

The Timber Industry of Today

Part 4: The State of Our State Forests *continued from page 5*

ing perception that the Department of Forestry is captured by a timber industry that has a special interest, not a general public interest, in forest policy and taxation,” said Golden. “You might agree with that and you might not, but it’s a plain fact that selecting and rejecting Board members in the dark, with no authentic public process, fuels and spreads that belief. That won’t change until this process changes.”

Senator Betsy Johnson had a different take on the Senate’s rejection of Brown’s nominees. “For me, it has to be a Board that is capable of managing a deeply troubled agency,” said Johnson. “I am less interested in having assigned seating than I am in having a Board that understands how troubled the agency is and can make necessary administrative adjustments to get the agency back and financially stable. It has to be a Board the Governor empowers to run the agency, has set expectations, and gets the agency operating effectively.”

Filling the seats on the Board of Forestry seems like a difficult task, given it is a volunteer position fraught with criticism from both the conservation and industry sides. I asked Johnson how you find qualified candidates. “We have made the nomination and confirmation process extremely complicated – a process that is at times personal,” responded Johnson. “It’s difficult to find people interested in giving the amount of time that is needed. I think the Governor needs to look for people that are willing to be agents of change in a broken agency. Let’s leave the ‘timber wars’ aside and let’s get the agency right-sized, right-directed, and fiscally stable, and let’s focus on the fact that we have an agency teetering on the brink. We need people who are qualified to make forest policy and qualified to turn around a troubled agency and get it back on a path to stability. I think we have people who are qualified.”

The make-up of the Board of Forestry is just one of the issues currently facing the Department of Forestry.

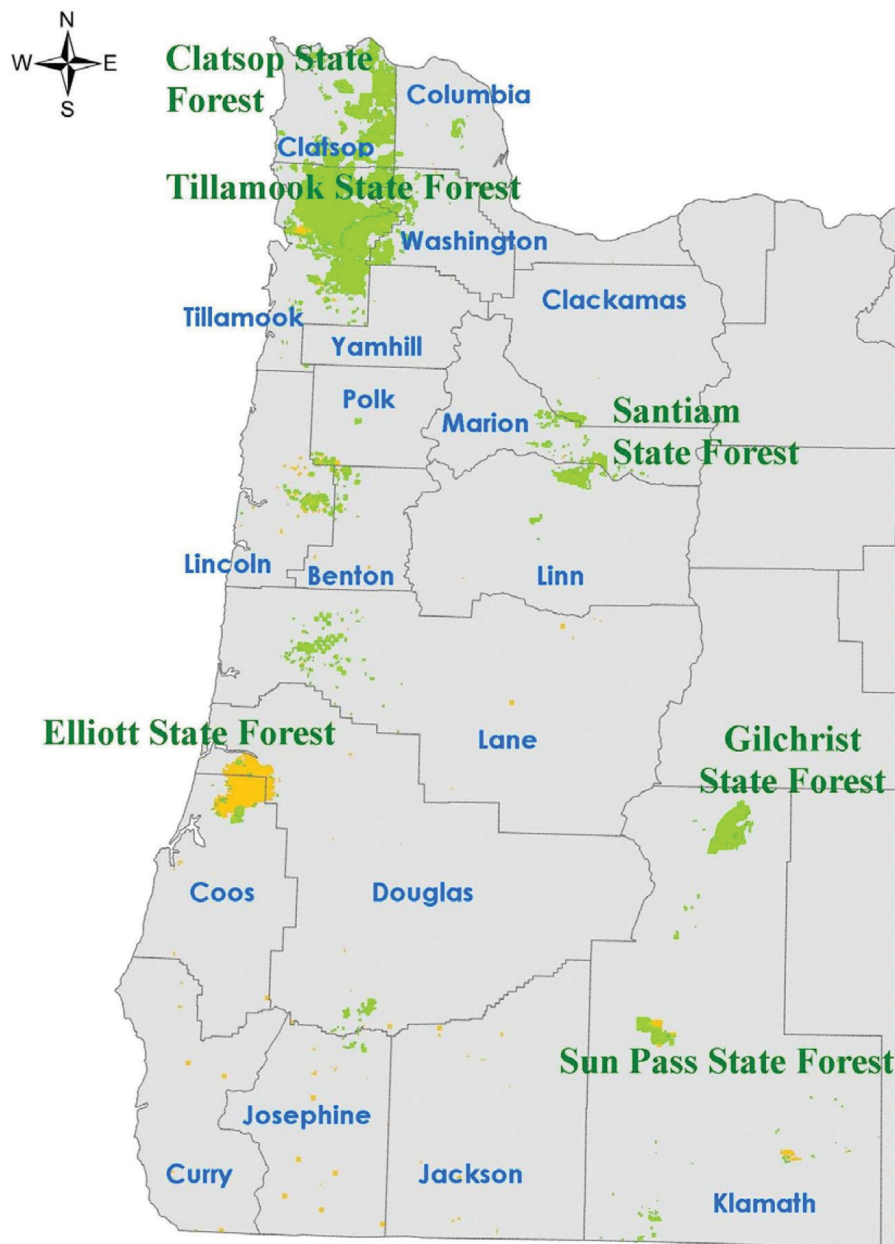
On October 30, 2019 the Board placed State Forester Peter Daugherty on a performance improvement plan after discussing his record of poor communication, a lack of responsiveness to Board members, and the agency’s financial issues; the corrective plan was supported by the entire Board and the Governor’s office. Daugherty has worked for the Department of Forestry for almost 14 years, starting in the Private Forests Division, where he served as Chief for five years, before becoming the Department Director in September 2016.

Senator Johnson expressed concerns about Daugherty’s management and had severe criticism for the Department of Forestry in general. “The problems at the agency are manifold – weak management, inadequate computer systems and internal controls, siloed departments, and bad internal communication,” said Johnson.

Johnson made very clear during our interview that she “differentiates dramatically” between the fire-fighting side of the Department of Forestry and the administrative side. “I have nothing but boundless respect and appreciation for the men and women who are out fighting these conflagrations under horrific circumstances and I don’t want anything negative I say about the agency to reflect on the fire-fighting efforts.”

Those firefighting efforts have lead in part to the agency’s financial issues. Uncollected reimbursement revenues from federal agencies for firefighting have been accumulating

Oregon’s State Forests



Source: Oregon Websites & Watersheds Project, Inc. www.orww.org

for years, and forced the agency to borrow \$50 million from the State Treasury.

Also in the background, but rearing its ugly head over the past year, is an ongoing \$1.1 billion class action lawsuit filed by 13 rural counties and 151 local taxing districts against the state. The suit claims breach of contract by the state for failing to maximize timber harvest revenues on state forests and not making resulting payments to the counties over the previous 20 years. In November 2019 a jury in Linn County took just several hours to find in favor of the plaintiffs and award the counties \$674 million in past damages, plus an additional \$392 million in future damages, which assumes the state will continue managing state forest assets and timber revenues in the same way over the next 50 years. The state has appealed the verdict, which is still pending, and earning accrued interest of \$90 million per year.

If the decision is upheld it is unclear where the state will find the money to pay the counties, and how

it would impact the ODF. It’s a large sum – about \$238 per Oregon citizen. Columbia County is part of the lawsuit, but the Clatsop County Board of Commissioners chose to opt out, because it did not align with their values of balanced forest management and they feared the settlement would lead to higher taxes for all Oregon residents.

Interestingly, the rural counties who pursued the lawsuit against the State of Oregon chose Portland based law firm Davis Wright Tremaine, who will receive 15% of the verdict if it is sustained.

The bulk of the arguments in the case centered on the 1941 Forest Acquisition Act, which saw the state take control of 600,000 acres of forestland which mostly became our state forest system, with the agreement that the state would rehabilitate the land, protect it from fire, share two-thirds of timber harvest revenues with the counties, and manage the forests for the “greatest permanent value of such lands to the state.” For 50 years the state maximized timber profits from the land, but little else, but in the 1990s adjusted their focus by adopting new administrative rules that emphasized clean water and air, wildlife habitat and endangered species, and recreation uses, alongside timber harvest production. In their lawsuit the counties argued that change in focus constituted a break in the agreement. The jury agreed with the counties, and now all Oregonians may be on the hook for a large payout to western rural counties, and a Portland based law firm.

The Elliott State Forest: A Special Case

The 80,000 acre Elliott State Forest is located north of Coos Bay and, unlike other state forests, is managed by the Oregon Department of State Lands (DSL). It was the first State Forest established in Oregon. About half of the forest remains as old-growth, making it one of the Coast Range’s largest uncut areas, and is considered by environmentalists as a valued treasure.

The Elliott Forest has been at the center of several controversies over the last decade and is a clear illustration of how the presumed uses for public lands can come into conflict.

In 2014 the state sold 788 acres of the Elliott Forest to the privately held Seneca Jones Timber Company and sold a separate 355 acre tract to the Scott Timber Company. Both sales were contested by environmental groups, and the sale to Seneca Jones was overturned by the Oregon Supreme Court in 2019; the sale to Scott is currently still in litigation. The rest of the Elliott Forest was put up for sale in 2016, but the State Land Board canceled the sale in 2017.

The Elliott Forest is home to the marbled murrelet. *continued on page 9*

RE-ELECT



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