

# Grant County Public Forest Commission

P.O. Box 394  
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Committed to a Thriving Community through Healthy Forests

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## Testimony

On

**The Oregon Eastside Restoration Old Growth Protection and Jobs Act of 2009  
SB 2895**

Before

**Senate Committee on Energy and Natural Resources  
March 10, 2010**

### Elected Members

Dave Traylor

Mike Smith

Tad Houpt

Roy Peterson

Dan Bishop

Walt Gentis

Roger Mckinley

King Williams

Larry Blasing

My name is Larry Blasing, member of the Grant County Public Forest Commission.

My forestry career began on the Malheur national Forest in 1956. I eventually graduated from Oregon State University in Forest Management in 1964. I have held positions as logging manager, sawmill manager, consultant and company representative. I have represented the forest products industry including companies such as: Boise Cascade, in Montana, Idaho, Eastern Washington, and Alaska. Much of this experience has been in eastside forest types. I have been involved in most major forest policy issues that affect the western states from the local level to the White House. I have represented the forest products industry in litigation and numerous appeals. At one time I worked with Senator Hatfield on the National Forest Management Act. I am currently serving in a position elected by the voters of Grant County, Oregon on the "Grant County Public Forest Commission". I am presenting testimony as a member of the Grant County Public Forest Commission.

The Grant County Public Forest Commission was established by an initiative of the electorate of Grant County, Oregon for the purpose (in part) to "prescribe actions to promote the efficient beneficial and timely stewardship of public lands and resources". The members of the Commission are elected by the voters of Grant County. The enabling initiative passed by the voters of Grant County in 2002 recognized and stated ..."forest health is paramount to our natural environment, including watersheds, wildlife habitat, fisheries, native ecosystems, timber production, grazing and other beneficial activities". Our purpose as a commission is to work to ensure that these principles are met in a timely fashion.

We are fully aware of the raw material plight of our three Grant County sawmills. We are in support and contribute to any effort to provide relief to the raw material paralysis. We believe that the risks associated with SB 2895 "Oregon Eastside Forests Restoration, Old Growth Protection and Jobs Act of 2009", hereinafter referred to as "Act" far outweigh the benefits and will, in-fact, exacerbate our raw material supply problems. This is the primary concern which causes us to oppose the Act in its current form and offer the following comments.

It is highly unlikely that the Act will be successful in the attempts to address several issues that are controversial within the National Forest Management Act. The Act addresses the wrong problem. It is not management science that is the problem. The problem in getting projects initiated on the ground and the inability of the Forest Service to write a NEPA document which is acceptable to the 9<sup>th</sup> Circuit Court of Appeals. While appeals delay Forest Service programs, they do not entirely stop the programs. It is the continued threat of litigation by the "Environmental Litigation Industry" what stops the process and this Act does not resolve that problem.

The Act's goal was to address process stagnation, a major and systemic problem associated with natural resource management on our National Forests in Eastern Oregon, and provide relief to the economies and industries reliant upon our National Forests. However, the Act fails to limit process, and actually dramatically adds to the process required to get a project on the ground. As for resolving the timber supply and economic accountability problems on the Eastside National Forests, the Act fails again.

Throughout the Act the Commission found that economic and social considerations are always placed secondary to anything else, in stark contrast to the objectives of forest management spelled out in the Forest Service Manual (FSM 2402) which includes six (6) goals and the first is "To provide a continuous supply of National Forest System timber for the use and necessities of the citizens of the United States."

The Goals established by this Act, Section (4)(a)(1), do not include any Economic or Jobs consideration. Economics is only included as a secondary issue in determining methodology of project initiation, Section (4)(a)(2)(B). Then "wood harvests to sustain adequate industry infrastructure" is included as number 9 in a list of 15 things which could potentially be helped to achieve when choosing methodologies for projects.

The Commission advocates and supports the need to expedite providing of raw materials for the local timber industry and ensure the retention of local industrial infrastructure to support local dependant economies. However, Section (9), which defines and describes the projects under the Act states seven criteria that must be met in developing the ecological restoration projects and activities, none of which address economic or jobs considerations. After meeting these criteria the Act states that the projects shall be prioritized based on the degree to which the projects will improve forest and watershed health based on plant association groups and (then lastly) the need to maintain industrial infrastructure to carry out restoration activities.

The Commission does not agree that the Act's attempts to help "local" economies by specifying that the required Stewardship contract "give preference to local businesses" will help local business and workers. The Act defines "local" to be a 100 mile radius around any National Forest, Section (13)(d)(3) which for the Malheur National Forest can reach from the Cascades to the Idaho border and North to the Washington border. The Commission believes this will kill small resource dependant communities within Grant County, Harney County, Wallowa County, Wheeler County and other small remote communities within the Eastern Oregon national forests.

The new processes spelled out will do little to get more projects on the ground.

- 1) The Advisory Panel as proposed in the Act is destined for disaster;
  - a. Legislated advisory panels (like the Committee of Scientists in RPA) have been shown to be ineffective and a waste of taxpayer money;
  - b. The Advisory Panel specified in the Act will add a cumbersome layer of process to a variety of decisions;
  - c. How can one, seven (7) person panel be expected to provide the mandated site specific input to the issues on each of the six (6) National Forests and the associated Collaborative Groups? This will easily be a full time job for the panel;
  - d. The combination of mandates including the Advisory Panel, the Collaborative Groups and coordination with the "Secretary" will absolutely guarantee paralysis; and
  - e. The addition of the Advisory Panel and the Collaborative Groups will add two (2) additional layers which are being legalized, codified and mandated by Congress which will direct US Forest Service management programs, essentially bypassing the Secretary of Agriculture.
- 2) The myriad of reports mandated within this Act will by definition increase process and will add layers of administrative work to an already overly complicated process;
- 3) We are advised in conversations with Forest Service personnel that the timelines for actions required in this Act will be impossible to keep;
- 4) The Advisory Panel and Collaborative Groups leave out the mandated coordination required by current law to include county government, grazing permittees, neighboring landowners and other valid interest holders; and
- 5) The new processes, procedures and restrictions spelled out in the act are by definition "more process".
- 6) The bill places layers of new bureaucracy upon existing bureaucracy, a sure recipe for stagnation.
- 7) It should be made clear that the Secretary only needs to "consider" the input of Collaborative, as well as others, but the Secretary's decision is final. The Secretary has to run the Forest Service, not Oregon State University or any other group no matter how well intentioned through "Advisory Panels".

The Commission believes that the Act, while attempting to limit appeals and litigation, actually will provide additional fuel to the environmental litigation industry through:

- 1) Ambiguous definitions including:
  - a. "**Old Growth**" which includes a single tree, Section (3)(14), then prohibits harvest or removal, Section (4)(b)(1), then discusses limiting harvest of trees over 150 years old in Section (9)(d);
  - b. "**Forest Health**" which includes "to maintain or develop species composition, ecosystem function and structure, hydrologic function, carbon cycling, and sediment regimes that are within an acceptable range that considers—(i) historic variability; and (ii) anticipated future conditions, Section (3)(6);

- c. “**restoration economies**”, Section (2)(2); and
  - d. “**Plant Association**”, Section (3)(17), which includes as part of the definition “vegetation community that – (i) would potentially, in the absence of disturbance occupy a site...”; and
- 2) Nebulous, unclear and even litigious wording and management direction, such as:
- a. “restore ecologically sustainable forest stands to incorporate characteristic forest stand structures and older tree populations”, Section (4)(a)(2)(B)(viii) ;
  - b. “natural structure” which is undefined and not agreed upon by scientists;
  - c. “best available science” which is absolutely subjective and a recipe for litigation;
  - d. “restore historical levels of within forest stand spatial heterogeneity” Section (4)(a)(2)(B)(iv);
  - e. “the restoration and maintenance of historic population levels of older tree”, Section (4)(a)(2)(B)(vii);
  - f. “ecologically appropriate spatial complexity”, Section (4)(a)(2)(B)(xi);
  - g. “In developing ecological restoration projects under this Act, the Secretary shall— (A)..., and achieve, a net reduction in the permanent road system;”, Section (6)(c)(1), which will ultimately result in zero miles of permanent roads on the forest if carried out as written; and

The Commission believes that Section 10 of the Act while providing codification to the current Collaborative process, goes on to provide for a new process which will certainly result in more process and litigation. The Commission believes that any advisory group or collaborative group must include valid permit holders, valid interest holders, neighboring landowners and local governments to a larger degree than spelled out in the Act. Recommendations from Collaborative groups need to be site specific.

The provisions in the Act that direct the harvesting restrictions on Old Growth and the recruitment of replacement trees will have a negative effect on the economic productivity of the national forest lands. While the Act directs that a single tree is Old Growth the timber resource is managed as a stand. Not all trees in a stand are the same diameter. When a stand reaches the size and condition where harvest is desirable, it is likely that some trees will exceed the 21” dbh screen. Since they cannot be harvested under the provisions of the Act, those trees will occupy a growing site that cannot be used for commercial harvest until that tree dies. Over time this will ratchet down the amount of growing site that is available for commercial harvest.

Restricting the harvest of trees less than 150 years of age and less than 21” dbh is going to cause a management nightmare. In eastern Oregon trees will grow to 21” dbh in about 60 years on the average sites. On higher sites 21” dbh can be achieved in 40 years. The normal rotation for eastern Oregon stands is about 100 years. Therefore, under this Act, 40 to 60 years of the most productive period of timber volume growth will be lost.

“Old Growth Protection” is only a temporary concept at best. First of all, old trees die with or without the help of man. Pine trees weaken, often get diseased and then are killed by insects. Douglas fir, true firs, and others are subject to many diseases and if left without management are the areas where the most serious catastrophic fires occur. Old mixed conifer forests burn up – then what? If you want to reduce catastrophic fires on national forests then you must reduce the hazards on old growth mixed conifer stands. The Santiam Pass is an example and stands as a glaring reminder to everyone who drives through what stupidity looks like.

The forests of Eastern Oregon are dynamic and were constantly changing even before any human forest management began. The attempt in this Act to codify management details (some not even proven) does not fit all conditions in Eastern Oregon and certainly will not be appropriate over time. Conditions such as climate change, yearly weather patterns, insect and disease cycles, windthrow, microbursts, catastrophic fires, etc need to be dealt with as they occur. They are never the same. Therefore, codifying management details to the degree proposed in this Act is destined to failure and provides the “Environmental Litigation Industry” with hundreds of new issues to challenge.

The Commission believes that, as written, this Act will only exacerbate the problems associated with forest management in Eastern Oregon. In reality, the environmentalists will get everything they could hope for, while local communities and dependent industries are assured of a timber program largely based on a weak promise through:

- 1) Codification by Congress of the flawed Eastside Screens;
- 2) Codification and Expansion of PACFISH and INFISH by Congress;
- 3) Having a congressionally mandated definition of Old Growth which is functionally unattainable;
- 4) A mandated reduction in the National Forest Road system which mathematically will result in NO permanent roads;
- 5) A mandated collaborative process which will result in major stagnation of the entire process; and
- 6) Having congress officially mandate some “historic population level of older trees” (what are older trees?) and those items discussed above 2) (a) - (g) to name just a few of the gains.

The Forest Service has ongoing management projects where they have already invested large amounts of money and manpower. Under this Act, will these projects be allowed to continue? Will the necessary funds come from the normal appropriations process or from the special appropriations for this Act?

The Act authorizes a one time sum of \$50,000,000 that will be available until it is used up. Only 3% of this money can be used for administrative purposes, requiring the balance of the administrative costs including the costs of the Advisory Panel, Collaborative groups and extra assessments and reports to be taken from the already anemic Timber Management budget in these six (6) national forests. It is highly unlikely that: 1) There will be additional appropriations for the increased overhead associated with this Act; or 2) The other National Forests within either Region 6 or the other Regions of the nation will voluntarily relinquish funds from their allocated budgets to make up the increased

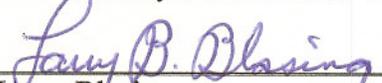
overhead associated with this Act. Therefore, each of the forests will be required to make up the difference in overhead from other projects.

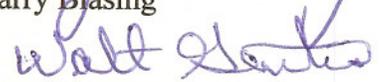
It is unlikely that the revenues from the sale of forest products generated from the restoration projects can sustain the program of Ecological Restoration Projects on the Large Landscape basis. The restrictions placed on harvest of "Older Trees" and the reliance on harvest of "Biomass" is highly unlikely to provide a sustainable flow of income large enough to fund the intent of this Act. Biomass and small diameter trees have the lowest product value and the highest cost to produce. Biomass barely pays its way to the mill in the best markets and therefore, there will be little revenue to sustain a very expensive program. As a result, the USFS will be stuck trying to comply with a very expensive and legally mandated program with little money to comply.

The tax payers of the United States will again be burdened with an extensive and expensive program mandated by congress. When in fact the products of these six (6) national forests should be easily capable of producing enough income, from the sale of even a minor part of the sustained yield from the forests, to not only pay for the harvest program but the associated restoration work necessary to improve the declining health of the forests. In these times of skyrocketing national deficit and astronomical national debt, congress should recognize that our vast renewable natural resources are one area available to produce the income necessary to dig our nation out of the fiscal mess we find ourselves in at this time. We need less restrictions not more expensive process at this time.

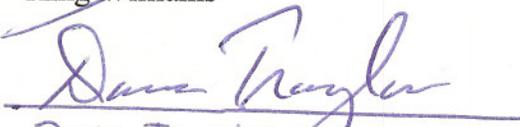
The Commission finds that enormity of the problems associated with this Act are so overwhelming that we can not support it. Any purported benefits pale to the increased process, increased costs and the areas of potential litigation created by this Act.

Grant County Public Forest Commission

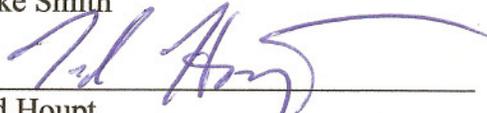
  
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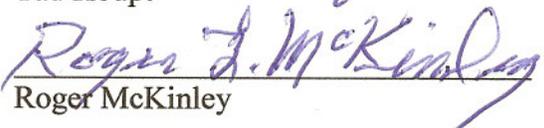
  
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