



Oregon House Committee on Rural Communities, Land Use, and Water
Public Hearing HB 3474
March 16, 2015

Chairman Clem, members of the Committee, I am Chuck Burley, Public Affairs Manager, US Operations, Interfor US Inc. Thank you for this opportunity to present these comments on HB 3474: a bill that would create a new Trust Land Transfer authority for Oregon.

Interfor has 18 mills in North America including two in Oregon and three in Washington. Our mills are sourced from a variety of public and private landowners. In Washington the Department of Natural Resources (DNR) trust lands are a very important source of wood fiber for our mills.

In crafting HB 3474 I have heard repeatedly that Oregon desires to create a Trust Land Transfer (TLT) program similar to Washington's. I would like to focus my comments on this premise by first pointing out one very large difference between HB 3474 and the Washington TLT program and second to highlight some concerns with the Washington program so as to avoid them if Oregon is to adopt a TLT program.

What is the Washington Trust Land Transfer Program? From the DNR's website¹, a brief summary:

"The Department of Natural Resources manages more than 3 million acres of state trust forest, agricultural, range and commercial properties. Trust lands earn income to build schools, universities and other state institutions and help fund local services in many counties. They also provide important habitat for fish and wildlife, recreation, and educational opportunities for the public.

"The Department strives to improve returns from state trust lands; however, not all trust lands are best suited for income production. Some lands have important social or ecological values that are desirable of protection for public use and benefit.

"The Trust Land Transfer Program provides an opportunity to retain identified special trust lands in public ownership while maintaining and improving economic return to trust beneficiaries.

"The Legislatively funded Trust Land Transfer Program accomplishes

¹ http://www.dnr.wa.gov/BusinessPermits/Topics/OtherLandTransactions/Pages/amp_tlt.aspx

these important objectives for Common School Trust lands. Designated properties are appraised and transferred at market value. The value of the timber is deposited into the Common School Construction Account to provide immediate revenue for schools K-12. The value of the land is used to acquire replacement property better suited to generate future revenue for common schools.

"The timbered property is transferred to another public agency to be managed and protected for public use and enjoyment. The legislation stipulates that the aggregate timber value of all transfers be at least 80% of the total appropriation. This high timber to land ratio of value insures that most of the appropriation is directed to K-12 education in the current biennium. Properties with lower timber to land value ratios are often unsuited for this program."

The key points from this brief description are:

1. The DNR "strives to improve returns from state trust lands",
2. "The Trust Land Transfer Program provides an opportunity to retain identified special trust lands in public ownership while maintaining and improving economic return to trust beneficiaries", and
3. "The value of the land is used to acquire replacement property better suited to generate future revenue for common schools".

I would submit that all three of these critical elements are absent in HB 3474.

There is no discussion whatsoever about improving returns from trust lands or improving economic return to trust beneficiaries.

Perhaps most important, however, is that HB 3474 does not discuss the notion of "replacement property better suited to generate future revenue for common schools".

If all the TLT program does is transfer trust lands without replacement, the trust corpus will erode over time.

This brings me to my second point: one concern with Washington's TLT program is the erosion of the trust corpus. Earlier this month at the April 7 Washington Board of Natural Resources meeting, the American Forest Resource Council presented testimony on this subject². I have included a portion of that testimony below:

"Second is our concern over the lack of replacement lands acquired under this program. While the 2015-2017 TLT program report published in January of this year shows 116,877 acres of Common School Trust land has been transferred out of trust management, there

² Washington Board of Natural Resources April 7, 2015: Matt Comisky, Washington Manager, American Forest Resource Council Comments on Trust Land Transfer

is no mention of the number of acres or quality of acres purchased in replacement. The 2013-2015 TLT program report shows at the time of publishing the DNR had transferred 113,280 acres and only purchased 49,683 acres. This equates to a net loss for the Common School trust of approximately 60,000 acres. This continued erosion of the trust asset equates to death by 1,000 cuts for those relying on the products and revenues that come from these lands. A reduction in working forest acres is a disservice to the economic well-being of current and future generations of Washingtonians. We urge the Board evaluate this program to examine its long term impact on the trusts and the future of forest land management in the State of Washington.”

Generally speaking, among other trust duties, a trustee has a duty of impartiality. This includes an obligation to provide for all generations without favoring present of future beneficiaries. Paying off the beneficiary today as HB 3474 would do would not be consistent with this inter-generational equity. Nor would the erosion of the trust corpus benefit future beneficiaries.

My thoughts are:

1. Oregon needs to be more aggressive on managing trust lands—not less.

In 2013, according to the Children’s Land Alliance Supporting Schools³ Washington generated \$84 million from School Trust Lands whereas Oregon generated \$4.7 million. Granted this is on a substantially different land base. In 1859 when Oregon became a state, Congress granted about 3.4 million acres of school lands. Today fewer than 760,000 remain. In Washington, in 1889 when it became a state, Congress granted 2.4 million acres to support public schools and they still have just short of 1.8 million acres remaining. (I have included charts that show the difference between Washington and Oregon trust land acres.)

Oregon’s Constitution and Revised Statutes need to be strengthened relative to the state’s trust mandates. Currently the Oregon Constitution Article VIII §5(2), as amended in 1968, states “The [State Land Board] shall 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.” The State Forester is directed to manage lands “so as to secure the greatest permanent value of those lands to the whole people of the State of Oregon...” (ORS 530.490). This language “[broadens] the definition of the trust to include the entire populace of the state, not just the interest of the beneficiaries, while giving preferential treatment to the original purposes of the grants. The criterion of securing the greatest permanent value of the lands differs from the criterion of securing maximum benefit, especially if maximum benefit is thought of in present-value terms.”⁴

³ <http://www.childrenslandalliance.com/states/>

⁴ *State Trust Lands: History, Management, and Sustainable Use (Development of Western Resources)*, Jon A. Souder and Sally K. Fairfax, February 21, 1996.

2. This is about keeping working forests as working forests.

In 2005 the legislature passed the Community Forest Authority Act (HB 2729) to provide another tool to keep working forests intact. In 2009 the Legislature authorized \$15 Million in Lottery bonds to purchase what is now the Gilchrist State Forest.

We need to be doing all we can to keep these large blocks of working forest intact. The jobs in our rural communities depend upon it. The public schools and county services funded by management of these forests depend upon it.

Unfortunately HB 3474 does just the opposite. It takes productive timber lands out of management and makes no attempt to replace the acres.

3. Taking forest land out of production threatens the existing rural industry infrastructure.

Even if we had a means to replace trust lands transferred elsewhere, the question is where would the replacement lands come from? There is a finite amount of timber land today. The replacement lands could be in other uses e.g. agriculture or commercial and still generate revenue for the beneficiaries. However, this 'conversion' if you will only leads to a further decline in overall timber available to support our rural infrastructure.

4. Any Trust Land Transfer program should require identifying replacement acres before any lands can be transferred.

In closing, as Will Rogers said, "Buy land. They ain't making any more of the stuff."

Washington Trust Land Beneficiary Funds and Acreage⁵

Fund	Beneficiary	Surface Acres in Fund	% Acres
Common Schools	Public Schools (K-12)	1,757,142	78.4%
Agricultural School Trust	Washington State University	71,336	3.2%
Scientific School Trust	Washington State University	82,433	3.7%
Normal School Trust	Western Washington University Central Washington University Eastern Washington University Evergreen State College	64,146	2.9%
University-Original Trust	University of Washington	2,893	0.1%
University-Transfer Trust	University of Washington	83,802	3.7%
Charitable, Educational, Penal and Reformatory Institutions Trust	Washington State Institutions	69,937	3.1%
Capitol Building Trust		109,003	4.9%
	Total	2,240,692	100.0%

Oregon Trust Land Beneficiary Funds and Surface Acreage Dedicated to Each⁶

Fund	Beneficiary	Surface Acres in Fund	% Acres
Common Schools	Public Schools (K-12)	758,585	100.0%
Capital Buildings	To construct public buildings	0	0.0%
Internal Improvements	Public Schools (K-12)	518	0.0%
Agricultural College Land	Oregon State University	0	0.0%
Salt Springs Fund	To protect salt springs for public use	0	0.0%
University Fund	University of Oregon	0	0.0%
	Total	759,103	100.0%

⁵ http://class-wp.digitaltrike.com/wp-content/uploads/2012/10/WA_FINAL_10-2-07.pdf

⁶ http://class-wp.digitaltrike.com/wp-content/uploads/2012/10/OR_FINAL_10-2-07.pdf

