	US Forest Service
Jackson	lots 1,6,7,12	41S01E04-701	Yes	107.72	South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
					North	Federal	US Forest Service	US Forest Service
Jackson	nw4	40S02W26-3700	Yes	160.00	South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Josephine	sw4	33S08W36-800	Yes	160.00	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					SE	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	SW1/4SE1/4 Sec. 22 T34S R07W	34S07W22-4200	Yes	40.00	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	NE1/4NE1/4 Sec. 26 T34S R07W	34S07W26-4800	Yes	39.51	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	lots 1,6,7,11-e2e2- nw4se4	34S08W36-100	Yes	334.02	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	lots 1,6,7,11-e2e2- nw4se4	34S08W36-500	Yes	41.95	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	w2-w2e2-lots 1-4	35S08W36-500	Yes	638.28	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	nw4-n2sw4-w2ne4- nw4sw4-lots1-4,5,7	38S07W36-4400	Yes	668.89	West	Federal	US Forest Service	US Forest Service
					North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	w2-w2e2-lots 1-4	40S05W36-200	Yes	637.92	West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
Josephine	ALL	40S7W16-3500	Yes	640.00	West	Federal	US Forest Service	US Forest Service
					North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Josephine	SW1/4NW1/4 Sec 4 T39S R09W	39S07W16-3200	Yes	40.00	West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Klamath	NE4, S2	32S7.5E22-500	Yes	480.00	North	Federal	US Forest Service	US Forest Service
Klamath	ALL	32S7.5E23-500	Yes	640.00	North	Federal	US Forest Service	US Forest Service

County	Legal Description	Parcel	Certified Forest	Acres	Location	Land Management Class	Title Holder	Land Manager
Klamath	ALL	32S7.5E24-500	Yes	640.00	North	Federal	US Forest Service	US Forest Service
					North	Federal	US Forest Service	US Forest Service
Klamath	lots 7,8,13	32S07E19-900	Yes	100.22	South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
Klamath	lots 1-4-s2n2	33S07E04-1100	Yes	319.20	North	Federal	US Forest Service	US Forest Service
Klamath	Lots 5,6,7	33S7.5E13-2101	Yes	143.66	East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Klamath	n2	33S7.5E24-2101	Yes	320.00	South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Klamath	se4nw4, sw4ne4	37S14E27-4100	Yes	80.00	North	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Klamath	ne4ne4	37S14E27-4100	Yes	40.00	North	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Klamath	lots3,4-s2nw4	38S12E02-300	Yes	159.60	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Klamath	sw4nw4-sw4-w2se4	37S12E28-1700	Yes	280.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Klamath	ALL	37S12E29-1700	Yes	640.00	North	Federal	US Forest Service	US Forest Service
Klamath	e2-e2w2	37S12E30-1700	Yes	480.00	North	Federal	US Forest Service	US Forest Service
Klamath	w2ne4-se4	37S11E25-900	Yes	240.00	North	Federal	US Forest Service	US Forest Service
Lane	lots 12,13	16S07W26-2100	Yes	78.29	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Lane	sw4se4	16S04E01-400	Yes	40.00	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Lane		19S01E21-1600	Yes	51.10	South	Federal	US Army Corps of Eng	US Army Corps of Eng
Lincoln	lot 7-s2ne4-nw4se4	10S09W24-8200	Yes	162.06	North	Federal	Indian Alloment Fee Lands	US Bureau of Indian Affairs
					South	Federal	Indian Alloment Fee Lands	US Bureau of Indian Affairs
Lincoln	lots 1,2,3	10S09W17-4400	Yes	154.44	West	Federal	Indian Alloment Fee Lands	US Bureau of Indian Affairs
Lincoln	Govt. Lots 3, 4 Sec. 4 T12S R08W	12S08W04-1200	Yes	83.40	West	Federal	US Forest Service	US Forest Service
Lincoln	S1/2NW1/4, W1/2SW1/4 Sec. 4 T12S R08W	12S08W04-1400	Yes	96.87	West	Federal	US Forest Service	US Forest Service
Lincoln	S1/2NW1/4, W1/2SW1/4 Sec. 4	12S08W04-1500	Yes	58.35	South	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Lincoln	se4ne4-e2se4	12S08W06-1600	Yes	120.00	South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
Lincoln	s2sw4	12S09W01-700	Yes	80.00	South	Federal	US Forest Service	US Forest Service
Lincoln	lots 1,2,3-s2ne4-se4nw4-se4	12S09W02-700	Yes	399.25	South	Federal	US Forest Service	US Forest Service
Lincoln	sw4ne4-s2nw4-n2sw4-se4sw4	11S09W16-3101	Yes	240.00	West	Federal	US Department of Energy	US Department of Energy
Lincoln	se4	11S09W18-3501	Yes	160.00	East	Federal	US Department of Energy	US Department of Energy
					West	Federal	US Department of Energy	US Department of Energy
Lincoln	nw4 and sw4	12S10W36-3700	Yes	320.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Forest Service	US Forest Service
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Linn	SW1/4NE1/4 Sec. 20 T14S R02W	14S02W20-699	Yes	40.00	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Marion	sw4-w2se4	07S02E34-400	Yes	240.00	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Marion	se4sw4	09S03E17-800	Yes	40.00	West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Marion	n2nw4-sw4nw4	09S03E20-200	Yes	120.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Marion	e2se4	09S03E24-700	Yes	80.00	East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Polk	s2s2	09S08W28-2500	Yes	160.00	East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Polk	ne4	09S08W34-3100	Yes	160.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt

County	Legal Description	Parcel	Certified Forest	Acres	Location	Land Management Class	Title Holder	Land Manager
Polk	ALL	10S07W06-2700	Yes	688.22	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Tilamook	s2nw4-n2sw4-sw4sw4-w2se4-se4se4	03S08W14-3000	Yes	320.00	North	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Tilamook	ne4sw4	03S08W16-3600	Yes	40.00	West	Federal	US Forest Service	US Forest Service
Tilamook	se4ne4-n2se4-se4se4	03S08W17-3901	Yes	160.00	South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Tilamook	w2nw4ne4	03S09W19-400	Yes	20.00	West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Tilamook	W1/2NW1/4 Sec 24 T03S R10W	03S10W24-4700	Yes	80.00	North	Federal	US Forest Service	US Forest Service
					South	Federal	US Forest Service	US Forest Service
					East	Federal	US Forest Service	US Forest Service
					West	Federal	US Forest Service	US Forest Service
Tilamook	lots 3,4-e2sw4-s2se4	02S08W30-5300	Yes	263.20	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					East	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Yamhill	n2sw4	03S06W16-500	Yes	80.00	South	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
					West	Federal	US Bureau of Land Mgmt	US Bureau of Land Mgmt
Total acres				17398.02				