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Western Environmental Law Center

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900 Court St. NE, Room H-178
Salem, OR. 97301

RE: Support for the Oregon Department of Forestry Federal Forest Restoration Program

Dear Senator Devlin and Representative Nathanson:

March 24, 2017

The Western Environmental Law Center (WELC) uses the full power of the law to safeguard the wildlands, wildlife, and communities of the American West. Since 1993, we have built, defended, and enforced a legal framework for conservation that is: (1) informed by science and economics; (2) rooted in and accountable to communities, wildlife, and special places in the West; (3) cognizant of the ecological systems on which we rely for food, water, homes, and energy; and (4) complementary to efforts that revitalize our civic and democratic institutions.

Given this mission, WELC has chosen to engage in collaborative forest conservation on the Malheur (since 2003) and Wallowa-Whitman National Forests (since 2013). Given the success we have witnessed, we are expanding our collaborative work by retaining a second attorney and assessing opportunities on the Deschutes, Ochoco, and possibly Umatilla National Forests. As a full service environmental law firm engaged in collaboration – a distinctive occurrence in Oregon and the West – we wanted to share with you the reasons why we support forest collaboration and the Oregon Department of Forestry’s Federal Forest Restoration Program as you consider reauthorizing and funding this program in the next biennium.

First, we believe that resilience is essential to the American West and to Oregon specifically: it empowers communities and ecological systems with the capacity to adapt to changing circumstances and conditions. Resilience is best fostered when communities are rooted in the ecological systems in which they live. The same is true for conservation advocacy. Much of our work involves the implementation and enforcement of environmental laws adopted in the 1970s through policy advocacy and litigation, work that can and must continue. Yet, to create more resilient conservation, we must thoughtfully complement this work with other tools that better root conservation advocacy in place and people. In short, we must work to secure both ecological and community – or civic – resilience.

Collaboration is one such tool to create more resilient landscapes and communities, allowing us to work with diverse stakeholders in an open and inclusive process to address natural resource

problems or issues of mutual concern that are unlikely to be solved by one stakeholder alone. When evaluating whether to collaborate or use another tool to achieve conservation outcomes, we consider the following principles:

- **The collaborative effort is open to innovation.** People come together to collaborate when they have become “stuck” on a particular contentious issue so it makes little sense to continue traveling the same pathway that led to the logjam. For WELC to engage in collaboration, the group must be willing to try new ways of doing business, even if that makes many, most, or all of the participants uncomfortable. Innovation comes from being uncomfortable! This should not suggest that “innovation” requires any stakeholder – including WELC – to compromise its core values or agree to action that would violate federal or state environmental laws.
- **The right people.** In order to build a durable solution to tough natural resource problems, representatives of interested and affected stakeholders must be at the table. If they are not, the “right people” cannot buy in to the solution arrived at by “others.” Put differently, collaborations must be open to all interested stakeholders who are willing to work together to achieve the outcomes or objectives of the collaborative group. However, this diversity of views may make it difficult to work together because of “baggage,” mistrust, or resentment. Other times, for whatever reason, it may not be possible for all necessary parties to be at the table. In these situations, the collaborative effort must seek out and represent by proxy the views of missing, but important, voices. In addition, it is not simply a function of having the right people *at* the table, but having the right people *convene* the table. In general, but not always, collaborative enterprises that are convened by government officials do not have enough “street credibility” to get off the ground and remain strong. Instead, efforts that originate at the local level in response to local community (vs. governmental) needs are often the most durable collaborations.
- **At the right time.** The time isn’t always ripe for collaboration. While stakeholders may want to come together *before* they get to an impasse, it often takes complete gridlock for stakeholders to be willing to try something new and to make the leap to collaboration. Either way, there is no right answer for *when* to collaborate; when there is enough critical mass of the right people who are concerned about a particular natural resources issue, then it may (or may not) be the right time to collaborate.
- **For the right reasons.** Just like you can lead a horse to water but you can’t make him drink, it’s neither possible nor advisable to force unwilling participants to collaborate. Usually, “forced collaboration” – i.e., politically-motivated collaborations, legal settlements, or statutorily-required collaboration – does not work, because stakeholders see their participation as mandatory, with outcomes dictated by others not at the table. Only if people want to be at the table to craft solutions will those solutions take root. In this light, we only engage in collaborative efforts if there is a significant chance of achieving proactive and durable conservation gains on the ground. What this means will depend on the place-based collaboration under consideration.

- **It takes time.** Collaboration is not for the faint of heart. It takes time, most often years, to repair or build relationships and trust around natural resources issues. Collaboration cannot be rushed, nor can it be held to easily measured “benchmarks.” Instead, there’s often a period of *slowly* building momentum, pushing the momentum forward, and then riding the wave forward to achieve conservation and collaborative objectives...followed by a rebuilding of momentum, and so on. Collaboration is usually not a one-time event; while new collaboratives often focus on a single project, there is usually a desire to continue to work on additional projects or challenges into the indefinite future.
- **Use of science.** A central tenant of WELC’s collaborative engagement is to use the best available science and to engage subject matter experts to inform decisions about the management of public resources. While science cannot answer all questions, it does address and suggest means by which we can protect wildlife and their habitat, safeguard water quality, ensure soil productivity, and increase terrestrial resilience to climate change. Basing decisions on science thus helps to ensure that our intervention in the workings of the natural world is truly restorative and protective.
- **Ground rules.** WELC will engage in collaboratives that have reasonable ground rules that are enforced by the group on all participants. Ground rules that lead to productive collaboration include: a level playing field for all interests; commitments are made and honored; civil and safe meetings; open-mindedness; focus on finding solutions, not fixing blame; allowing all participants to speak and be heard; open and inclusive participation; and personal integrity (i.e., willingness to accurately reflect what is occurring at the collaborative table to those who are not at it).
- **Decisionmaking.** To ensure that collaboratives are effective, there must be a clear and standard method of decisionmaking that is utilized at all levels of the collaboration. Decisionmaking is clear, transparent, and documented. All partners must be held accountable to the decisions made, and must know what to expect from each other when the collaborative’s decisions “go public” or encounter push-back from other interests.
- **Facilitation.** Strong, external, third-party facilitation is usually – but not always – the best way to guide stakeholders through a collaborative process. Regardless, a neutral facilitator (someone who does not participate in the group discussions or offer opinions on any substantive issue) keeps the process on track, makes sure the group adheres to the meeting ground rules, and follows the collaborative process. For these reasons, strong facilitation lends credibility to collaboratives so that stakeholders feel safe and know that their voice has been heard.

We share this list of collaboration principles with you to demonstrate that we have given considerable consideration to when, where, and why to engage in collaboration, and that we are fully cognizant of the potential advantages and disadvantages to engagement. Many of the issues addressed in our principles are concepts with which the Oregon Legislature is struggling: for example, not all geographic locations are ripe for collaborative engagement, and it often takes many years before a collaborative effort can “show results.” Indeed, our experience tells us that some communities are not yet ready to embrace a new way of civic engagement on forest

management issues, and even where a community has taken tentative steps into the collaborative sphere such as in Grant and Harney Counties with the Blue Mountains Forest Partners, it took the Partners almost five years to develop our first successful restoration project: and it was a very small project in a very banal landscape – a far cry from the Partners’ Collaborative Forest Landscape Restoration Project (CFLRP) that intends to restore more than 400,000 acres by 2019. This CFLRP program, and an associated ten-year stewardship contract on the Malheur National Forest, represent 86% of the private employment and all existing wood manufacturing infrastructure within Grant and Harney Counties and is providing substantial socioeconomic benefit to local communities. But these results did not occur overnight: it took years and a lot of hard work.

Second, we support ODF’s Federal Forest Restoration Program because it fills an important niche in forest collaboration statewide. Many of WELC’s principles for collaboration – including the importance of innovation and science delivery, third-party facilitation, and decisionmaking protocols – are all part of the resources that the Program brings to the collaborative table. All of the collaborative groups with which WELC is engaged have benefitted from Federal Forest Restoration Program funds for all of these activities, without which we are dubious that collaboration would have occurred or continued.

Third, the State’s support for collaboration sets an invaluable precedent and example of how to solve tough natural resources challenges *together*, by listening to the needs of others and working together to craft durable, creative solutions. Oregonians are known for our can-do spirit and ingenuity, and are emulated nationwide as a result: this attitude and capacity is in demand now more than ever. The Oregon Legislature is to be commended for once again being a trendsetter with its Federal Forest Restoration Program.

We know that not all stakeholders embrace collaboration, and that is their decision to make (indeed, our collaborative principles recognize that forcing participants to the table does not work). However, resorting to the *status quo ante* is not an option for Oregon, its forests, or its communities. Consequently, we urge you to fully fund the Federal Forest Restoration Program at the \$4.4 million level for the 2017-2019 biennium because we believe it will make a real difference to Oregonians and the forests we all cherish.

If you have any questions about forest collaboration, WELC’s collaborative conservation work in Oregon or the West, or our support for the Federal Forest Restoration Program, please do not hesitate to contact me.

Sincerely,



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