
State Lands

An Assessment of Options to Replace Timber Trust Revenues for Counties

Legislative Update

Prepared by
Washington State Department
of Natural Resources

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WASHINGTON STATE DEPARTMENT OF
NATURAL RESOURCES

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Introduction

Timber-dependent counties in Southwest Washington have been heavily impacted by recent changes in the management of State Forestland¹. An estimated \$285 million in State Forestland assets that formerly produced revenue for the counties is encumbered due to Endangered Species Act obligations: timber can no longer be harvested from these lands. As a result, revenue has fallen below levels needed to sustain public services and local economies. The Legislature has provided biennial appropriations to partially replace timber revenues as a form of financial assistance to these timber-dependent counties. As an alternative to ongoing assistance, the 2018 capital budget directed the Department of Natural Resources (“DNR”) to develop long-term, sustainable options to replace trust revenues lost in these counties due to the presence of listed species.

The Legislature provided \$60,000 to DNR in ESSB 6095 Sec. 3059 to “assess options to replace timber trust revenues for counties with populations of twenty-five thousand or fewer that are subject to timber harvest deferrals greater than 30 years due to the presence of wildlife species listed as endangered or threatened under the federal endangered species act.” The bill directed the department to “consult with the qualifying counties and other stakeholders in conducting the assessment” and to “report the findings of its assessment, including recommendations for addressing decreased revenues from state forestlands and improving the forest products economy in the qualifying counties.” This report is in response to that direction from the Legislature.

Three counties meet the Legislature’s qualifying criteria as outlined in ESSB 6095 Sec. 3059: Pacific, Skamania, and Wahkiakum. For the past four biennia, DNR has sought and received funds from the Legislature to replace State Forestland in these counties that are encumbered by endangered or threatened species. As used throughout this report, the terms “encumbered” and “encumbrance” refer to forestlands on which variable retention timber harvest is no longer viable under the northern spotted owl conservation strategy in DNR’s Final Habitat Conservation Plan (“HCP”, DNR 1997) or the Board of Natural Resources’ Preferred Alternative for an HCP marbled murrelet long-term conservation strategy (DNR and U.S. Fish and Wildlife Service 2018).

Over the past eight years, the Legislature has appropriated \$13.9 million to replace encumbered State Forestland in the three counties (Table 1). Through this program, known as State Forest Land Replacement, the appraised value of timber on encumbered lands is split between a payment to the county (75-79 percent) and DNR’s Forest Development Account (21-25 percent). RCW

¹ “State Forestland” means lands acquired under RCWs 79.22.010, 79.22.020, and 79.22.040.

79.64.110. The appraised value of the land itself is deposited into DNR's Park Land Trust Revolving Account and is used to acquire unencumbered replacement lands that can be managed for timber revenue. RCW 79.22.060. Encumbered lands replaced in this manner are transferred into Natural Resource Conservation Areas (NRCAs).

More than 1,100 acres of encumbered State Forestland have been transferred into NRCAs through this program (Table 2). However, more than 16,000 acres of encumbered State Forestland remain in the three counties. The recommendations in this report seek to provide long-term solutions as an alternative to continued biennial State Forest Land Replacement appropriations. In the short-term, further biennial appropriations will be necessary to sustain counties' ability to provide critical public services for their residents until long-term solutions are in place.

Clarifying the Current Situation

To be clear at the outset, only murrelet encumbrances occur in Pacific and Wahkiakum counties, and only northern spotted owl encumbrances occur in Skamania County. The Board of Natural Resources selected its Preferred Alternative for an HCP marbled murrelet long-term conservation strategy in November 2017. Over the following winter, DNR staff analyzed automated data to estimate murrelet encumbrances under the Preferred Alternative as well as northern spotted owl encumbrances that have existed since the HCP was adopted in 1997. These early estimates provided a quantitative basis for developing approaches for long-term solutions.

DNR refined the Preferred Alternative within the Board's parameters during the first half of 2018. In July 2018, DNR submitted a spatially explicit version of the Preferred Alternative to U.S. Fish and Wildlife Service for publication in the Federal Register. DNR staff re-analyzed this final draft version of the Preferred Alternative to generate the data presented in this report. Results of this re-analysis were quite similar to results of the early estimates for Pacific and Wahkiakum counties (murrelets) and virtually identical to the early estimates for Skamania County (owls).

DNR estimates a total of 16,832 acres of encumbrances: 2,779 acres of murrelet encumbrance in Pacific County, 998 acres of murrelet encumbrance in Wahkiakum County, and 13,055 acres of northern spotted owl encumbrance in Skamania County (Tables 4, 5, and 6). These encumbrances correspond to estimated values of \$39.6 million, \$19.6 million, and \$226.1 million, respectively, for a total estimated encumbered value of \$285.3 million (Table 7).

Developing Long-term Solutions

To help develop long-term solutions, and following the Legislature’s direction regarding county and stakeholder involvement, DNR convened an Encumbered Lands Steering Committee (“Committee”, Appendix A). The Committee narrowed a wide range of possibilities to four possible approaches (Table 3). Two of these four possibilities--“Exchange Forest Land” and “Increase Revenue to Skamania County from the Gifford Pinchot National Forest”--received most of the Committee’s attention going forward.

Approach #1: Exchange Forest Land

Early in its discussions, the Committee brought forth an approach for a long-term solution that involves the transfer of unencumbered Common School Trust land to the counties and acquisition of equivalent replacement assets for the Common School Trust using funding provided by the Legislature. This approach appears to represent a complete solution for Pacific and Wahkiakum counties, and a partial solution for Skamania County.

Pacific County. There are 16,878 acres of operable, unencumbered Common School Trust land in Pacific County compared to 2,779 acres of otherwise-operable, encumbered State Forestland (Table 4). On average, an acre of unencumbered Common School Trust Land is valued at 50.8% of an acre of encumbered State Forestland (Table 7). This difference is because murrelet-encumbered lands contain larger, older trees than the average of the entire range of forest age classes that comprises the unencumbered Common School Trust Land. Adjusting for this difference in land values, transferring 5470 acres of operable, unencumbered Common School Trust Land to the county would provide an equal value of forestland capable of generating revenue for the county. Such a transfer would involve 32.4% of the operable, unencumbered Common School Trust lands in the county. With a necessary legislative appropriation (\$39.3 million), this could be accomplished.

Wahkiakum County. A similar scenario exists in Wahkiakum County. There are 3,824 acres of operable, unencumbered Common School Trust lands in the county compared to 998 acres of otherwise-operable, encumbered State Forestland (Table 5). On average, an acre of unencumbered Common School Trust Land is valued at 43.5% of an acre of encumbered State Forestland (Table 7). Adjusting for this difference in land values, transferring 2294 acres of

operable, unencumbered Common School Trust Lands to the county would provide an equal value of forest lands capable of generating revenue for the county. Such a transfer would involve 60.0% of the operable, unencumbered Common School Trust lands in the county. Although there is less “extra” operable, unencumbered Common School Trust land than in Pacific County, with a necessary legislative appropriation (\$19.6 million) this also could be accomplished.

Skamania County. The situation in Skamania County is quite different. There are only 5,527 acres of operable, unencumbered Common School Trust lands compared to 13,054 acres of otherwise-operable, encumbered State Forestland. On average, an acre of unencumbered Common School Trust Land is valued at 49.4% of an acre of encumbered State Forestland. Adjusting for this difference in land values, 26,425 acres of operable, unencumbered Common School Trust Lands would be required to provide an equal value of forest lands capable of generating revenue. This far exceeds the amount of operable, unencumbered Common School Trust lands in the county. Even assuming that all of the operable, unencumbered Common School Trust lands in the county could be transferred, only 21 percent (\$47.3 million) of the county’s total encumbered State Forestland value (\$226.1 million total) could be addressed through an inter-trust transfer.

Approach #2: Increase Revenue to Skamania County from the Gifford Pinchot National Forest

The Gifford Pinchot National Forest (“GPNF”) encompasses 80 percent of the land area in Skamania County. GPNF presents several possible solution components. Specific possibilities identified by the Committee and DNR include:

- exchanging encumbered State Forestland to GPNF for land that would be operable under DNR’s HCP and other policies,
- creating a federal community forest within GPNF that produces revenue and other benefits for Skamania County,
- implementing Good Neighbor Agreement projects in a manner that provides benefits for the county,
- more fully implementing the timber harvest level for GPNF indicated in the Northwest Forest Plan, and
- modifying the distribution of revenue from GPNF timber sales to enhance county revenue.

Members of the Committee had some informal, preliminary conversations with GPNF, USDA Forest Service (USFS) leadership, and members of Washington’s congressional delegation about these possibilities, but significant state-to-federal discussions have not yet taken place.

Other Possible Approaches

Seek Private Funds. Although the Committee included the possibility of seeking private funds in its final draft work plan, it has not received significant, subsequent consideration. Rather, the Committee hopes to receive policy support for other approaches from the organizations originally identified as possible sources of private funds.

Create a State Forestland Permanent Account. While potentially feasible, the Committee currently is not pursuing the possibility of creating a State Forestland permanent account because it does not align with the Legislature’s direction to consider “improving the forest products economy in the qualifying counties.” It also raises complex questions related to maintaining the corpus of the State Forestland fiduciary trust, one of the main concepts in trust doctrine.

Recommendations

Informed by the Committee’s work and conversations with trust beneficiaries, DNR makes three specific recommendations.

1. Trust Lands Reinvestment. DNR proposes a proof-of-concept pilot project to transfer operable, unencumbered Common School Trust land to Pacific, Skamania, and Wahkiakum counties, and to acquire superior replacement assets for the Common School Trust. The sequence of major tasks in this project is: 1) secure legislative funding for asset replacement, 2) identify and purchase assets that will be assigned to the Common School Trust at the same time an equivalent value of operable, unencumbered Common School Trust lands is transferred to the counties, 3) transfer the operable, unencumbered Common School Trust land to the counties and assign the replacement assets to the Common School Trust. This plan of order removes uncertainty regarding the replacement assets and ensures an uninterrupted revenue flow for the Common School Trust.

Benefits for the counties are restoration of State Forestland revenue and support for their timber economies. Replacement assets acquired for the Common School Trust will likely include a mix of forestland assets and non-forestland assets such as orchard, vineyard, irrigated agriculture, and commercial real estate that provides a higher annual rate of return than just forestland. Benefits for the Common School Trust are diversification of the asset portfolio, a generally well accepted positive approach to finances, and improved overall rate of return.

DNR is submitting a 2019-21 Biennium Capital Project Request for \$28.3 million to carry out this pilot project. Magnitude of the pilot project corresponds to roughly 25 percent of the estimated total \$106.2 million needed for inter-trust land transfer and asset replacement. The estimated total need of \$106.2 million is substantially less than the estimated total encumbrance value of \$285.0 million because there is just \$47.3 million of operable, unencumbered Common School Trust lands in Skamania County to put against the county's \$226.1 million encumbrance.

2. Gifford Pinchot National Forest. The majority of the encumbrance in Skamania County cannot be addressed through inter-trust land transfer and asset replacement due to the large extent of encumbered State Forestland within the county and relatively few operable, unencumbered Common School Trust lands potentially available for transfer.

DNR and the Committee are optimistic that long-term solutions involving the GPNF can be found to address this situation. Specific possibilities that DNR and the Committee intend to collaboratively explore with Skamania County and USDA Forest Service include:

- exchanging encumbered State Forestland to GPNF for land that would be operable under DNR's HCP and other policies,
- creating a federal community forest within GPNF that produces revenue and other benefits for Skamania County,
- implementing Good Neighbor Agreement projects in a manner that provides benefits for the county,
- more fully implementing the timber harvest level for GPNF indicated in the Northwest Forest Plan, and
- modifying the distribution of revenue from GPNF timber sales to enhance county revenue.

Additionally, DNR and the Committee intend to explore a wide range of existing federal assistance programs.

With the help of the Committee, DNR intends to engage USFS leadership in a collaborative effort aimed at taking maximum advantage of existing opportunities and piloting new, creative

approaches to improve county revenue and strengthen the local economy.

3. Biennial State Forest Land Replacement Appropriations. Until the full scope of inter-trust land transfer can be accomplished, all three counties will need to continue to receive payments through the biennial State Forest Land Replacement appropriations that the Legislature has provided for the past four biennia. DNR recommends that the Legislature continue these appropriations at \$6 million per biennium (all three counties combined) until long-term solutions are in place.

References

Washington State Department of Natural Resources. 1997. Final habitat conservation plan. Wash. St. Dep. Nat. Resour., Olympia. 456p.

Washington State Department of Natural Resources and U.S. Fish and Wildlife Service. 2018. Revised draft environmental impact statement on a long-term conservation strategy for the marbled murrelet. Wash. St. Dep. Nat. Resour., Olympia. 361p.

Tables

Table 1 . State Forest Land Replacement appropriations, by biennium.

Table 2. Disposition of State Forest Land Replacement appropriations, by county.

Table 3. Encumbered Lands Steering Committee final draft work plan, September 22, 2017.

Table 4. Acres of State Forestland and Common School Trust land in Pacific County, by encumbrance status.

Table 5. Acres of State Forestland and Common School Trust land in Wahkiakum County, by encumbrance status.

Table 6. Acres of State Forestland and Common School Trust land in Skamania County, by encumbrance status.

Table 7. Estimated values of encumbered State Forestland and unencumbered Common School Trust land, by county.

Table 1. State Forest Land Replacement appropriations, by biennium.

Biennium	Appropriation
2011-13	\$ 2,000,000
2013-15	\$ 1,500,000
2015-17	\$ 6,000,000
2017-19	\$ 4,440,000
Total	\$ 13,940,000

Table 2. Disposition of State Forest Land Replacement appropriations, by county.

County	Appropriation (FY 2011-2019)	Timber Value		Land Value		Acres Transferred into NRCA
		County (Revenue)	DNR (Forest Development Account)	Replacement Acquired	Replacement Pending	
Pacific	\$ 4,146,000	\$ 2,986,282	\$ 960,868		\$ 198,850	189
Wahkiakum	\$ 4,147,000	\$ 2,812,938	\$ 903,512		\$ 430,550	379
Skamania	\$ 5,647,000	\$ 3,771,841	\$ 1,223,519	\$ 535,000	\$ 116,640	584
Total	\$ 13,940,000	\$ 9,571,061	\$ 3,087,899	\$ 535,000	\$ 746,040	1,152

Table 3. Encumbered Lands Steering Committee final draft work plan.

****DRAFT 2** Work Plan for Assessing Possible Approaches to Mitigate Economic Impacts to Skamania, Pacific, and Wahkiakum Counties **DRAFT 2** associated with Conservation of Habitat for Endangered and Threatened Species**

Note: This draft work plan outlines an assessment of possible approaches affirmed at the Encumbered Land Steering Committee’s first meeting on August 14, 2017. DNR will carry out this assessment during fall and early winter 2017, with monthly progress reports to the committee and the aim of completing the assessment by mid-December. In the absence of anticipated funding, scope and depth of the assessment will be constrained by available resources and rely upon existing analyses and data.

<p>1.</p>	<p>Exchange State Forest Land that is encumbered due to conservation of habitat for endangered or threatened species for operable Common School Land within the affected counties; subsequently, replace the encumbered now-Common School land with funding from the legislature.</p>	<p><u>geographic scope:</u> Skamania County, Pacific County, Wahkiakum County</p> <ol style="list-style-type: none"> 1. Identify each State Forest Land parcel within the county that is either currently encumbered due to conservation of habitat for endangered or threatened species, or would become encumbered following implementation of DNR’s Long-term Marbled Murrelet Conservation Strategy (LTCS). Areas encumbered by riparian management zones, non-specific reserve tree requirements, or unstable landform designations are specifically excluded from this working definition of “encumbered.” 2. Determine acres of otherwise operable forest land included in each encumbered parcel. 3. Sum the results to describe the total encumbrance in terms of acres of otherwise operable State Forest Land. 4. Identify each parcel of Common School Land within the county that is not currently encumbered and would remain unencumbered following implementation of the LTCS. 5. Determine acres of operable forest land for each parcel. 6. Compare total acres of encumbered State Forest Land with operable acres of Common School Land to determine the feasibility of exchanging/replacing encumbered State Forest Land with operable Common School Land. 7. Without conducting appraisals, estimate total dollars needed to compensate the Common School Trust for the loss of operable forest land resulting from such an exchange. 8. Qualitatively assess the likelihood of acquiring suitable replacement land for the Common School Trust in a timely manner. 9. Explore the willingness of the Common School Trust beneficiaries to engage in such a transaction.
<p>2.</p>	<p>Raise funds to buy operable forest land to replace State Forest Land that will be deferred from timber harvest under the LTCS; this is similar to--but not exactly the same as--the successful example of the Loomis Forest Fund that “bought out” and put into conservation</p>	<p><u>geographic scope:</u> Pacific County, Wahkiakum County</p> <ol style="list-style-type: none"> 1. Review details of the Loomis Forest Fund transaction. 2. Explore the willingness of the Marbled Murrelet Coalition (MMC), and possibly other organizations, to mount a comparable effort to fund from private sources 10-25% of the cost of replacing encumbered State Forest Land in each county. 3. Enlist the MMC’s active support for other solutions.

Table 3. Encumbered Lands Steering Committee final draft work plan.

	<p>status 25,000 acres of lynx habitat in the Loomis State Forest.</p>	
<p>3.</p>	<p>Create a State Forest Land permanent account; fund the account with a portion of funds received from the legislature to transition encumbered State Forest Land into conservation status; disperse a portion of the annual investment income earned by the account to the counties.</p>	<p><u>geographic scope:</u> Skamania County, Pacific County, Wahkiakum County</p> <ol style="list-style-type: none"> 1. Review the process needed to create a new fund in the state treasury with State Treasurer’s Office and Office of Financial Management. 2. Estimate annual revenue disbursements to counties under two scenarios: <ol style="list-style-type: none"> a. continued, small-scale (\$3 million/biennium) replacement of State Forest Land encumbered by endangered or threatened species habitat conservation. b. complete replacement of State Forest Land encumbered by endangered or threatened species habitat conservation. 3. Compare estimated annual revenue to counties between a permanent fund and managing replacement land. 4. Explore the willingness of State Forest Land beneficiaries to shift from timber revenue to a permanent fund.
<p>4.</p>	<p>Increase Revenue to Skamania County from the Gifford Pinchot National Forest (GPNF).</p>	<p><u>geographic scope:</u> Skamania County</p> <p>Work collaboratively with USDA Forest Service (USFS) leadership and Washington’s congressional delegation to assess the feasibility of a suite of possible strategies for increasing revenue to Skamania County from management activities on the GPNF:</p> <ol style="list-style-type: none"> 1. Exchange State Forest Land that is currently deferred from timber harvest under DNR’s State Uplands Habitat Conservation Plan and/or DNR’s Policy for Sustainable Forests for GPNF land that would be operable under DNR policies. 2. Create a federal community forest within the GPNF that produces revenue and others benefits for Skamania County. 3. Implement Good Neighbor Agreement projects on the GPNF in a manner that provides revenue for Skamania County. 4. More fully implement the timber harvest level for the GPNF directed in the Northwest Forest Plan. 5. “Pay the County First” - pay all GPNF timber revenue to Skamania County until revenue payments equal annual revenue to the county estimated under the NWFP; thereafter, all revenue is retained by USFS. 6. Change the distribution of revenues from GPNF stewardship sales so that Skamania County receives the same portion of revenue from stewardship sales that it receives from traditional timber sales.

Table 4. Acres of State Forestland and Common School Trust land in Pacific County, Washington, by encumbrance status.

		Marbled Murrelet Long-term Conservation Strategy (Board of Natural Resources Preferred Alternative)		
		Encumbered	NOT Encumbered	Total
State Forestland (acres)				
Other Restrictions	NOT Operable	3740	5650	9390
	Operable	2779	10,083	12,862
	Total	6519	15,733	22,252
Common School Trust Land (acres)				
Other Restrictions	NOT Operable	2932	12,109	15,041
	Operable	1924	16,878	18,802
	Total	4856	28,987	33,843
ratio of unencumbered, operable Common School Trust land to encumbered State Forestland = 6.1:1				

Table 5. Acres of State Forestland and Common School Trust land in Wahkiakum County, Washington, by encumbrance status.

		Marbled Murrelet Long-term Conservation Strategy (Board of Natural Resources Preferred Alternative)		
		Encumbered	NOT Encumbered	Total
State Forestland (acres)				
Other Restrictions	NOT Operable	1646	3465	5111
	Operable	998	6123	7121
	Total	2644	9588	12,232
Common School Trust Land (acres)				
Other Restrictions	NOT Operable	1523	1944	3467
	Operable	1119	3824	4943
	Total	2642	5768	8410
ratio of unencumbered, operable Common School Trust land to encumbered State Forestland = 3.8:1				

Table 6. Acres of State Forestland and Common School Trust land in Skamania County, Washington, by encumbrance status.

		Northern Spotted Owl Conservation Strategy		
		Encumbered	NOT Encumbered	Total
State Forestland (acres)				
Other Restrictions	NOT Operable	8929	5748	14,677
	Operable	13,054	13,166	26,220
	Total	21,983	18,914	40,897
Common School Trust Land (acres)				
Other Restrictions	NOT Operable	3614	3617	7231
	Operable	5013	5527	10,540
	Total	8627	9144	17,771
ratio of unencumbered, operable Common School Trust land to encumbered State Forestland = 0.4:1				

Table 7. Estimated values of encumbered State Forestland and unencumbered Common School Trust land, by county.					
		Pacific County	Wahkiakum County	Skamania County	Total
Encumbered State Forestland ¹	total acres	2779 acres	998 acres	13,054 acres	16,831 acres
	land value ²	\$2.57 million	\$0.92 million	\$8.49 million	\$11.98 million
	timber value ³	\$36.76 million	\$18.66 million	\$217.62 million	\$273.04 million
	total value	\$39.33 million	\$19.58 million	\$226.11 million	\$285.02 million
	average total value/acre	\$14,153/acre	\$19,619/acre	\$17,321/acre	
Unencumbered Common School Trust Land	total acres	16,878 acres	3824 acres	5527 acres	26,229 acres
	land value ²	\$15.61 million	\$3.54 million	\$3.59 million	\$22.74 million
	timber value ³	\$105.63 million	\$29.12 million	\$43.72 million	\$178.47 million
	total value	\$121.24 million	\$32.66 million	\$47.31 million	\$201.21 million
	average total value/acre	\$7183/acre	\$8541/acre	\$8560/acre	
Ratio of unencumbered Common School Trust land value to habitat-encumbered State Forestland value (average total value/acre)		0.51:1	0.44:1	0.49:1	
¹ In this table, the term “encumbered” means lands that are encumbered only due to marbled murrelet or northern spotted owl habitat considerations. ² \$900/acre, compiled from comparable appraisals and expressed as 2018 dollars. ³ \$450/mbf, compiled from stumpage reports and expressed as 2018 dollars.					

Appendix A

Encumbered Lands Steering Committee

To help develop long-term solutions, and following the Legislature's direction regarding county and stakeholder involvement, DNR convened an Encumbered Lands Steering Committee. Committee members are as follows:

Angus Brodie (Chair), Deputy Supervisor for State Uplands, DNR
Matt Comisky, Washington State Manager, American Forest Resource Council
Dan Cothren, Wahkiakum County Commissioner
Cherie Kearney, Forest Conservation Director, Columbia Land Trust
Cindy Kelly, Trust Lands Advisory Committee, Washington State School Directors' Association
Tom Lannen, Skamania County Commissioner
Randy Newman, Business Manager, School Facilities and Organization, Office of Superintendent of Public Instruction
Bill Robinson, Consultant to Columbia Land Trust
Frank Wolfe, Pacific County Commissioner (preceded by Pacific County Commissioner Lisa Ayers)

The Committee was convened on August 14, 2017 and met ten more times over the next 15 months, usually for 2 to 3 hours, and usually in Castle Rock. Additionally, members of the Committee met with representatives of Washington State School Directors' Association (WSSDA) Trust Lands Advisory Committee on September 4, 2018, in Olympia, and toured the Hood River County Forest on October 26, 2018.

The Committee's work was augmented by meetings between committee staff and Common School Trust beneficiaries in Pacific County (South Bend) and Wahkiakum County (Cathlamet) on July 19, 2018, and several meetings between Committee staff and WSSDA representatives during summer and fall 2018.