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February 19, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Resolution Supporting a Feasibility Study to Transfer Federal Lands to State or Local Ownership

Purpose/Outcome	Resolution No. _____ acknowledges the will of the Board of County Commissioners to see a State Study of Transfer of certain Federal Lands to the State of Oregon
Dollar Amount and Fiscal Impact	N/A
Funding Source	N/A
Safety Impact	N/A
Duration	Effective February 19, 2015 and continuing through to the results of a State Study detailing the impact transfer of certain Federal Lands to the State of Oregon.
Previous Board Action/Review	The Board has discussed this at Administrator's Issues on three separate occasions: February 11, 2014; March 18, 2014; and January 13, 2015 and directed staff to bring the resolution to a Board Business Meeting for action.
Contact Person	Gary Schmidt, Director – Public and Government Affairs: 503-742-5908
Contract No.	N/A

BACKGROUND:

In 2012, Utah adopted the Transfer of Public Lands Act, demanding that the federal government "extinguish" its title to an estimated 20 million acres of federal lands in Utah by the end of 2014. As Utah works toward implementation of the Act, the chief sponsor of the bill formed a political action coalition – American Lands Council (ALC) – to move the subject beyond merely a legal dispute in Utah to a political one throughout the western United States. Five other western states have now created commissions or committees to study the costs/benefits of a possible lands transfer.

In the State of Oregon, 32 million acres of land are owned by the federal government. There are 13 National Forests, which cover 14 million acres, as well as lands with other designations such as National Parks, grant lands (such as the O&C lands), grasslands, wetlands, and non-forested deserts. The State of Oregon manages a similar variety of landscapes on State lands.

Congressional budget reductions, combined with ongoing legal battles, have significantly diminished the capacity of federal land management agencies to fulfill their stewardship and timber harvest goals of these lands, significantly reducing the volume of timber harvest dollars generally designated to local governments for schools and roads.

A reduction in stewardship has also resulted in the loss of forests lands through wildfire. Today, 40% of Oregon forestland is considered to be at high-risk for catastrophic fire. The State of Oregon had to pay an extra \$40 million for fire suppression in 2013.

More than half of Clackamas County's land is managed by the federal government. Clackamas County has two national wilderness areas, Mt Hood National Forest and the Willamette National Forest, as well as 75,000 acres of BLM managed lands designated by the Oregon & California Rail Trust.

Under the leadership of Clackamas County Commissioner Tootie Smith, the idea of state ownership of federal forests was raised at the Association of Oregon Counties (AOC) Public Lands & Natural Resources Committee, who appointed the subcommittee on the Transfer of Federal Lands to the State to consider the broad scope issues of such a transfer.

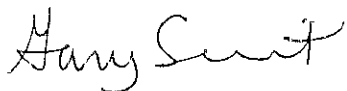
On January 12, 2015, the AOC Public Lands & Natural Resources Committee presented a resolution requesting that the State of Oregon study the transfer of certain federal lands to the State of Oregon. The lands considered in the resolution passed by the AOC would not include National Park land, National Wilderness Preservation System lands protected under the 1994 Wilderness Act, tribal lands held in trust by the United States, national monuments, and lands affirmatively ceded to the United States by state statute.

Clackamas County, a statewide leader in forest management practices and a stakeholder in the State of Oregon with large acreage of federal lands, is now considering a similar resolution to encourage the State or Oregon to research the impact of a transfer of federal lands back the State of Oregon.

RECOMMENDATION:

Staff recommends the Board approve this resolution.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gary Schmidt".

Gary Schmidt, Director
Public and Government Affairs

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OF CLACKAMAS COUNTY, STATE OF OREGON**

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WHEREAS, over 32 million acres (52.3%) of land in the State of Oregon is owned by the federal government; and

WHEREAS, Oregon contains 13 National Forests covering over 14 million acres, or nearly one-quarter of the State's land mass; and

WHEREAS, Oregon also contains the federally re-vested O&C Railroad grant lands, covering 2.4 million acres across 18 counties in a checkerboard array with private lands; and

WHEREAS, Oregon has 15.7 million acres managed by nine federal Bureau of Lands Management Districts, over a variety of landscapes, including grasslands, shrublands, woodlands, wetlands, and non-forested deserts; and

WHEREAS, the State of Oregon manages the same variety of landscapes on state lands; and

WHEREAS, the use as a strategy of lawsuits under federal statutes by special interest groups has prevented on-the-ground projects on federal lands and prevented management of these lands; and

WHEREAS, congressional budget reductions have significantly diminished the capacity of federal land management agencies to fulfill their responsibilities; and

WHEREAS, the effect of federal non-management of its lands has stopped progress on the overlapping values of economic growth, social good, and healthy ecosystems and rather has been to create catastrophic fire conditions on these lands; and

WHEREAS, today 40% of Oregon forestland is Class 3 or at high-risk for catastrophic fire; and

WHEREAS, in 2013 the State of Oregon had to pay an extra \$40 million for fire suppression; and

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WHEREAS, the State of Oregon is pursuing the strategy of collaborative processes and state investments to increase the pace and scale of federal forest treatment, but its present rate falls at least two-thirds too slow to address treatment needs long-term; and

WHEREAS, in Oregon, State Forest management has resulted in over \$46 million annually in revenue to Forest Trust Land counties from a mere three percent of the forestland base; and

WHEREAS, management of private forestlands under the Oregon Forest Practices Act has resulted in a sustainably harvested range of 2.5 billion board feet to 3.5 billion board feet annually from 34% of the forest landscape, in contrast to federal lands' 400 million board feet from 60% of the forest landscape; and

WHEREAS, as a direct result of non-management of federal lands, unemployment rates in federal land-dominated counties have been consistently the highest in the State (e.g., Harney 11.6%, Crook 10.7%, Curry 10.2%, and Douglas 10.1%); and, for example, in Oregon dry-side communities nearly one in five people live in poverty; and

WHEREAS, the American County Platform of the National Association of Counties states that, "every state should receive everything that was promised to them in their enabling acts, including land transfers, if requested by an individual state with consultation with the affected counties"; and

WHEREAS, ownership and management by the State of Oregon of land currently owned and managed by the federal government may permit more efficient, effective, healthy, and productive management of these public lands; and

WHEREAS, other western States with large federal ownership are considering or have begun a study of the legal, economic, social, and practical benefits and risks associated with the transfer of federal lands to the State; and

WHEREAS, the study of a potential transfer of federal lands to the State of Oregon should not include any national parks; lands designated as part of the National Wilderness Preservation System under the Wilderness Act of 1964; lands belonging to an Indian Tribe that is held in trust by the United States; lands affirmatively ceded to the United States by state statute; and national monuments; and

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WHEREAS, a study of this kind by the State of Oregon that includes answers to the questions below would help direct the Legislature to determine an appropriate course for the State to take.

NOW THEREFORE, the Clackamas County Board of Commissioners do hereby resolve as follows:

1. Clackamas County urges the State Legislature to appoint a bi-cameral and bi-partisan committee that includes two county governing body members to study the concept described in this Resolution; and
2. Clackamas County recommends that the study, among other appropriate topics, addresses the following questions:
 - What are the legal, economic, social, and practical benefits and costs of a transfer of federal lands to the state, including potential timber revenue and mineral leasing?
 - What is the cost to state agencies to do an adequate, defensible cost/benefit analysis?
 - What might be the impact on O&C legislation, i.e., would the transfer override the 1937 Act?
 - Will federal payments to the state and counties be effected by the transfer?
 - What state legislation would be required to affect such a transfer?
 - Would the land be exempt from federal laws, e.g., the Endangered Species Act, the Clean Water Act, the National Forest Management Act, the Federal Land Policy and Management Act, and the Equal Access to Justice Act, after a transfer? If not, would the standards to comply with those Acts be different?
 - How would such a transfer effect management schemes of multiple types of ownership?
 - Would there be a reduction of local presence of federal employees in small communities, and if so, will they be replaced by state staff?

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- Would federal participation in wildfire suppression be reduced or eliminated, and if so, what would the cost be to the state and private land owners?
 - Would the costs of the transfer cause the state to sell any of the formerly federal public lands to private ownership?
 - What other questions does the analysis need to answer?
3. Clackamas County requests that if the State decides to seek transfer of federal lands, that it do so in consultation with the affected counties.

DATED this 19th day of February, 2015

Clackamas County Board of Commissioners

Chair

Recording Secretary