

SECTION BY SECTION OF THE OREGON AND CALIFORNIA LAND GRANT ACT
OF 2014 Draft in the Nature of a Substitute

Summary: The bill covers approximately 2.8 million acres of BLM land, designating approximately 1.2 million acres Forestry Emphasis Areas, creating the opportunity for sustainable yearly harvest of 400 million board feet of timber and 1.6 million acres Conservation Emphasis Areas, giving greater certainty for old growth and riparian protection.; it authorizes in detail the use of ecological forestry for the Forestry Emphasis Areas; it designates 252 miles of new wild and scenic rivers as well as 87,000 acres of new wilderness designation. It also rectifies some old discrepancies in Northwest Native American tribal land holdings and management.

**TITLE I – MANAGEMENT ON OREGON AND CALIFORNIA RAILROAD AND
COOS BAY WAGON ROAD GRANT LAND**

Sec. 101. Management on Oregon and California Railroad and Coos Bay Wagon Road Grant Land.

Sec. 1. Short Title. Oregon and California Land Grant Act

Sec. 2. Definitions. This section contains definitions for this Act. Among them are:

- “covered land” : defined by map and consisting of the approximately 2.8 million acres of the Oregon and California Railroad and Coos Bay Wagon Road Grant Lands managed by the Bureau of Land Management, which includes the approximately 410,000 acres of the Public Domain and other land managed by the Bureau of Land Management in Oregon within and adjacent to the boundaries of the Oregon and California Grant Lands, approximately 72,000 acres of Coos Bay Wagon Road grant land, approximately 311,500 acres of Forest Service and Army Corps of Engineers land that is being brought under the BLM administration in exchange for the release of approximately 480,000 acres of Forest Service from the 1937 O&C formula.
- “late-successional old-growth forest”: a stand of trees equal to or greater than ¼ acre with a 90 year or older age class of trees as of the date of enactment of this act.
- “legacy tree”: a live tree equal to or greater than 150 years of age or a dead tree estimated to have been 150 years of age or older when it died.
- “dry forestry emphasis area”: lands defined by map in the covered area with drier forests and intended to be managed with an emphasis on timber from ecological forest management
- “moist forestry emphasis area”: lands defined by map in the covered area with moist forests and intended to be managed with an emphasis on timber from ecological forest management.
- “conservation emphasis area”: lands defined by map within the covered area and intended to be managed with an emphasis on conservation values and totaling approximately 1.6 million acres.

Sec. 3. Land Management. Under current law, most of the lands enumerated above are managed under the O&C Lands Act of 1937, along with the Northwest Forest Plan, and consistent with other environmental and land management statutes. This Act modernizes the O&C Lands Act of 1937, cancels the Survey and Manage component of the Northwest Forest Plan for the forestry emphasis areas, maintains other environmental and land management statutes but shifts forward much of the timeline for environmental analysis for forest management projects and manages the lands to collectively meet the both the original and updated management objectives of the O&C Lands Act of 1937, identified as:

- certainty and economic stability for local communities and industries;
- fish and wildlife benefits
- improved ecological and hydrological function and health;
- improved forest health;
- municipal and community drinking water;
- permanent forest production for identified forestry areas;
- protection of watersheds and regulation of stream flow; and
- recreational opportunities.

Public domain lands are brought in under this act as O&C lands to begin rectifying the checkerboard land management difficulties of this area.

Late successional old-growth forest stands are protected by this Act while forestry on the covered lands is directed to be implemented to protect the long-term health of the forests, wildlife, and aquatic resources extensively incorporating the most recent ecological forestry science-based prescriptions. Legacy trees are also protected, with the Secretary directed to not remove these trees in riparian and conservation areas and to seek to protect these trees in forestry emphasis areas by including them in forestry retention requirements.

Nothing in this Act will modify the obligations to implement the Federal Land Policy and Management Act (FLPMA), Endangered Species Act (ESA), the Clean Water Act (CWA). Previous land protection designations in the National Landscape Conservation System are absolutely protected.

A private landowner can treat any forestry emphasis land up to 100 feet from residences, existing on the date of the Act's passage, without a permit so long as he or she gives proper notice, pays for the work and the Secretary is able supervise, monitor and enforce the action being carried out in accordance with this Act.

At no less than 5 year intervals, BLM shall reevaluate and may redesignate lands that are moist or dry forests based on plant association groups that define those forest types. They can also adjust site specific designations based on field examinations.

Provides that nothing in this act affects existing rights, private ownership interests, or the jurisdiction of the state regarding fish and wildlife management. The continued rights include the ability of the Secretary to issue new permissions.

Pesticide use and fire protection in the covered area must comply with State of Oregon agreements and requirements to ensure safe and limited use.

Creates an area of land within the covered area to be managed in consultation primarily with Oregon State University to perform scientific research and experimentation related to forest and aquatic management.

This section makes sure that existing timber or restoration contracts and pending sales for which NEPA analysis has been completed are not disturbed by this new law. Interim projects that comply with this act are also allowed.

Sec. 4. Aquatic and Riparian Protection. This section requires BLM to carry out the Northwest Forest Plan Aquatic Conservation Strategy which has a one-size-fits-all buffer area around all streams, but amended specifically for the ecological forestry implemented by this bill. The section establishes riparian reserves per the land designation - either as Forestry Emphasis Areas or Conservation Emphasis Areas, Source Water areas and key watersheds - to protect the fish-bearing and non-fish bearing streams tailoring the riparian areas to the ecological importance of the streams, based on a watershed analysis, specifically decreasing the size of some riparian zones while increasing the size of others. To improve the quality of fish habitat, stream improvement work is to be conducted in the covered area.

Sec. 5. Notice of Intent. This section makes it clear that 30 days after this bill is enacted BLM shall publish a notice of intent to prepare a Landscape Prioritization Plan and two draft Comprehensive Environmental Impact Statements covering management activities in moist and dry forestry areas and the conservation emphasis areas. The notice of intent will receive public comment for 45 days; the preparation of these documents will be coordinated with ongoing revisions to BLM resource Management Plans for the covered lands. Within 30 days of the publication of the notice of intent, BLM shall sign a consultation agreement with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Environmental Protection Agency and the U.S. Geological Survey and invite the following entities to be cooperating agencies or provide comment on the development of these documents: the State of Oregon, Federally-recognized Indian tribes with aboriginal land in the covered area, and affected local governments.

Sec. 6. Landscape Prioritization Plans (LPP). This section defines the Landscape Prioritization Plan which will be made available to the public 270 days after this bill is signed into law and updated each 5 years thereafter. These are to be developed as part of the development or revision of the BLM Resource Management Plan completed under current law.

NEPA analysis is required on the Landscape Prioritization Plan and the 5 year body of projects to be performed on the covered land. The Landscape Prioritization Plan sets the framework for the 5 year body of projects in the moist and dry forestry areas and also requires dialogue with the United States Fish and Wildlife Service and the National Oceanic and Atmospheric

Administration in their development of their Biological Opinion done under the Endangered Species Act on the LPP.

The public gets 60 days to comment on the LPP and the Secretary may modify the plan as necessary based on public comments.

The LPP is to be monitored annually and every 5 years as part of the development or revision of a resource management plan under FLPMA. As part of the monitoring assessment, BLM will report changes to conditions of a number of metrics, such as water quality, timber, fish and wildlife, on the covered lands. The LPPs shall also include, and have monitored, a long term look at the landscape to ensure distribution of harvests and areas of denser or complex forests as well as look at long-term availability of thinning and efforts to reduce fire, insect and disease risk.

Sec. 7. Objections, Claims and Judicial Review. An objection process is established to hear objections, in lieu of administrative appeals, to the Comprehensive Environmental Impact Statements and individual projects. They can only be filed by individuals that provided written comments to the Draft Comprehensive Environmental Impact Statements

Projects shall not be offered for bid or implementation while an objection is being decided.

Judicial review –A person who filed a pre-decisional objection can file a civil action challenging agency actions relating to vegetation management work in the covered area. These can only be filed in the US District Court for Oregon or DC but only if it is filed within the 75 days following the finalization of the action being challenged. Language is also included encouraging the courts to address the matter in a timely manner.

Sec. 8. Moist Forestry Emphasis Area. Implements principles of ecological forestry to incorporate sustainable forest management practices to increase forest health and the timber produced from the entire covered area from the current yield of around 160 million board feet per year to 400 million board feet per year.

Sec. 9. Dry Forestry Emphasis Area. Implements principles of ecological forestry to incorporate sustainable forest management practices and increase the timber produced from these areas while also reducing the likelihood of catastrophic forest fire.

Sec. 10. Conservation Emphasis Area. Designates areas for various conservation purposes. These include the Late Successional Old-Growth Forest Heritage Areas, the Conservation Network, special management units, national recreation areas and other special management areas.

Sec. 11. Land Management Rationalization In an effort to create more contiguous and more easily managed forest land in these checkerboard ownership areas, this section directs the BLM to transfer to the Forest Service up to 25,000 acres appropriately chosen for proximity to other Forest Service lands. In addition, this bill directs the Forest Service to identify and transfer, for their timber and ecological values, 308,000 acres of Forest Service land. In exchange, approximately 480,000 acres of Forest Service land that has been managed under the 1937 O&C Act revenue structure will be released from that arrangement. Lastly, the bill accepts approximately 3,500 acres of Army Corps of Engineers land into the BLM system.

Sec. 12. Distribution of Funds. Receipts generated on covered lands will be deposited into a separate Treasury account of which \$4 million each year will go to the Treasury General Fund, and distributed annually in accordance with the O&C act. Of the funds remaining, they shall be used to administer this act, providing no more than 25% of receipts or \$20,000,000 maximum to the Bureau of Land Management. 75% of receipts or funds exceeding Bureau of Land Management's share will be given to the counties that comprise the covered lands.

Sec. 102. Wild and Scenic Rivers. Amends the wild and scenic rivers act to designate approximately 89.7 of the total 252 miles of wild and scenic miles in this act.

TITLE II – TRIBAL LAND

Subtitle A—Oregon Coastal Land Conveyance for the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians

Sec. 201. Definitions. Provides the definitions used in this Subtitle, including:

- The definition of “Federal land” in this Subtitle means the approximately 14,804 acres of Federal land depicted on the map entitled “Oregon Coastal Land Conveyance.”
- The definition of “Tribe” in this Subtitle means the Confederate Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

Sec. 202. Conveyance. Places the Federal land subject to this Subtitle into a trust held by the United States for the benefit of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, subject to valid existing rights, including rights-of-way and reciprocal rights-of-way. This section requires that Interior Department, not later than 180 days after enactment of this Act, complete a survey and establish the boundaries of the land taken into trust.

Sec. 203. Map and Legal Description. Directs that maps and legal descriptions be made for this Subtitle to be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and made available for public inspection

Sec. 204. Administration. Prohibits raw log exports according to Federal law and prohibits any use of the land for gaming.

Sec. 205. Forest Management. Requires commercial forestry activities on these lands to follow applicable federal laws including the National Indian Forest Resources Management Act. Also requires that the Tribe and BLM consult to develop agreements regarding access to the land taken into trust that provide for: honoring existing reciprocal right-of-way agreements; administrative access by the Bureau of Land Management; and the management of parcels acquired or developed under the Land and Water Conservation Fund Act of 1965.

The Federal land conveyed to the Tribe is not subject to the land use planning requirements of the Federal Land Policy and Management Act of 1976.

Subtitle B—Canyon Mountain Land Conveyance for the

Sec. 211. Definitions. Provides the definitions used in this Subtitle, including:

- The definition of “Federal land” in this Subtitle means the approximately 17,826 acres of Federal land depicted on the map entitled “Canyon Mountain Land Conveyance.”
- The definition of “Tribe” in this Subtitle means the Cow Creek Band of Umpqua Tribe of Indians.

Sec. 212. Conveyance. Places the Federal land subject to this Subtitle into a trust held by the United States for the benefit of the Cow Creek Band of the Umpqua Tribe of Indians, subject to valid existing rights, including rights-of-way and reciprocal rights-of-way. This section requires that the Secretary, not later than 180 days after enactment of this Act, complete a survey and establish the boundaries of the land taken into trust.

Sec. 213. Map and Legal Description. Directs that maps and legal descriptions be made for this Subtitle to be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and made available for public inspection.

Sec. 214. Administration. Prohibits raw log exports according to Federal law and prohibits any use of the land for gaming. Declares that nothing in this Subtitle affects any timber sale contracts awarded as of the date of enactment of this Act.

Sec. 215. Forest Management. Requires commercial forestry activities on these lands to follow applicable federal laws including the National Indian Forest Resources Management Act. Also requires that the Tribe and the Secretary consult to develop agreements regarding access to the land taken into trust that provide for: honoring existing reciprocal right-of-way agreements; and administrative access by the Bureau of Land Management.

The Federal land conveyed to the Tribe is not subject to the land use planning requirements of the Federal Land Policy and Management Act of 1976.

Subtitle C—Amendments to Coquille Restoration Act

Sec. 221. Amendments to Coquille Restoration Act. This subtitle amends the Coquille Restoration Act to make the laws regarding their forest management uniform with laws affecting

other tribal forests.

TITLE III – OREGON TREASURES

Subtitle A—Wild Rogue Wilderness Area

Sec. 301. Wild Rogue Wilderness Area. This subtitle expands the existing Wild Rogue Wilderness and adds 35 tributaries of the Rogue River to the Wild and Scenic Rivers Act.

- Approximately 56,100 acres are added to the Wild Rogue Wilderness and nearly all of those acres will be managed by BLM, with the Forest Service managing roughly 100 acres.
- An additional 600 acres is set aside on the map as “potential wilderness” and is to be included as part of the Wild Rogue Wilderness as soon as BLM determines it is suitable for a wilderness designation.
- All land in this subtitle is withdrawn from mining and geothermal activities.
- 4,000 acres that are in the “Withdrawal Area” as depicted on the map are also prohibited from the establishment of permanent roads, commercial activities, motor vehicle use, and temporary road construction.
- 38 segments of the Rogue River, totaling 126.4 miles, are designated wild, scenic, or recreational rivers under the Wild and Scenic Rivers Act
- 6 additional river segments are withdrawn from hydroelectric, mining, and geothermal activities.

Subtitle B—Devil’s Staircase Wilderness

Sec. 311. Definitions. Provides the definitions used in this Subtitle.

Sec. 312. Devil’s Staircase Wilderness, Oregon. This Section creates the Devil’s Staircase Wilderness on approximately 30,540 acres of Forest Service and Bureau of Land Management. 49 acres of administrative jurisdiction of BLM land is transferred to the Forest Service.

Sec. 313. Wild and Scenic River Designations. This Section designates a total of 14.6 miles of river segments on the Franklin Creek and Wasson Creek as wild rivers under the Wild and Scenic Rivers Act.

Subtitle C—Additional Wild and Scenic River Designations and Technical Corrections

Sec. 321. Designation of Wild and Scenic River Segments, Molalla River, Oregon. This Section Designates a 15.1 mile segment of the Molalla River and a 6.2 mile segment of the Table Rock Fork Molalla River as a recreational river under the Wild and Scenic Rivers Act. These segments are withdrawn from entry, appropriation, or disposal; mining activities; and mineral and geothermal leasing laws.

Sec. 322. Technical Corrections to the Wild and Scenic Rivers Act. This Section makes technical corrections to the existing wild and scenic river designations along the Chetco River. The wild segment increases from 25.5 miles to 27.5 miles. The scenic segment decreases from 8 miles to 7.5 miles. The recreational segment decreases from 11 to 9.5 miles. These segments are withdrawn from entry, appropriation, or disposal; mining activities; and mineral and geothermal leasing laws.

Subtitle D – Frank Moore Wild Steelhead Sanctuary

Sec. 331. Definitions. Provides the definitions used in this Subtitle including the Wild Steelhead Refuge covering approximately 104,000 areas of Forest Service Land and mapped as such.

Sec. 332. Frank Moore Wild Steelhead Sanctuary, Oregon. This Section designates 104,000 acres of U.S. Forest Service land as the Frank Moore Wild Steelhead Sanctuary, to be managed subject to valid existing rights and all applicable laws. Nothing affects state management of fish and wildlife or diminishes tribal rights. Use of motorized vehicles is limited to existing authorized roads and no new roads shall be constructed in this area.