

**THE PURPOSE OF STATE FOREST
TRUST LANDS AND THE
INTEREST OF TRUST LAND COUNTIES**

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SUMMARY

Since 1936, the Oregon Board of Forestry has acquired by deed approximately 654,000 acres of forestland to be managed by the Oregon Department of Forestry (ODF) as state forests under ORS Chapter 530. All but about 85,000 acres of these were tax-foreclosed lands acquired directly from 15 Western Oregon Counties under ORS 530.010 – 530.170 and its predecessors. The 85,000 acre balance was acquired by either donation or purchase from private landowners with county consent pursuant to ORS 530.010(2). Collectively these 654,000 acres are known as County Forest Trust Lands.

Although a few hundred acres of these trust lands were acquired prior to 1939, it wasn't until the 1939 Acquisition Act and its subsequent amendments and enactments that the lands were transferred to the state. The Legislature passed the 1939 Act and subsequent amendments, in large part to address the problems of cutover forestlands in Western Oregon and the so-called "Tillamook Burn" of 1933, 1939 and 1945. More than 1.2 million acres of these lands would come into county ownership through property tax foreclosures.

Oregon's 1939 Acquisition Act was not mandatory and was just one of a number of alternatives Oregon counties had for the management and disposition of their tax foreclosed forestlands. The county interest in these lands was much more than one of a governmental nature arising solely out of the county's capacity as tax collector. On the contrary, discretionary authority over tax foreclosed property given to Oregon counties in the mid 1930's, combined with other county/state relational aspects in forestlands, created county proprietary interests in tax foreclosed forest parcels. Irrespective of what you call this interest, it is the same interest that the legislature implicitly recognized when fashioning the 1939 Acquisition Act and its subsequent state forest enactments. It is also the same interest that Oregon courts have expressly acknowledged in recent decades each time trust land counties have sought to enforce their rights in these lands.

Nor were the majority of state forest acquisitions forced by financial circumstances. Soon after enactment of the 1939 Act, the clouds of depression cleared and there

began one of the most prolonged periods of economic upswings in the history of the US timber industry. This was accompanied by a corresponding increase in forestland values, including the market for cut-over and burned-over timber lands. Using the array of discretionary authority, counties too enjoyed economic recovery through the management and disposition of these tax foreclosed forestlands. About half of the 1.2 million acres of tax foreclosed forestlands were either retained for county forests or managed and sold, thereby creating an income for the county and returning the lands to the tax base. For these reasons it would take the state more than a decade to acquire the present day trust lands.

To make this possible the state bargained with counties. The state, through various governors, the Board of Forestry and the Department of Forestry actively promoted the program, with assurances that the lands would be rehabilitated, reforested and protected to produce future forest crops. Timber production was to be the primary purpose. This meant managing the land to obtain the maximum sustained yield production of forest crops and harvesting the crop at a uniform annual rate, consistent with an allowable cut governed by growth and the protection of other resource values. This regime was equated with achieving the greatest permanent value. These representations of timber production as the primary use of the lands, often accompanied by growth and yield calculations, created a historical expectation on the return of benefits.

Over the years, but primarily during the decade of acquisitions, the state characterized the state forest arrangement with the counties as a trust, contract or partnership. It was in reliance of such assurances and in consideration of the anticipated returns that the counties made the transfers.

In further reliance upon the state's pronounced promise that the county interest would always be protected, the counties made financial investments in the partnership. Counties consented to changes in the revenue formula to provide a greater share to the state for fire suppression, protection and intensive management. Counties agreed to, and have paid back, the state's costs for the rehabilitation program. Counties have made and continue to make substantial investments in the system of forest roads,

bridges and habitat improvements from their share of the revenues. Counties now have a reasonable expectation for the promised return on their investments.

I - WESTERN OREGON FOREST LANDS: A HISTORY OF THE COUNTY INTEREST

The settlement of the West was, at first, dictated by custom. Pioneers squatted along rivers and creek bottoms, grazing their cattle on the surrounding country. As territories were formed, laws were made and land surveyed.

Under a series of public land laws,¹ the public domain was made available to settlers for the purpose of making homes. The "public domain" was the property claimed by the nation, subject only to the legislative control and disposition by Congress. These public land laws were based largely on the premise that grants for agricultural purposes to settlers would open the West to settlement and flourishing communities would develop. In order to assist in this settlement, large land grants were also made to railroads and wagon road companies for sale to settlers as a way to pay for transportation improvements.

In 1841 Congress approved an act for the support of common schools in Oregon, providing that when the lands were surveyed, Sections 16 and 36 were set aside for the state and applied to schools. Territorial and state laws were enacted, initially selling these lands to settlers.

By the mid-1880's it was becoming apparent in many forested areas of the Pacific Northwest, that the vision of vast agricultural settlement was giving way to a pattern of ownership by large timber companies. It was during these early decades of statehood that Oregon's history was darkened by public land frauds and allegations of corruption by public officials.² By the early 1900's the western slopes of the Coast Range were dominated by industrial timber land ownerships.

¹ The Donation Land Act of 1850, the Homestead Act of 1862, the Timber and Stone Act of 1878 and the Scripper Act of 1886.

² A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol I, pp 64-74.

Under the Oregon form of government, the legislature early on imposed a number of financial obligations on counties relative to these forestlands. The initial framework for Oregon's property tax system required counties to employ timber cruisers to properly assess forestlands for property tax purposes. With the advent of a forest fire protection system, counties were required to employ fire wardens to enforce forest fire laws and issue permits. In addition to paying forest patrol assessments on county-owned forestlands, from 1913 to 1939, counties were also required by law to contribute one-third of the expense incurred by the state in providing fire protection to all other lands. Until 1941 additional amounts were set aside in county budgets for rural fire protection expenditures and suppression costs on scattered lands over which fire protection organizations had no authority or control. These consisted primarily of cut-over lands where there was doubt as to who was responsible for fighting fires originating on these lands.³

By the 1920's, property tax delinquencies were increasing at an alarming rate on cut-over forestland. With the "Great Depression" of the 1930's, primarily Western Oregon Counties became the owners of large amounts of tax foreclosed forestland. The so-called "Tillamook Burn" of 1933 and again in 1939, exacerbated the problem. By 1940, county-owned tax reverted forestlands were increasing at the rate of 100,000 acres per year. At that time counties owned more than 1,100,000 acres of these cut-over and burned over forestlands.⁴

Unquestionably, the biggest county general fund expenditure relative to tax delinquent forestlands was the annual obligation to pay to the state treasurer the amount of state property tax delinquencies. Up until 1940, there was included within each county's total tax levy a portion representing the annual levy for state purposes. The county was used as the vehicle for collecting the state tax. In a series of Oregon Supreme Court decisions in the late 1800's and early 1900's, the court said that the general scheme of assessing and collecting state property taxes in Oregon created the relationship of

³ Id. Vol I, pp 337-344.

⁴ Id. Vol I, pp 179-182, 353-356, Vol II, p 515.

debtor and creditor between the county and the state.⁵ The tax became a liability against the county in its corporate capacity payable out of funds received for general county purposes the same as any other obligation.⁶ All taxes levied for state and county purposes, when collected, belonged to the county and the state became a preferred creditor to the amount of state revenue apportioned to it.⁷ It did not matter that the county tax collector had been unable to collect the tax. Each county had to pay this debt to the state using county general funds.

During the 1930's, the legislature increasingly granted counties discretionary authority over tax delinquencies, including discretion in foreclosing delinquent taxes,⁸ the ability to cancel penalties and costs on delinquencies⁹ and the power to adjust and settle claims for delinquent or current taxes where green timber was killed by one fire involving 10,000 acres.¹⁰ But county interest in tax foreclosed forestland was much more than one of a governmental nature arising solely out of the county's capacity as property tax collector.

Throughout this early period up to 1940, counties were granted increasing discretionary authority over the disposition of tax foreclosed property "... when deemed to be in the best interests of the county".¹¹

By 1937, some county officials became so concerned about the amount of tax reverted lands in county ownership that they sponsored Senate Bill 310 during the legislative assembly.¹² Enacted as Chapter 402,¹³ this law granted to each county broad powers

⁵ State v. Baker County, 24 OR 141, 33 P 530 (1893).

⁶ Northrup v. Hoyt, 31 OR 524, 49 P 754 (1897).

⁷ Eugene School District No. 4 v. Fisk, 159 OR 245, 79 P2d 262 (1938).

⁸ Chapter 357, OL 1935, Section 1.

⁹ Chapter 462, OL 1933.

¹⁰ Chapter 367, OL 1935, Section 1; Chapter 351, OL 1937, Section 5.

¹¹ Chapter 408, OL 1917, Section 1; also see Chapter 234 OL 1935 Section 1.

¹² Letter, Judge Earl B. Day to the Association of Oregon Counties, July 8, 1938.

¹³ Chapter 402, OL 1937; OCLA Sections 86-141 to 86-147.

to administer, operate, reforest, protect, exchange, sell, lease or otherwise dispose of lands acquired by the county through foreclosure or otherwise. It also authorized the county to cooperate with any federal or state agencies, with other counties and with private timber owners in the protection and reforestation of such lands. Finally the act also authorized all necessary or convenient agreements or rules.¹⁴ As with the earlier land management authorities, the 1937 Act provided for the exercise of these powers "... as the county governing body may deem to be in the best interests of the county".¹⁵ The county's use of the land could be for any purpose, whether governmental or proprietary.

The capacity in which the counties held and dealt with tax foreclosed forestland, whether in a governmental or proprietary capacity became an issue in the 1982 trial court proceedings in the so-called "Crab Tree" case¹⁶ (also referred to as "Tillamook I" in the 2006 HB 2148 litigation). In Tillamook I, the state filed a Motion for Summary Judgment claiming, among other things, that as political subdivisions or "agents" of the state, counties lacked capacity to sue the state and that the state had plenary or unilateral power. The counties responded that the county had capacity to sue by statute and by the fact of its proprietary interest. The trial court ruled that the counties did indeed possess the capacity to sue the state, stating, in part, in its letter opinion:

"The State of Oregon pleads various affirmative defenses herein. I believe that the rulings above directly or implicitly reject these defenses ... I further believe that the State of Oregon's position claiming plenary power is not tenable.

I also conclude that Plaintiffs have standing herein sue the Defendant State of Oregon. I conclude that Plaintiffs have substantial vested proprietary rights and interest in the lands in question. They are entitled and even obligated to their constituents to protect these rights against the claimed power of the State of Oregon." (emphasis added)¹⁷

¹⁴ Id.

¹⁵ See also present ORS 275.070.

¹⁶ A Declaratory Judgment Action filed by 12 trust land counties against the state over a legislatively directed land exchange of revenue producing state forestlands in Linn County in order to acquire a non-revenue producing State Park known as the Crab Tree Valley parcel. Other issues were also litigated in the action.

¹⁷ Letter Opinion in the Matter of Marion County #135593, Judge Duane R. Ertsgaard, April 18, 1984.

Although courts have struggled with the governmental versus proprietary distinction, with varying results depending on the context, the point here is that the "substantial vested proprietary rights and interest in the lands in question" that the trial court recognized in 1984 are the same rights and interest in the lands that the legislature implicitly acknowledged when it fashioned the 1939 State Forest Acquisition Act and its subsequent amendments. One option considered but rejected by the framers of the 1939 Act was to mandate transfers of county-owned forestland to the state. Instead, the 1939 Oregon Acquisition Act provided the counties an option under which they might choose to deed the lands to the state for management.

II – THE EXERCISE OF COUNTY ALTERNATIVES IN THE MANAGEMENT AND DISPOSITION OF TAX FORECLOSED FOREST LANDS

Soon after enactment of the 1939 State Forest Acquisition Act there began one of the most prolonged periods of economic upswing in the history of the US timber industry. This was accompanied by a corresponding increase in forestland values, including values for burned-over timber land.

The significance of this fact is that counties were not left with the state forest alternative as the only option for the management and disposition of their tax foreclosed forestlands. In fact, only 37,890 acres were acquired from the counties in 1939 and another 31,836 acres the following year. In 1941 only 1,182 acres were deeded to the state by counties for management as state forests. There were a number of reasons why it would take the state more than a decade to bargain with the counties in order to acquire the bulk of the lands that make up present day state forests. (See Appendix 1)

One reason was that by 1940 the state property tax was eliminated and counties no longer had to pay to the state the delinquent state property taxes that counties were unable to collect from tax delinquent land owners. As the depression waned the income tax measures that the 1929 legislature had enacted to reduce the state taxes on property began to produce enough revenues to achieve the desired effect. Economic

recovery increased income tax collections to \$6,000,000 in 1940 and \$8,000,000 in 1941, which permitted the elimination of all state property taxes.¹⁸

However, the primary reason that there was no county rush to deed its tax foreclosed forestlands to the state related to the discretionary tax adjustment authority given to counties in 1935 and 1937 and the broad county land management and disposition powers authorized by the 1937 Act described above. Even in the months prior to the 1939 State Forest Act there were signs that these measures were achieving a positive economic result.

In Tillamook County, for example, a large number of tax adjustment agreements were entered into with the owners of fire-killed timber under the 1935 and 1937 Acts permitting such adjustments where green timber was killed by one fire involving 10,000 acres.¹⁹ These agreements typically involved provisions where all delinquent and unpaid taxes for the year 1934 and all prior years were reduced to 1935 values. A number of agreements also involved tax adjustments for specific dollar amounts.

Deeds in lieu of foreclosure were also taken; about 37,000 acres were acquired in this fashion prior to 1938.²⁰ Ostensibly, these were absolute deeds of the land and timber but the county court often sold the timber back to the original owners or, in some cases, to third parties, under the so called "nickel contracts". In other words, at the time the timber was harvested, the buyer was to pay the county 5¢ per thousand board feet for each year he held timber under contract. Experienced lumbermen said it would be seven to eight years at a maximum before rot, insects and decay would overtake fire-killed fir timber.²¹ Payments under the "nickel contracts" were to be made when the logs were scaled and sold. Time limits were usually two years with conditional renewal at the option of the purchaser. Some contracts even lacked specifics regarding either or both of these sale conditions. Over time, fortunes were made on these contracts. It

¹⁸ Correspondence, Oregon State Tax Commission to Thomas Lawson McCall, May 31, 1955, p 10.

¹⁹ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol I, pp 305-318.

²⁰ Report, "Management of Tax Reverted Lands in Oregon", State Planning Board, 1938, p 23.

²¹ Letter, Jay Bowerman, Attorney to Attorney General Van Winkle, August 25, 1935, Oregon Archives Division, No. 52 55-1 Item 1, 10/35; Headlight Herald, Tillamook, Oregon, September 6, 1946.

wasn't long though before the tax adjustment agreements and "nickel contracts" began to have their desired effect.

Joe Flora, Stimpson Lumber Company and Consolidated Timber Company were all working away at the burn from the east side by 1937. Earlier the same year, A.F. Coats, who had been working in the burn since the fire, was hauling logs to Tillamook from his latest operation 11 miles east of Tillamook. With the newly completed truck road into Wilson River Canyon, salvage operations slowly increased over that year. Log shipments resumed in 1937 from Garibaldi. Timber sales activity increased in 1938. By June, 1939, more than 500 rail cars went over the hill carrying an estimated 4,000,000 board feet of logs. All this activity occasioned a headline in the Headlight Herald which remarked: "Prospects for Logging Best in Years in Tillamook County".²²

Slowly the county began to liquidate its outstanding debt, which decreased from \$1,850,406 in 1926 to \$809,807 in 1936. With its wide range of discretionary alternatives following 1936, Tillamook County became debt free by the end of that decade. The last outstanding road warrants²³ were disposed of in April, 1938²⁴ and the final bonds were liquidated the following year. In 1940, Tillamook County recalled its final outstanding general fund warrants.²⁵

As the 1940 new year dawned, the woods vibrated to the thunder of log trucks and locomotives. The activity in the woods at that time of year prompted the Oregon Journal to note:

"Camps from Tillamook to Cochran are running full blast, and without snow on the higher elevations, are making logging history. Timber that was thought doomed to rot in the extensive Tillamook Burn is now being

²² Headlight Herald, Tillamook, Oregon, July 20, 1939; also see "A Chronicle of the Tillamook County Forest Trust Lands", Paul Levesque, 1985, Vol I, pp 329-336.

²³ Disbursements of county funds were made by the county treasurer on orders or warrants. In times of tax delinquency, the county treasurer redeemed such warrants according to their priority from available revenues. If no funds were available at the time the warrant was presented, the treasurer made an endorsement on the warrant explaining that it had not been paid for want of funds. An unpaid warrant was entitled to draw interest which reached a high of 6% during the 1930's.

²⁴ North Tillamook County News, July 28, 1938.

²⁵ North Tillamook County News, November 10, 1939.

profitably salvaged due to gas and diesel equipment and trucks. Increased prices also figure in the upward swing of logging activity."²⁶

At the same time in 1940, Tillamook County found itself the owner of over 100,000 acres that were not tied up in the tax adjustment agreements of earlier years. It carried a lot of timber. Economic conditions were changing. By September the federal government had become the largest buyer of lumber in the United States. That month it placed an order for 2,000,000,000 board feet to be used in the construction of cantonments. Additional orders followed rapidly.

Logging operators headed for the Tillamook County Courthouse. The county court was willing and eager to deal. Time was running out on the timber. The 7 year limit set for the inroads of insects and decay had passed. The court set the price of Douglas fir at \$1.00 per thousand board feet. Cedar and Hemlock went for 50¢ per thousand board feet. Like earlier sales, contracts were strictly in the purchaser's favor. It made little difference. After all, hadn't the experts said that defect would soon end the salvage?²⁷

Then came Pearl Harbor. Activity in the burn greatly increased. 1,000,000,000 board feet came down the hill in 1942; fine, sound timber underneath the black surface.

It wasn't until 1943, that Tillamook County made another transfer of lands to the state for management. Some 85,547 acres were deeded that year, but with a special provision.

Most of this area was within the boundaries of the burn and considerable logging was underway on these lands as a result of earlier cutting contracts executed by the county court. Most of this timber was wind blown, fire-killed or otherwise defective. Tillamook County wanted to retain ownership of this timber when transferring the lands to the state for management. Clatsop County also expressed a similar interest and proposed that the Board of Forestry enter into a contract with the county to supervise the removal of the timber and accept 10% of the gross sale proceeds.

²⁶ As cited in the North Tillamook County News, January 26, 1940.

²⁷ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol I, pp 387-392.

The question was put to Attorney General Van Winkle, who, on June 12, 1943 opined that the service to be rendered by the Forestry Department was incidental to the preservation and protection of its own property and that the department had the authority to enter into such a contract. To effectuate this, when making its deed on June 2, 1943, the county court inserted a ten-year timber reservation in favor of the county. On the same day, the court entered into a 90/10 agreement with the Board of Forestry for the reserved timber on the identical lands. The agreement provided that the state was to pay the county 90% of the gross income from sales of any remaining timber while the Forestry Department retained the balance for administering the sale. Thus was born the so-called "90/10 Contract" or "90/10 Management Agreement". One year later, another deed and concurrent 90/10 Agreement were also executed by Tillamook County affecting another 14,948 acres.²⁸ Soon after the agreements were signed, timber sales were made.²⁹

But the rapid increase in stumpage prices immediately before and during the war years resulted in fewer and smaller deed transfers into the State Forest Program. Land areas containing scattered timber, snags, long corners, defective trees and second growth just reaching merchantable size became a valuable asset and quickly passed into private ownership. Further, there were limited log supplies adjacent to the main lumber producing regions, especially in Western Oregon. Logs could no longer be purchased on the open market in any large quantities. Mills that expected to remain in business over a long period of time were required not only to control the source of their current timber supply but also to provide for future stumpage through the establishment of tree farms. This resulted in a highly competitive market for young forests and cut-over lands. Thus, as an alternative to the state forest arrangements, many acres of county-owned lands were being sold to private ownership.³⁰

For example, by the mid-1940's Tillamook County was generating significant income from its sale of tax foreclosed land and platted lots to private parties. By 1944, land and

²⁸ Between 1943 and 1955 there were 26 separate 90/10 contracts made between Tillamook County and the state covering county-owned timber on some 210,000 acres of state forestland deeded by the county.

²⁹ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol II, pp 565-571.

³⁰ Memorandum, N.S. Rogers, State Forester to Governor Earl Snell, November 8, 1946, pp 19-20.

timber sales provided almost as much money as taxes. In January, 1945, a land sales department was set up by the county court. For the first 6 months of operation, the land sales department reported a monthly return of from \$15,000 to \$20,000 from county-owned land. Most of these sales were in the north end of the county and were stimulated by the coming of new sawmills.³¹

But it was timber salvage for the war effort that fed the coffers of county government. World War II was a lumberman's carnival. There was a strong market for every species and grade of wood in the forests. Military demand for steel threw a vast amount of heavy construction back on timber. Sawmills were flooded with "heavy cutting" – the beams, columns and thick planks that gave a sawyer fast production and effective use of logs. "Auctions" of procurement officers constantly brought a tantalizing spread of new orders. "Competitive biddings" usually turned into appeals to sawmills, already gorged with business, to fill urgently needed requisitions at the highest price sanctioned by the federal Office of Price Administration.

In February, 1944, orders for lumber from the West Coast lumber industry amounted to 178,000,000 board feet, but lumbermen fell 15,000,000 board feet shy by the end of the month. The War Production Board began flirting with the idea of rationing civilian lumber like butter and meat. In August, 1944, drastic controls were imposed on lumber sales.

In all, 48,000,000,000 board feet of lumber went into war construction,³² with substantial contributions from the Tillamook Burn. In just the two year period from July, 1944, more than \$137,000 had come off the state forestlands under the 75/25 split, as well as another \$158,000 in Clatsop and Tillamook County under the 90/10 contracts. In that two year period, Tillamook County's share from both exceeded \$130,000.³³ By 1947, Tillamook County enjoyed a budget surplus of \$160,000.³⁴ That year the county also

³¹ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol I, pp 363-366.

³² William B. Greeley "Forests and Men", New York, 1951.

³³ The Forest Log "Large Cash Income from Forest Sales", November, 1946, p 4; Oregon Board of Forestry Minutes, June 25, 1946; A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol II, pp 756-757.

³⁴ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol I, p 490.

gave three deeds containing 10,708 acres to the Board of Forestry, the largest of which (7,709 acres) was accompanied by a 90/10 contract for the timber on those lands.³⁵

But in 1947 Tillamook County still owned more than 155,000 acres that would eventually become part of the State Forest, most of that in the Tillamook Burn. The state wanted those lands. Governor Snell's message to the 44th Legislative Assembly on January 13, 1947, the state's first peacetime legislature since 1941, stated, in part:

"There are some 300,000 acres in the Tillamook Burn. The state owns approximately 165,000 acres. I recommend that the state acquire the remaining 135,000 acres and that this area be made a State Forest."³⁶

The urgency in acquiring the remaining 135,000 acre block in the burn was due to widespread recognition of the value of these lands. Expressing concern that these burned-over lands might be sold to timber companies, the January, 1947 publication "Oregon Voter" explained:

"In considerable degree, the urgency as to the approximate 135,000 acres of the big burn urged for prompt state purchase grows out of the surprising demand for burned-over and cut-over lands from big timber operators. Whereas these lands were a drag on the market, were abandoned and reverted to the respective counties in tax foreclosures up until a short time ago, they are now taking on a definite value and the big timber and lumber operators show considerable eagerness to buy them. This important change comes about because of the lumberman's current prosperity, coupled with the growing realization that lands which will produce a fine and valuable crop of timber in 50 to 60 years are not worthless lands."³⁷

But Tillamook County did not sell the 135,000 acres to the state. Instead, after the passage of Article XI-E of the Oregon Constitution by voters in November 1948 and the assurance that the state could indeed carry out its promise to adopt the financing plan for the reforestation and rehabilitation of state forestlands, Tillamook and other counties deeded the final one-third (some 177,000 acres) of the present State Forest. In 1949,

³⁵ Id. Vol II, p 569.

³⁶ As cited in The Forest Log, January, 1947.

³⁷ Oregon Voter, January 25, 1947.

Tillamook County conveyed 119,072 acres and 20,982 acres the following year. Smaller amounts were deeded throughout the rehabilitation program. (See Appendix I)

The county was not required to deed its land nor was it forced to do so by its financial circumstances. In the final analysis, had the county retained the land, other available alternatives would have been to lease, manage or sell it. If it had chosen one of these alternatives, the county would have received rental income from operations or receipt of a sale price and the return of the land to the tax base of the county. Under any of these choices, the county had the benefit of the land. Instead, at the urging of the state, the county transferred the land. As will be demonstrated in the following sections, it did so in reliance upon and in consideration of the state's pronounced promise that the county's interest would always be recognized.

III – THE STATE'S BARGAIN WITH COUNTIES TO ACQUIRE THE COUNTY-OWNED TAX FORECLOSED FORESTLAND AND THE INTEREST OF TRUST LAND COUNTIES

The 1939 State Forest Acquisition Legislation was formulated and actively promoted by Governor Charles Sprague.³⁸ Once enacted, it was clear from improving economic conditions that Governor Sprague would have to continue to sell his forestry program if it was going to be successful. Governor Sprague now began to represent the Acquisition Act as a trust for the benefit of participating counties.

His first opportunity occurred in Portland on December 12, 1939, before the Joint Congressional Committee on Forestry. This assembly was well attended by local officials and citizens who included the Tillamook County Court, as well as Tillamook residents C.W. Barrick, John Aschim, S.G. Reed, Erling Brauti and Robert Cronen.³⁹ In his statement to the Joint Congressional Committee, Governor Sprague addressed the issue of forestry:

³⁸ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol II, pp 515-530.

³⁹ Headlight Herald, Tillamook, Oregon, December 14, 1939.

The prospect I see ahead is this: federal forests as they now exist, providing a real "reserve" of timber for the nation's supply, supplying also subsidiary grains such as watershed protection, recreational facilities, and fish and game for sportsmen.

State forests, embracing most of the cut-over lands which private owners are now allowing to revert to the counties. The state, under a 1939 Act, may acquire these lands, and is doing so, with consent of the counties; to administer them as a permanent public trust, with proceeds to flow back to the subordinate taxing units. (emphasis added)⁴⁰

Again, 4 weeks later in his statement to the Oregon Economic Council, Governor Sprague again referenced a trust:

The 1939 Legislature provided in Chapter 485 (Oregon Laws 1939) for the acquisition by the state of forest areas now in county ownership. The law directs the Board of Forestry to block these lands into practical operating units, to reforest, rehabilitate and manage them in perpetuity, in trust for the counties and the taxing units therein. Ninety percent of the net proceeds derived from the sale of the timber, mineral or grazing rights in such state forests are to be returned to the counties and 10% retained in the newly created Forest Development Fund. (emphasis added)⁴¹

The Governor throughout this period directed the State Foresters J.W. Ferguson and later N.S. Rogers, to actively develop the state acquisition program. Each county would be encouraged to create its own state forest.

Foresters soon began to echo Governor Sprague's sentiments. For example, the department's July, 1940 issue of the Forest Log included the following representation regarding lands deeded by Coos County under the 1939 Acquisition Act:

This 6,700 acres, while in state ownership, may be considered as being held more or less in trust for the county.⁴²

⁴⁰ Statement of Governor Charles A. Sprague of Oregon before the Joint Congressional Committee on Forestry, Portland, Oregon, December 12, 1940, pp 3, Oregon Archives Division, RGG4 Speeches.

⁴¹ Statement of Governor Charles A. Sprague to the Oregon Economic Council, January 12, 1940, pp 2-3, Oregon Archives Division, RGG4, Speeches.

⁴² The Forest Log, July 1940, p 2.

It is clear from the historical record during the early years of the acquisition program that the State Forester, at the direction of the Governor and Board of Forestry, aggressively pursued the acquisition of forestlands within the various counties.

For example, it is apparent from the September 9, 1940 Board of Forestry meeting minutes that the state was the architect and facilitator of a larger forest acquisition program. At that meeting Dean Peavy presented a proposed acquisition policy, created with State Forester Nels Rogers, where the objective in acquiring lands was to make them "productive to the highest degree consistent with good management." The policy statement indicated that "The management of forestlands for timber production and for secondary uses is clearly a business enterprise". Areas were designated "... in regions where tax delinquencies are numerous", and where the possibility of forming adequate operating areas "appear reasonably good".⁴³

The office of Governor, in its dual capacity as chief executive of the state and chairman of the Forestry Board, was, until 1957, in a position of almost sovereign control over the entire program, including state forest acquisitions. This role is evidenced, for example, in this 1941 correspondence between Governor Sprague and Board of Forestry member J.F. Daggett which states:

I have taken up with Mr. Rogers the matter of stimulating our acquisition program and directed him to push this program as much as seems wise.

The initial problem is to get the approval of the county courts, but once the program is started, I think this approval will follow generally.⁴⁴

Board members and department personnel alike began to climb on the acquisition band wagon. The minutes of the Board of Forestry on several occasions provide additional examples:

Mr. Gerlinger stated that he thought this law presented an excellent opportunity for the Department to build up state forests and expressed a hope that the forester would not be too conservative in the matter.⁴⁵

⁴³ Oregon Board of Forestry Minutes, September 9, 1940.

⁴⁴ Correspondence, Governor Charles A. Sprague to J.F. Daggett, December 10, 1941, Oregon Archives Division RGG4.

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The department also is making an effort to secure approximately 23,944 acres of county-owned land in Clatsop County.⁴⁶

The acquisition program involved regular communications with the county courts and included instructions and assurances as to the purposes of the acquisition act as well as discussions relative to areas which the counties would be willing to transfer.⁴⁷ Raging fires of the 1945 Burn, for example, provided another occasion for the Department of Forestry to hit the land acquisition trail. Assistant Forester Lynn Cronemiller made his way to Tillamook for a luncheon engagement with local Kiwanians at the Tillamook Hotel. The fire, which started on July 11, had already spread over 200,000 acres, much of it spot fires, but constantly growing. Thousand of civilians, foresters and army and navy personnel were at that moment at work with bulldozers, pumps and other equipment building fire trails in an attempt to contain the blaze. A sense of urgency accompanied Cronemiller's deliver as reported by the Headlight Herald:

Tillamook County Court has been very far sighted and have sold much timber out right for cash. However, much forestland remains in the hands of the county and some plan must be worked out to take care of the forestry problems which will be before the county once the fire is out. These problems, he felt, are too great for a county to undertake alone. The court must have the help of its citizens.

There are 3 methods of taking care of the forestland which must be replanted and reseeded. Either the county can do it itself or the land can be turned over to the state which will return 75% of the benefits to the county or the land can be turned over to the federal government which would take care of it, somewhat in the manner of the old CCC perhaps.

The proposition is what to do with the rehabilitation of the forestland which is without doubt going to suffer immense devastation from the fire. There will be 200,000 acres to restock with trees. Can the county afford to do the reseeded itself at \$10 per acre? Experiments have been made and instruments for hand planting seeds and seedlings have been worked out, Mr. Cronemiller said, and illustrated the hand instruments invented for reseeded and replanting. There is some grazing land in the burned

⁴⁵ Minutes, Oregon Board of Forestry, November 9, 1940.

⁴⁶ Minutes, Oregon Board of Forestry, July 2, 1942.

⁴⁷ Minutes, Oregon Board of Forestry, April 4, 1939.

areas, he said, and airplane seeding has been quite successful. Seeding should be done, he said, while the ashes are still hot.

Questions which face the county in the seeding of grazing land should be carefully considered. There must be a way to get the cattle out and in; there must be enough cattle to graze the lands or the seeding will be unprofitable. He discouraged federal ownership but felt that the state would be as interested as the county in turning a reasonable profit. If green forests around Tillamook are to be cut, he advised a policy which would allow selling only to those companies interested in Tillamook County plants.

The county must have a policy he said and stick to it. Will the county keep the lands? Will the county turn the land over to the state to develop? Will the county turn the lands over to federal authorities which already owns 60% of the Oregon forestlands? What will the Tillamook citizen do to help the county court develop and make the forestlands profitable again to the county? What are we going to do about the forestlands in Tillamook County?⁴⁸

Further reference to an accelerated state forest acquisition program is found in a 1946 memo of the State Forester to the Governor:

"The acquisition program has been stepped up in many instances. There is now in state ownership 450,000 acres."⁴⁹

Throughout the acquisition program and beyond, an understanding of the trust relationship continued to be borne out between the counties and the Department of Forestry. A more recent manifestation included the Department of Forestry report, prepared for the legislature in March, 1981, entitled: "A Review of the Joint Efforts of the Legislature, Counties and the Board of Forestry in the Development and Management of State Forests", which states in part:

Since 1925, there has been cooperation by the Legislature, the Board of Forestry and the counties to establish and manage the state forest system. A major part of this effort was the recognition that the lands be managed for income to support local government.

⁴⁸ Headlight Herald, Tillamook, Oregon, August 2, 1945.

⁴⁹ Memorandum, N.S. Rogers, State Forester to Governor Earl Snell, November 8, 1946, p 29.

Had this legislative process, and the joint efforts by the concerned parties not taken place, there would not be the valuable state forests and forest management program that exists today.⁵⁰

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The building of the state forest system has been accomplished since the mid-1930's as the result of close alliance between local government, state government and the Oregon State Legislature. These lands have been acquired, developed, and intensively managed under a trust concept which returns a substantial percentage of the revenues from the lands to the counties. Additional commodity and amenity values are available to the citizens of the state as the result of a positive and continuing multiple use program.⁵¹

The 1941 State Forest Legislation introduced contract language. That act authorized the counties to convey lands to the state for state forests, "in consideration of the payment to such counties of the percentage of revenue derived from such land as provided in ... this act." This language has remained in statute since 1941.

The 1941 legislation also provided that revenues from lands acquired under the 1939 Act should be disposed of as provided under the (1939) act unless the county which conveyed the lands elected to have the 1941 distribution scheme apply. A similar provision has been in statute at all times since 1941. Although contract language was not expressly manifest under the 1939 Act, the existence since 1941 of contract language indicates the intent to create contractual obligations under the 1939 Act.

All but one of the 39 deeds executed directly by Tillamook County, as grantor, to the State Board of Forestry subsequent to the effective date of the 1941 Act recited, as the stated consideration the then-existent statutory sections of the state forest revenue provisions. (The only deed that did not contain this language, a deed of April 2, 1958, containing 16.09 acres, was executed by Tillamook County to relinquish its interests in a 60 foot wide railroad easement).

The records of state officials, as well as their proceedings and legal opinions by

⁵⁰ Report, Oregon Department of Forestry, "A Review of the Joint Efforts of the Legislature, Counties and the Board of Forestry in the Development and Management of State Forests", March, 1981, p 1.

⁵¹ Id. p 11. (emphasis added)

Assistant Attorneys General also contain numerous references to the state forest arrangement as a "contract". For example, Thomas Stacer, Assistant Attorney General assigned to the Department of Forestry, made such a reference in an interdepartmental memorandum:

The numerous deeds from the several counties to the State of Oregon recited that the county conveyed such lands to the state upon consideration of the revenues which were to be received from the lands. In effect, the counties have made the disposal of the revenues from such state forestlands consideration for each deed of conveyance. Therefore, it is important to determine whether or not the provisions of Article XI-E of the Oregon Constitution supersede the Oregon statutes which require a percentage of the revenues from the above-mentioned state forestlands to be given each county involved. In other words, does a constitutional provision transcend the provisions of the several deeds of conveyance from the county to the state wherein revenues from the lands are recited as consideration.

There appears to be no legal authority for authorizing such revenues to be used for bond sinking fund purposes, especially in view of the statutory provisions as such have been incorporated in the deeds of conveyance. Under such a contract, the Oregon Forest Rehabilitation Act could not breach the statutory contract set forth in the deeds of conveyance.⁵²

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In the case of the county deeding the land to the state in consideration for revenues to be received under which the land was conveyed. As stated above, in this case, no contract, other than the written conveyance is necessary.⁵³

The minutes of the Oregon State Board of Forestry also contain the following representation.

Before adjournment, Tom Stacer reported to the board that the Attorney General had recently been asked for an opinion by a Senator and a Representative from Clatsop County ... No fiscal contract is necessary other than that Clatsop County deeded the lands to the state and the statutes themselves were made a part of the deeds; between the deed of

⁵² Opinion of the Attorney General, No. 3621, March 4, 1957 (emphasis added).

⁵³ Id. (emphasis added)

conveyance and the law, there is what you could call a contract; no other contract is required.⁵⁴

In a legislative proceeding, a similar sentiment was expressed:

Representative Branchfield asked whether the counties felt there was a contract between the counties and the state obligating the state to agree to a 25-75 division of revenues with all the costs being charged to the state. Mr. Stratton thought that was the original intent – that he did not know how the 75-25 figure was arrived at but assumed that it appeared to be an equitable figure over a long period of time.⁵⁵

This contractual relationship was also acknowledged in representations of state officers and officials. It was, in fact, upon the basis of statutory provisions together with official representations that the counties made their lands available to the state. Transfers by deed for state forest purposes were understood by those directly involved as conveyances for "management"⁵⁶ or "administrative" purposes.⁵⁷ Representations made from time to time by state officers, state officials, and department publications regarding the administration and management of such lands included:

(a) In exchange for a deed, the lands would be administered by the state for the benefit of the county within which they were located.⁵⁸

(b) Such lands were to be retained to produce future forest crops for the benefit of the county.⁵⁹

⁵⁴ Minutes, Oregon Board of Forestry, March 6, 1957 (emphasis added).

⁵⁵ Minutes, Legislative Fiscal Committee, Subcommittee on Forestry, Budgeting and Accounting, December 3, 1965.

⁵⁶ Minutes, Legislative Fiscal Committee, Sub-Committee on Forestry, Budgeting and Accounting, October 28, 1965, p 2; Presentation, Dean McCulluch, "Forestry Progress in Oregon", May 2, 1956, p 5; Minutes, Oregon Board of Forestry, January 4, 1967; Correspondence State Forester George Spaur to Honorable Harry M. Seabold, August 16, 1955, Oregon Archives Division.

⁵⁷ The Forest Log, "The Clatsop State Forest", March, 1958, pp 2, 8; Minutes, Oregon Board of Forestry, April 30, 1943.

⁵⁸ Presentation, Dean McCulluch, "Forestry Progress in Oregon", May 2, 1956, p 5; Minutes, Oregon Board of Forestry, April 30, 1943; The Forest Log, "County Judge Discusses State Forest Program", December, 1957, pp 5, 6; Headlight Herald, Tillamook, Oregon, "What Shall We Do With Our Forests", August 2, 1945, p 4; Minutes, Oregon Board of Forestry, State Forests Committee, December 18, 1963; The Forest Log, "County Proposes Expansion", August, 1941, p 6.

⁵⁹ Presentation, Dean McCulluch, "Forestry Progress in Oregon", May 2, 1956, p 5.

The 1939 State Forest Acquisitions Act, its subsequent amendments and reenactments, as well as the State Forest Rehabilitation Act,⁶⁰ comprise a body of law which evolved with the full participation and approval of the counties. When dealing with the counties' interests in these lands, the legislature, at all times until 1979, conducted its law making operations in full acknowledgement of the county interests. Throughout this process there was continual involvement and consent of the counties and the Department of Forestry.⁶¹ As the Oregon Supreme Court noted in Tillamook I:

The state admits that it sought and bargained for the land, that it "actively promoted the benefits of county participating in the program which included assurances that the lands would be used to produce revenue, and that the revenue would be distributed to the counties in a manner then provided by statute, unless the counties agreed to any changes in the distribution formula." On this latter point, the counties apparently agree and the trial court found that "[a]ll prior changes and amendments to the State Forest Acquisition Act and Forest Rehabilitation Act (ORS 530.010 – 530.290) *** resulted from and amounted to mutual agreement [by the counties] to modify for mutual benefit."⁶²

From at least 1925 until 1977, there was cooperation between the legislature, the Board of Forestry and the counties in the development, administration and management of the state forests program. Throughout this period, the official reports, The Forest Log, political addresses and news articles referred to this relationship as a "cooperative forest program."⁶³

The cooperative relationship was first aptly described by State Forester Nels Rogers in correspondence of October 15, 1941, with the Washington County Assessor:

⁶⁰ Chapter 102, Oregon Laws 1949.

⁶¹ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol II pp 535-537, 540-541, 543, 759-761, 764-769.

⁶² Tillamook Co. v. State Board of Forestry, 302 Or 404, 409, 730 P2d 1214 (1986); Also see, Opinion of the Attorney General, No. 3621, March 4, 1957.

⁶³ The Forest Log, "Clatsop Commissioner Dies of Heart Attack", pp 1, 6, February, 1945; Governor's Address to the Forty Third Legislative Assembly, p 23, Oregon Archives Division; Memorandum for Governor Earl Snell on Activities of the State Board of Forestry, 1945-46, p 20; Newsletter No. 7, Oregon Board of Forestry, November 1, 1948, pp 1,4; The Forest Log, "Foresters Enjoy Annual Banquet", May, 1945, p 3; The Forest Log, "Land Use Committee Discusses Forestry", December, 1947, p 2; The Forest Log, "Clatsop Forestry History Covered", April, 1949, p 7.

After all, the timber owners, the County and the State of Oregon are each dependent upon the cooperation of the other for the successful fulfillment of the forest policies which the people have adopted and which are aimed at the objective to permanent logging and milling industries. The cooperation between the three may be likened to a tripod ... each leg of which bears a portion of the forest policy, but when even one leg is moved or taken away, the tripod immediately collapses.⁶⁴

As this relationship continued to evolve, particularly under the state forest program, it was characterized as a partnership. Clatsop County Judge Guy Boyington, one of the framers of the state forest arrangement, is also credited with coining the relationship as such. The July, 1944 issue of The Forest Log,⁶⁵ for example, contains the following:

Boyington also described how the county's partnership with the State Forestry Department affects logged off lands and burned off stump lands. He said 100 sections of this land have been classified for grazing and timber use, while about 75 sections are classified as primarily fitted for grazing. Under the partnership, the state assumes administration and fire control on the lands, but cannot sell, trade or buy lands without County approval.

He pointed out the county's gain through this plan saying that the state turns 75% from sale of younger growth timber lands to the county and 90% from sale of first growth timber lands like the Nehalem Pioneer Forest.

The Clatsop County Forester, Charles Henry, is quoted in May, 1945, with a similar characterization:

Chas. Henry discussed the cooperative feature of the forestry program that has been worked out between the State Forestry Department and Clatsop County.

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During these years which might be called the transition period, the county has acquired a considerable acreage of forestland and the question arose as to the proper method of administration. After careful investigation and consideration by the County Land Use Committee, the county court and

⁶⁴ Correspondence, N.S. Rogers, State Forester, by Homer Lyon, to J.E. Carpenter, October 15, 1941, p 3, Oregon Archives Division.

⁶⁵ The Forest Log, "Visitors Examine Experimental Unit", July, 1944, p 6.

many individuals, the solution appeared to be to turn the lands over to the state under what we are pleased to call a co-partnership with the state.

Under this plan the state accepts the administrative responsibility of the land and the county derives 75% of the gross income from the land whenever forest products are harvested. But this partnership does not end here. We originated the idea of entering into a contract with the state on those lands where title has passed to the state, but merchantable timber has been retained by the county.⁶⁶

The July, 1945, Forest Log once again related the expressions of Judge Guy Boyington:

Judge Guy O. Boyington opened the meeting with an explanation of the policy of cooperation which has been developed with the state under what is termed a partnership basis. The county, he stated, retains the old growth timber and enters into a supplemental agreement with the state whereby the state administers all sales and retains 10% of the gross as reimbursement for expenses in connection therewith. The balance of 90% is paid to the county.

"This", he stated, "applies only to the old growth. The county does not retain title to the second growth on any lands turned to the state. But the county does benefit. When forest products are harvested at some future date, the county gets 75% of the gross and will definitely assure the future of forestry in Clatsop County."⁶⁷

This partnership was described by State Forester George Spaur in a report presented in Tillamook at another Victory House dinner meeting held on February 16, 1955. As reprinted in the Headlight Herald, the report stated in part:

Before I get into my topic of future planning for the state forests in Tillamook County, I wish to qualify the word state forests. A more descriptive word would be County-State Forests. It is actually a County-State partnership agreement for the administration of these lands. The state has the bulk of the management responsibilities and as evidenced by the report given by Mr. Phelps, the county receives the bulk of the income.⁶⁸

⁶⁶ The Forest Log, "Foresters Enjoy Annual Banquet", May, 1945, p 3.

⁶⁷ The Forest Log, "Officials Discuss Forestry Program", July, 1945, p 7.

⁶⁸ Headlight Herald, Tillamook, Oregon, "State Forestry Officials Explain County Forest Plan", February 17, 1955.

The Department of Forestry in its publications and reports to the legislature also frequently referred to the existence of a partnership relationship between the several counties and the state.

The following excerpts provide examples of this characterization:

The fire which destroyed much of the old Astoria and the big crash of 1929 wiped out the speculators and many of their customers and resulted in land going into county ownership and later into the partnership control under the State-County Forest Program.⁶⁹

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It was subsequently deeded by the county to the state with a reservation whereby 75% of the revenue from the land belonged to the county.

The citizens of Marion County in partnership with the State Forestry Department have a considerable stake in the potential these lands have to produce timber.⁷⁰

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The county and the state are partners by deed in the land, both in the donated and in the purchased lands. Seventy-five percent of the proceeds accrue to the county.⁷¹

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Since much of the forestland managed by the department was received by the state from the counties and the counties are the principal recipients of the revenue therefrom, the management of these lands involves county as well as state interests. Consequently, although forest management is a direct responsibility of the Department of Forestry, the department emphasized to the subcommittee that the program is viewed as involving a partnership with the counties.⁷²

⁶⁹ Oregon Department of Forestry Report, undated, Oregon Department of Forestry Records.

⁷⁰ The Forest Log, "State Forest Developed In Green Basin Section", July, 1960, p 8.

⁷¹ The Forest Log, "Windy Creek Tract Good Investment", December, 1964, p 3.

⁷² Report to the Legislative Fiscal Committee of Findings and Recommendations from Subcommittee on Forestry, Budgeting and Accounting, April 16, 1966, p 6.

The partnership or cooperative relationship between the state and trust land counties is also evident in statute, Board of Forestry policies and the department's management and administrative practices.

The county financial investments in the state forest arrangement have been substantial in a number of ways. Since 1939, changes have been made to the acquisition acts, including modifications to the revenue formula. Each formula change was brought to the legislature by the Department of Forestry after consultation with the counties. A number of these enactments resulted in counties relinquishing a share of their revenues in exchange for long term investments in forest protection and productivity. In 1952, for example, the Sardine Creek fire, which started within an operating area on state lands, raised questions concerning the state's obligations as a landowner. Consequently, an amendment was approved in 1953 where 10% of gross revenues were to be placed in a subaccount until the amount reached \$300,000 for use in paying fire suppression costs from fires originating on state lands.⁷³

Up until 1960, revenues from state forest lands were not able to fully support this cost of fire protection and the differences had to be appropriated from the state general fund. Legislation in 1965 expanded the purposes of the subaccount to allow payment of protection costs. Again in 1965, the counties supported legislation to increase the 10% to 15%, raise the ceiling on the subaccount to \$475,000 and broaden the purpose to authorize intensive management as an additional state/county investment in the lands.⁷⁴

Another example is the county investments in the reforestation program. In the early 1960's, the fruits of the acquisition act, reforestation and the bond act became more apparent. Major fires disappeared and young forests materialized. The success of reforestation, together with its potential benefit to the county, generated the feeling in certain quarters of state government that the county was the beneficiary of a windfall. After several years of consideration and with county participation and agreement, the arrangement was made in 1969 for the counties to repay state general fund "costs" the state had incurred. From July 1, 1949 to June 30, 1973 the Department of Forestry

⁷³ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol II, pp 762-764.

⁷⁴ Id. Vol II, pp 764-769.

expended \$13,347,699.40 for rehabilitation purposes, distributed among various counties. The funds for these expenditures were derived from the sale of \$13,050,000 in bonds under ORS 530.230 plus excess fund interest earnings credited to the administrative account by the State Treasurer.

Reforestation was completed in 1973 and all the bonds have been redeemed and paid off. The total cost of the bond program, including bond sales, coupon interest and other program expenses was in excess of \$18,000,000. Over the course of the program, the state general fund contributed \$14,491,744 to the bond sinking fund. Those appropriations, together with forest product revenues and earnings accumulations, paid the costs of the bond program. In 2006, final payment was made to the state from the counties' share of revenues for the \$14,491,744 obligation that the counties assumed under the 1969 Act.

In one of the Board of Forestry's earlier policies, provisions were adopted on June 9, 1954 for cooperation with the trust land counties:

- a) Each county court is informed of all timber sales planned within its state forest. This includes a copy of the prospectus and other sale information.
- b) Any unusual circumstance which may affect the county adversely or otherwise must be brought to the attention of the county court.
- c) At all times, the State Forestry Department personnel shall cooperate with the county courts in all matters involving state forestlands.
- d) Upon request of the county court, Department of Forestry personnel may act in an advisory capacity in forestry and allied matters.⁷⁵

Apparently, this policy formalized and continued what was already a long standing practice by the department. The department met regularly with county courts to discuss appraisal, rehabilitation and conditions of timber sales within that county.⁷⁶ In setting up its timber sales program, the state often included the proviso that primary manufacture

⁷⁵ Oregon Board of Forestry, Timber Sale Policy, p. 1, adopted June 9, 1954.

⁷⁶ Memorandum, George Spar to Legal Department, August 8, 1955, Oregon Department of Forestry, Salem, Oregon; Monthly Bulletin No. 5, Oregon Department of Forestry, November 1 to November 30, 1951, p 1.

occur within the county.⁷⁷ Whenever the department contemplated an accelerated program with decreased revenues to the counties, they consulted with the counties and worked with them on the program.⁷⁸

In experimental research projects on state forestlands, the Department of Forestry had the authority to make timber sales through negotiation instead of on a competitive basis, provided the project had prior approval by the county court.⁷⁹

A joint boundary survey estimated to cost in excess of \$4,000 was authorized by the Tillamook County Court in February, 1957. Under this timber sale condition the board directed the successful purchaser to bear the proportionate cost of survey in addition to the bid stumpage price of the timber.⁸⁰

The most apparent evidence of the county/state partnership through management activity is an outgrowth of the timber sale program. Forest roads provided the physical means for conducting protection and management activities and thus became an integral part of the cooperative relationship.

Construction and maintenance of proper access over state lands has been a major management concern. When the state assumed control of the lands there existed a limited, uncoordinated network of poorly constructed and often ill-placed roads, hastily built by operators during the heat of early salvage operations. Adequate fire protection and long term management considerations demanded an appropriate road system for state forestlands. But the state argued it had very little money for this type of program. As a result, construction of new roads and improvement of well located existing roads was treated as a cost of timber sale and as a condition of contract required of state timber purchasers.

⁷⁷ The Forest Log, "Foresters Address Assessor's Session", October 1950, p 6.

⁷⁸ Minutes, Legislative Fiscal Committee, April 21, 1966, p 3.

⁷⁹ The Forest Log, "Research Project Set For Hearing", February, 1957, p 6.

⁸⁰ Tillamook County Court Journal "4", p 91, February 27, 1957.

Contracts of sale very often included provision for road construction and development by the contractor. This practice generally resulted in a lower bid price, thus reducing revenues available for distribution. As a result, when construction costs exceeded 25% of the appraised value of the timber, County Commissioners were given the opportunity to examine the rationale for the forest road system. If such work was done by the state, the costs were paid from the state's share of the income.⁸¹ Pre-roading was only possible when revenue from previous timber sales was well above that anticipated in land management budgeting.⁸²

The magnitude of the county's contribution in the road system has been substantial. New construction under state timber sales during just the 1958 period, for example, resulted in over 38 miles of new road at a construction cost of \$622,481. Another \$31,489 in foregone revenue was spent for improving 15.7 miles of road.⁸³ During the 1960 timber sales program that produced \$3,153,537 in revenues, an additional \$859,860 was spent by contract purchasers for road construction and improvements.⁸⁴

During the 1979-80 period of uncommonly high lumber markets, bridge replacement on forest roads was also extensively conducted as a condition of sale in the Tillamook District. Throughout this period approximately 40 wood bridges were replaced at a value which in some cases approached 50% of the appraised timber sale value. When timber markets began to slide toward recession, this practice was temporarily discontinued.⁸⁵

The practice of timber sale contract work continues to thrive today with county advice and consent. Not only do timber sale purchasers routinely complete road construction and improvements as well as bridge replacements as a condition of sale, but such work as rock stockpiles, in-stream fish structures and other habitat projects are also often

⁸¹ Minutes, State Lands Committee, Oregon Board of Forestry, February 14, 1978.

⁸² The Forest Log, December, 1966, p 3.

⁸³ Report, "Functions and Progress, 1958-59", Oregon Department of Forestry, January 1, 1959, Oregon Archives, RGG5 68A-35 Rev. Item 2 3/20.

⁸⁴ The Forest Log, March 1961, p 3.

⁸⁵ Personal Communication, Retired District Forester Millard Trout, 1984.

included. Perhaps one of the best examples of partnership investments is the recent agreement with Tillamook County allowing the department to include in timber sale contracts, project work up to 90% of the appraised timber value for sales in severely infected Swiss Needle Cast stands.

IV – THE PURPOSE OF STATE FOREST LANDS

ORS 530.010(1) authorizes the Board of Forestry to acquire certain lands which are "... chiefly valuable for the production of forest crops, watershed protection and development, erosion control, grazing, recreation or forest administrative purposes."

This authorizing language has been in effect since enactment of the 1939 State Forest Acquisition Act.⁸⁶ With the exception of some 1,540 acres in Clatsop County that were acquired in 1936 and 1938 for experimental forests, the remainder of the 654,000 acres of state forestlands were acquired under the above-cited acquisition authority.⁸⁷

ORS Chapter 530 and its predecessors also set out the scope of management authority for state forests. Taken together, the statutory acquisition and management authority establish a hierarchy of use for the protection, growing and harvesting of timber to produce revenues for the state and the trust land counties in which the lands are located. And both the Board and Department of Forestry have historically viewed timber production as a primary purpose of the lands.

Since state forest acquisition is limited by law to lands "chiefly valuable for the production of forest crops", it is important to understand the etiology of the term "forest crop".

The term "forest crop" emerged from the field of forestry during the late 1800's and early 1900's at a time when the discipline of forestry epitomized the ideals of rational scientific management in the service of economic progress. Bernhard Fernow, one of the founding figures of forestry in the United States,⁸⁸ in his 1902 reference book entitled "Economics of Forestry",⁸⁹ characterizes the role of the forester in relation to silviculture in the context of a "forest crop", as noted by the following excerpts:

⁸⁶ Chapter 478, Oregon Laws 1939, Section 1.

⁸⁷ Acquisition Records, Oregon Department of Forestry, Salem, Oregon; also see Appendix I.

⁸⁸ Bernhard Fernow was Chief of the Division of Forestry in the USDA from 1886 to 1898, where he was one of those most responsible for the Forest Reserve Act of 1891. He went on to organize the first professional program in forestry in the Americas at Cornell University and to found and edit the Forestry Quarterly and its successor publication, The Journal of Forestry.

⁸⁹ "Economics of Forestry", Bernhard E. Fernow, T.Y. Crowell & Co., New York, 1902.

"... the main business of the forester is expressed in the one word reproduction; his main obligation is the replacement of the crop he has harvested, whether produced by unaided nature or otherwise, by as good, if not a better crop of timber than he found."⁹⁰

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"The forester ... treats the forest as a permanent investment and as a crop. All his operations keep in mind continuity and permanency for the future. Reproduction not only, but preproduction of the most useful kinds and superior quality is his aim."⁹¹

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"... the largest amount of wood in the most salable or profitable form is his (the forester's) aim, logs rather than trees, and the financial results from their harvest. The final aim of the silviculturist is, therefore, attained only when he has removed the old trees and replaced them by a young crop. He grows trees in masses and for their substance."⁹²

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"Finally, when the last stick of old timber has been removed – and in a well-developed forestry system every stick is expected to be utilized - - a young growth composed so far as possible only of the more useful kinds, has taken the place of the virgin forest, to grow until it becomes profitable again, when the same methods will secure another reproduction, and so on."⁹³

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"Forest crop production as a business, silviculture, will become practicable and profitable in this country only when reasonable forest protection is assured by proper exercise of state functions."⁹⁴

By the 1920's, much of the valuable timber in parts of the United States had either been cut or damaged by fire. Due to the property tax burden on these lands, many owners of forestland, particularly in the mid-west, hoped to sell their land for farming, but a major decline in farm

⁹⁰ Id. p 165.

⁹¹ Id. p 166.

⁹² Id. p 169.

⁹³ Id. p 170.

⁹⁴ Id. p 195.

commodity prices led to depression conditions in agriculture and little demand for additional farmland. The poor land market led many forestland owners to quit paying their property taxes. Since no one offered to redeem these at tax sales, counties in many areas of the country ended up owning more and more forestland. Because this land was now county-owned, it became tax exempt, thereby shifting the tax burden onto the remaining taxable land. The result was a fiscal crisis for local governments.

For forestland owners, the solution seemed simple. While farmers paid their taxes from the proceeds of annual crops, forestland owners had to pay their taxes from the proceeds of a crop that may not be harvested for many years. It was thought that easing or restructuring the burden of annual property taxes on forestland owners might prevent forestland from being abandoned and, perhaps, encourage reforestation. As a result, the term "forest crop" also found its way into the lexicon of timber tax law. Wisconsin's Forest Crop Law of 1927, Missouri's Forest Crop Land Program of 1946 and Oregon's Reforestation Tax Act of 1929 are but a few examples. The Oregon Reforestation Tax Law was enacted to provide for a yield tax as a substitute for property tax to be paid to the County "... when the forest crop was harvested."⁹⁵

It is not surprising then, that the term "forest crop" became part of the parlance of state forest legislation in 1939. Clearly that concept was a major piece of Governor Sprague's vision when he stated, in part, to the Fortieth Legislative Assembly on January 9, 1939:

"I am convinced that the wise handling of natural forestlands calls for their consolidation under public ownership except for the lands in the hands of strong private interests capable of carrying them through long growing periods. The public forests should remain public and only the timber crop sold as it matures."

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"I contemplate the creation of a strong forestry department for reforestation of these lands, for property protection against fire and pests, for orderly marketing of mature timber and maintenance of forests on the basis of continued yield."⁹⁶

⁹⁵ Chapter 138, Oregon Laws, 1929.

⁹⁶ Inaugural Message of Charles A. Sprague, Governor of Oregon, to the Fortieth Legislative Assembly, pp 6-7.

Following passage of the 1939 State Forest Acquisition Act,⁹⁷ the use of the term "forest crop" became embedded in the idiom of state forest acquisition and management. For example, not long after passage of the 1939 Act, a memo from State Forester J.W. Ferguson to Governor Sprague (Chairman of the Board of Forestry), states in part:

"It is hoped that all county courts are studying the law and how it will operate in their respective counties and that they will cooperate with the forestry department in working out a future management policy for the rapidly increasing acreage of tax delinquent lands chiefly suitable to the growing of a new forest crop."⁹⁸

Before the state could acquire lands from counties, however, it was necessary that any county choosing to convey its forestland had to first decide whether the lands should be used exclusively for timber production or used for grazing or used both for timber and grazing. More specifically, legislation passed in 1937⁹⁹ provided that counties could appoint committees for the purpose of such classifications. This law was designed to simplify procedures for grazing cut over lands and allow more extensive use of fire in land clearing activities. Forestland Classification Committees, when appointed by the County Court, were directed by the act to segregate forestlands into three possible classifications:

Class 1: Timberland, which included all forestland primarily suitable for the production of timber;

Class 2: Timber and grazing land, which included all forestland primarily suitable for joint use for timber production and the grazing of livestock, either as a permanent joint use or temporarily during the interim between logging and reforestation; and

Class 3: Agricultural land, which included all forestland primarily suitable for grazing or agricultural uses.

In Northwest Oregon, most of the counties appointed such committees, thus the state could not acquire any forestlands within those counties until classifications were completed. This limitation on state acquisition was set forth under the 1939 State

⁹⁷ Chapter 478, Oregon Laws 1939; OCLA 107-301 to 107-308.

⁹⁸ Memorandum for Governor Charles A. Sprague from State Forester J.W. Ferguson, November 13, 1939; Oregon Archives Division RGG4 57-98A.

⁹⁹ Chapter 381, Oregon Laws 1937.

Forest Acquisition Act and remained in effect throughout the period when most of the trust lands were acquired.¹⁰⁰ For example the 1957 version of ORS 530.010 states in relevant part:

"But the board shall not acquire any land without prior approval, duly made and entered, of the County Court or Board of County Commissioners of the county in which the lands are situated; nor in counties where land classification committees have been appointed in accordance with ORS 526.310, shall lands be so acquired unless they have been classified for the purposes above remunerated." (emphasis added)

Consequently, by 1943, more than 277,500 acres of Clatsop County forestland had been classified for timber production.¹⁰¹ Almost 100,000 acres in Washington County were classified for timber production in 1946.¹⁰² Although a Forestland Classification Committee was appointed by the Tillamook County Court as early as August 1937,¹⁰³ no record of its classification has been located. However, the fact that the Tillamook State Forestlands were acquired by the state during the effective period of the classification limitation and the lack of any historic evidence of grazing use on such lands, leads to the reasonable conclusion that these lands were also classified for timber production.

It is of little surprise then, in considering the "Tillamook Burn", the report of Governor Snell's Special Forestry Committee in 1946 stated in part:

"The Tillamook Burn area consisting of some 300,000 acres contains lands of the best timber product qualities in the state. It is estimated that this area, in full production, will grow timber at the average rate of about 750 board feet per acre per year or a total of approximately 225,000,000 board feet per year for the entire area. All evidence points to the conclusion that this area is more valuable for production of forest crops than for any other use."

In February, 1955, State Forester George Spaur came to Tillamook for a dinner presentation with Assistant Attorney General Tom Stacer and various Oregon

¹⁰⁰ Chapter 478, Oregon Laws 1939, Section 1; Chapter 236, Oregon Laws 1941, Section 1; Chapter 154, Oregon Laws 1945, Section 1.

¹⁰¹ The Forest Log, "County Committee Classifies Lands", November, 1943, p 6.

¹⁰² The Forest Log, "Washington County Lands Classified", July 1946, p 14.

¹⁰³ Tillamook County Court Order, Tillamook County Court Journals, August 7, 1937.

Department of Forestry staff, including District Forester Ed Schroeder.¹⁰⁴ It provided the first opportunity for a reasonably detailed presentation of the management plans for the Tillamook State Forest, including future harvest calculations. The Headlight Herald printed the full text of the State Forester's presentation. This insight to the 1955 vision is important for several reasons. Not only was management directed at obtaining "... maximum sustained yield production of forest crops ...", but this focus was correlated to achieving the greatest permanent value. When viewed in the context of the yield calculations cited in the presentation, the other mentioned resource values were apparently seen as ancillary benefits that would flow under sound management practices of a timber production focus. The presentation states in part:

"As public employees, it is our duty to the citizens of Tillamook County and to the State of Oregon to manage these forestlands to obtain the greatest benefit to the greatest number of people over the greatest period of time. This is the guiding principle we shall do our utmost to follow in planning the future of the Tillamook State Forest.

It means managing the land to obtain maximum sustained yield production of forest crops. Harvesting the timber in a manner to obtain the greatest value for the state, county, local government and industry. It means harvesting the crop at a uniform annual rate - - consistent with growth - - to maintain a uniform income or the base for the county and a uniform constant supply of raw materials to perpetuate the payrolls of local industry and dependent private enterprise. State Forests in Tillamook represent over 50% of the total forestland in the county. It also means development and protection of these lands to secure the highest benefits to, and use by the public for recreation - - fishing, hunting and picnicking. A pure water supply for civic and industrial use is another item that cannot be neglected."

.....

"In the management of the 305,000 acres of forestlands in Tillamook County we are dealing with a crop that is to be harvested. In perpetuity - - we have to plan - - not in terms of years - - about in terms of decades and centuries. On a 90-year cutting rotation for Douglas fir and a 70-year rotation for Hemlock, it is expected that approximately 4,000 acres and 200,000,000 board feet will be logged annually."

.....

"The growing capacity of forestlands in Tillamook County will at least average site class III having an average annual growth of 600 board feet

¹⁰⁴ Headlight Herald, Tillamook, Oregon, February 17, 1955.

per acre. At cutting age 100, on a full stocked stand, you can expect 60,000 board feet per acre. This gives you an example of how future yields are predicted."

"Applying these figures to the 305,000 acres of state forestlands in Tillamook County we can eventually expect a sustained yield cut of 183,000,000 board feet of timber per year. Recovery of small timber through thinning operations can increase this cut by 25% or more."¹⁰⁵

Board of Forestry member Dean McCulluch in a presentation given in May, 1956 also reinforced the tenet that these lands were to be retained to produce a future forest crop for the benefit of the county.¹⁰⁶

As part of a November, 1956 presentation to the Association of Oregon Counties, Lynn Cronemiller from the Oregon Department of Forestry described the capacity of the Clatsop State Forest:

"In Clatsop County where the first management plans were worked out, the state has completed its inventory of the 140,000 acres of state-owned lands and has come out with the conclusion that 40,000,000 board feet can be cut annually at the present time and this will increase to 100,000,000 board feet by the end of the first rotation."¹⁰⁷

This focused approach to state forest management was reflected again in 1960 by Assistant State Forester Vance Morrison:

Morrison pointed out that all of the forestlands coming under the jurisdiction of the state forestry department are being managed on a sustained yield basis with the allowable cut governed by growth.

This means that the public agencies which benefit from the sales can be assured of a permanent annual income which will vary only as market conditions vary or modification of the annual cut may be necessary for limited periods of time due to unbalanced age classes of the timber, the forester said."¹⁰⁸

Similarly a 1961 Oregon Department of Forestry report states in part:

¹⁰⁵ Id.

¹⁰⁶ Presentation, Dean McCulluch, "Forestry Progress in Oregon", May 2, 1956 p 5.

¹⁰⁷ The Forest Log, "Forester Addresses County Association", December 1956, p 4.

¹⁰⁸ The Forest Log, "Record Breaking Income from State Timber Sales", January 1960, p 2.

"... the allowable cut as now estimated for the lands under discussion should increase from 102.1 MMbf/year to 231.4 MMbf/year in 90 years.¹⁰⁹ With successful management during the first rotation, they should yield up to 380 MMbf/year by the end of the second rotation."¹¹⁰

As noted above, in 1957, the primary objective of the Department of Forestry continued to be timber production and growth.¹¹¹ But by 1958, recreational pressures in Clatsop County resulted in a Board of Forestry Resolution that began looking at multiple use sites and which directed the State Forester to "... cooperate with and seek the advice of the county court or Board of County Commissioners of the county in which said sites are located."¹¹²

This first step into recreation was an attempt to consolidate forest recreational users into campgrounds rather than having them scattered throughout fire hazard areas. But problems began to plague state forest administration during the early 1960's, particularly with respect to recreation, multiple use, major and secondary land uses and considerations for reclassifications. When considering these problems in February, 1961, the State Forests Committee of the Board of Forestry concurred that the department should not attempt to manage park or recreation lands, but that their objective should be forest management and it would be the department's duty to survey the lands, determine the types of uses that might be involved other than exclusive timber growing and conduct an analysis to determine which agency or department might be available to assume development of particular areas, including county and state lands, specifically in the field of recreation.¹¹³

¹⁰⁹ At the time the report was issued, Oregon Department of Forestry was less than halfway through the reforestation program.

¹¹⁰ Report, "Oregon State Board of Forestry Material on the Acquisition and Management of Forest Lands Conveyed from the Counties to the State", February 14, 1961.

¹¹¹ The Forest Log "Assistant Forester Attends Congress: Ed Schroeder Addresses Intermountain Loggers on Management of State Forest Lands", April, 1957.

¹¹² Minutes, Oregon Board of Forestry, June 3, 1959.

¹¹³ Minutes, Timber Sale and Right-of-Way Committee, Oregon Board of Forestry, February, 1961.

The role of the department as a recreation provider was described in the July, 1962, The Forest Log, when it stated in part:

"The State Forestry Department in acquiring certain forestlands on a cooperative basis with the counties was made responsible to bring this property to timber production. Their role of growing trees for harvest remains a dominant concern, but the public's interest in recreation has gradually broadened this responsibility to include forest recreation."¹¹⁴

By 1970, the Board of Forestry continued to direct the department to enter into recreational programs only when necessary to protect the forest program investments.¹¹⁵ The board's express intent to avoid the "recreation business" was also manifest in its land exchange program. Every exchange was analyzed for recreation potential, anticipating that such parcels be avoided or later traded off. This was, to a large degree, due to the board's stringent policy of restricting future acquisitions, combined with what the board and department viewed as its statutory limitations confining state forest acquisitions primarily for timber production purposes.¹¹⁶

Even park and recreation lands that had been deeded by the counties to the state for management under ORS Chapter 530 and its predecessors were in fact managed for timber production where possible. For example, in Tillamook County, by 1958, over 9,300 acres of lands had been conveyed that were previously dedicated by the county court for park and recreational purposes, including 1,032 acres that carried deed restrictions placed on them by the donors who originally deeded the lands to the county. During 1967, the department completed a land classification for the formerly dedicated Tillamook County park and recreation areas that resulted in 5,694 acres being placed in timber management. Only 380 acres were classified for intensive use areas for picnicking, camping and other such active recreational uses. Even in the remaining 2,286 acre areas classified for landscape management, timber harvest could be conducted through partial cuts, sanitation and salvage, construction of logging roads

¹¹⁴ The Forest Log, "Recreational Studied by Department", July, 1962.

¹¹⁵ Minutes, Oregon Board of Forestry, Budget Committee, June 3, 1970.

¹¹⁶ Minutes, State Forestry Committee, Oregon Board of Forestry, December 16, 1971.

and similar activities "... compatible with maintaining the areas in forest cover and scenic appearance."¹¹⁷

With the consideration of its "Forest Land Use" Policy in 1972 by the Board of Forestry, the stated objective was to achieve optimum growth and harvest of forest products consistent with the protection of watersheds, fish and wildlife habitat, recreation and aesthetic considerations.¹¹⁸

During the 1970's and thereafter, Board of Forestry policies were revised to recognize other uses and to manage for other values. However, until adoption of the current Forest Management Plan in 2001, all prior state forest plans were timber management plans that "protected" or "enhanced" other uses and values.

For example, the 1984 Management Plan for Northwest Oregon remained in effect until the Board adopted the current plan in 2001. The planning area included the Clatsop and Tillamook State Forests as well as Columbia and Washington Counties and was based on 1979 – 1981 inventory data. The 1984 plan replaced the one issued in 1979. As stated in the 1984 plan:

ORS 530.050 directs that the State Forester, under the authority of the State Board of Forestry, shall manage the lands to secure their greatest permanent value to the State. The basic goal is to optimize the sustained contribution made by the State Forests to the people of Oregon by maximizing the growth and harvest of forest products, consistent with the financial resources available and consistent with the need to protect soils, streams, wildlife habitat, recreational opportunities and other environmental values. Timber production is recognized as a primary use of State Forest lands but due consideration is given to other values including water, wildlife and recreation.

• • • • •

Harvest is generally targeted for a sawlog market. Rotations for adequately stocked stands are generally set to achieve average stand diameters of 16" to 18" with 18" preferred and to achieve 85 to 90% or more of maximum mean annual increment. Within these constraints rotations are set as short as possible to maximize cash flow. Harvest ages for inadequately stocked stands are set as

¹¹⁷ A Chronicle of the Tillamook County Forest Trust Lands, Paul Levesque, 1985, Vol II, pp 798-799.

¹¹⁸ Minutes, Oregon Board of Forestry, State Lands Committee, August 15, 1972.

short as possible without further size or silvicultural targets. With some exceptions, harvest is planned within 10 to 15% of optimum financial timing.¹¹⁹

In sum, historically, both the Board of Forestry in its policy direction and the department in exercising its management authority, have recognized and implemented a regime of growing and harvesting of timber to produce revenue as the primary or dominant use of state forest lands.

¹¹⁹ Long Range Timber Management Plan, Northwest Oregon Area State Forests, Oregon State Forestry Department, December 1984.

APPENDIX I

RECORD OF STATE FOREST PURCHASED AND DONATED ACRES BY YEAR

YEAR	STATE WIDE ACRES ACQUIRED FROM COUNTIES	STATE WIDE ACRES ACQUIRED BY PURCHASE OR GIFT	ACRES ACQUIRED FROM TILLAMOOK COUNTY
1936	619		
1938	921		
1939	37,890		
1940	31,836		23,215
1941	1,182		
1942	45,939	521	
1943	127,411	32,286	85,547
1944	53,225	3,654	14,949
1945	25,919	1,236	
1946	4,277	17,228	
1947	50,131	7,163	10,708
1948	13,118	9,004	8,423
1949	127,182	1,569	119,072
1950	21,386	3,925	20,982
1951	8,600	5,410	1,430
1952	5,576	1,135	5,496
1953	538	306	
1954	2,176	110	
1955		44	40
1956	121		41
1957	160	100	
1958	183	142	77
1959	44	192	45
1960	69	714	
1961	120	3	40
1962	170	34	180
1963		39	
1964	350	14	160
1965		9	
1966		9	
1967	414		374
1968	38		1
1969			
1970	1		1
1971			
1972			
1973	10	10	
1974		29	
1975		7	
1976	152		
1977	1		
	559,759	84,893	290,781