



## League of Women Voters

### Rogue Valley

The League of Women Voters Rogue Valley holds the following position with regard to forest lands:

The League supports management of Forest Lands for the benefit of appropriate inter-related uses:

- \* timber production;
- \* livestock grazing, with care to prevent over-grazing;
- \* watershed protection and aquifer recharge maintenance;
- \* wild life and fisheries habitat;
- \* recreation; and
- \* carefully controlled mining.

The League supports adequate buffering techniques to protect forest lands from incompatible land uses. Present policies of state and federal administration in terms of amount of land and types of land involved and O&C revenue distribution formula should be retained. The League supports adequate standards for logging roads, based on future use or abandonment.

The League of Women Voters Rogue Valley would like to draw your attention to an issue concerning land managed under the O&C Act. Pursuant to 43 USC Section 1181a, O&C land

shall be managed...for permanent forest production, and the timber thereon shall be sold, cut and removed in conformity with the principal [sic] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watershed, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities..."

This direction has been reiterated in several court cases including Headwaters, Inc. v. BLM, Medford Dist., 914 F2d 1174, 1183-84 (9<sup>th</sup> Cir. 1990) (citations omitted, emphasis added.) that found,

"...The purposes of the O&C Act were twofold. First, the O&C Act was intended to provide the counties in which the O&C land was located with the stream of revenue which had been promised but not delivered by the Chamberlain-Ferris Revestment Act...Chamberlain-Ferris Act primarily because the lands in question were not managed as so to provide a significant revenue stream; the O&C Act sought to change this. ...Second, the O&C Act intended to halt previous practices of clear-cutting without reforestation, which was leading to a depletion of forest resources."

In addition, in O'Neal v. U.S., 814 F2d 1285, 1287 (9<sup>th</sup> Cir. 1987), the Ninth Circuit Court of Appeals held:

"...The provisions of 43 U.S.C. Section 1181a make it clear that the primary use of the revested lands is for timber production to be managed in conformity with the provision of sustained yield, " (Emphasis added)

It would appear that the DEIS is in error in failing to distinguish between BLM lands in



general and the priority management mandate to provide a sustainable timber yield for O&C lands upheld by the court.

Under the O&C Act and reiterated in a number of court cases, O&C lands are to be used for very restricted and specific uses, primarily sustainable yield. The construction of the Pacific Connector Pipeline right of way takes forest producing acreage from O&C lands in Jackson County. The construction plan indicates clear cutting of old growth forests in the right of way which crosses O&C Land in Jackson County. O&C Counties have waited for this timber to mature and expect it to be harvested in turn with other O&C forest harvested tracts. The Pacific Connector Pipeline Project is not in conformance with the need to retain the land for its O&C mandate of sustainable yield.

The BLM manages the sale of tracts for harvest of O&C lands. The DEIS indicates that Applicant would contract with the BLM for the sale of this timber. But not in conformance with the BLM harvest plan for O&C lands.

A contract with BLM is not equivalent to payments to the O&C Counties. The contract for timber harvested to construct the pipeline appears to pay BLM. How will O&C Counties be assured of receiving their appropriate share of the revenue from harvested timber on O&C land?

The Applicant has indicated they will provide acres of land as an exchange for BLM and Federal Forest lands in Jackson County. The land exchange is to compensate for the land that in perpetuity will be removed from O&C sustainable harvest. Once the Pacific Connector Pipeline construction is completed, the easement right of way for the pipeline will remove from production O&C land and timber mandated for sustainable timber harvest. The proposed land exchange by Applicant is attempting to compensate the O&C Counties for O&C lands and timber removed from productivity after the pipeline construction.

It appears that Applicant proposes to purchase land to add to a matrix of BLM properties while taking out of production acres of contiguous land. By its nature, matrix land takes more effort to manage and harvest since the rights and desires of private property owners located within the matrix must be considered and dealt with before, after and during harvesting of timber and for recreational use. How will Applicant compensate O&C Counties and BLM for the increased management costs in perpetuity if the replacement is in a matrix rather than contiguous?

Further, how will equivalency be determined for the proposed replacement land? Will the replacement land be analyzed for quality and quantity of sustainable yield to insure that O&C Counties receive comparable yields and revenue streams for the existing land that proposed to be harvested by clear cutting and taken out of production?

How does FERC justify the taking of O&C lands with no decommission option for use not consistent with the original O&C Act? Will the final EIS be revised to account for this discrepancy?

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