

To: Ojeda-dodds, Gisella[gisella_ojeda-dodds@ios.doi.gov]
Cc: James Cason[james_cason@ios.doi.gov]
From: Jorjani, Daniel
Sent: 2017-02-28T17:22:40-05:00
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Subject: Fwd: Cascade-Siskiyou NM Litigation Briefing
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[csnm info memo 2.28.17.docx](#)
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Gisella - Please print for the meeting. Thank you. Dan

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From: **Schindler, James** <james_schindler@ios.doi.gov>
Date: Tue, Feb 28, 2017 at 4:48 PM
Subject: Fwd: Cascade-Siskiyou NM Litigation Briefing
To: Daniel Jorjani <daniel_jorjani@ios.doi.gov>

Dan, attached is background information for tomorrow's Cascade-Siskiyou briefing at 3pm.

----- Forwarded message -----

From: **Brown, Laura** <laura.brown@sol.doi.gov>
Date: Tue, Feb 28, 2017 at 4:17 PM
Subject: Cascade-Siskiyou NM Litigation Briefing
To: James Schindler <james_schindler@ios.doi.gov>, Downey Magallanes <downey_magallanes@ios.doi.gov>
Cc: Lynn Peterson <Lynn.Peterson@sol.doi.gov>, "Moody, Aaron" <aaron.moody@sol.doi.gov>, Edward Keable <edward.keable@sol.doi.gov>, Kevin Haugrud <jack.haugrud@sol.doi.gov>

James and Downey: Attached are some materials for tomorrow's meeting on the Cascade Siskiyou National Monument litigation.

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
(Medford Division)

MURPHY COMPANY, an Oregon
corporation; **MURPHY TIMBER**
INVESTMENTS, LLC, an Oregon limited
liability company,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States of America;
KEVIN HAUGRUD, in his official capacity as
Acting Secretary of Interior, **U.S.**
DEPARTMENT OF INTERIOR, and
BUREAU OF LAND MANAGEMENT,

Defendants.

Case No.:

COMPLAINT

**ACTION FOR DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION.

1. This case challenges the legality of President Barack Obama's Proclamation issued on January 12, 2017 expanding the boundaries of the Cascade-Siskiyou National Monument pursuant to the Antiquities Act of 1906. Proclamation 9564, which was published in the Federal Register on January 18, 2017, adds approximately 48,000 acres of federal land to the existing Cascade-Siskiyou National Monument. Pursuant to Proclamation 9564, the Secretary

of the Interior is directed to manage these lands through the Bureau of Land Management as a unit of the National Landscape Conservation System under the same laws and regulations that apply to the rest of the monument.

2. Over 80% of the acres included within the monument expansion are O&C Lands which have been specially designated by Congress in the O&C Act of 1937 for the express purpose of "permanent forest production." The President's Proclamation changing the statutory purpose of O&C Lands from permanent timber production to the park-like preservation status of a national monument clearly violates the O&C Act and exceeds the scope of presidential authority under the Antiquities Act.

JURISDICTION AND VENUE.

3. This Court has jurisdiction over the Antiquities Act and O&C Act claims in this action pursuant to 28 U.S.C. § 1331 and over plaintiffs' claims for declaratory and injunctive relief pursuant to 28 U.S.C. § 2201-2202. Venue in this district is proper under 28 U.S.C. § 1391(b)(2) because the lands included within the expansion of the Cascade-Siskiyou National Monument that are the subject of this action lie primarily in Oregon and predominantly within the Medford Division in this district.

PARTIES.

4. Plaintiff Murphy Company is an Oregon corporation employing over 500 workers at four wood products manufacturing plants in Oregon and one in Washington. The Oregon facilities include a veneer plant in White City, a softwood plywood plant in Rogue River, a hardwood plywood plant in Eugene and a laminated veneer lumber ("LVL") facility in Sutherlin. In Washington, Murphy Company owns and operates a veneer plant in Elma.

5. Plaintiff Murphy Timber Investments, LLC is an Oregon limited liability company that owns 49,483 acres of timberland in southern Oregon, specifically Jackson, Josephine, Klamath and Douglas counties. Of these timberlands, a total of 2,101 acres are contained within the boundaries of the expansion of the Cascade-Siskiyou National Monument.

6. Defendant Donald J. Trump is the President of the United States of America. President Trump succeeded President Barack Obama, who issued Proclamation 9564 that is challenged in this litigation. Defendant Kevin Haugrud is the Acting Secretary of the Department of Interior and the official charged with administering the O&C Act and the Cascade-Siskiyou National Monument through its agency, the Bureau of Land Management ("BLM"). Defendant BLM manages all of BLM's timberlands in western Oregon including O&C Lands and the Cascade-Siskiyou National Monument.

**THE O&C ACT OF 1937 RESTRICTS USE OF O&C LANDS
TO TIMBER PRODUCTION.**

7. The O&C Act of 1937 requires that approximately 2.1 million acres of those federally owned timberlands in western Oregon be managed for permanent forest production on a sustained yield basis. The O&C Act specifically provides that the O&C Lands

which have heretofore or may hereafter be classified as timberlands, and power-site lands valuable for timber, shall be managed . . . for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principle of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities.

43 U.S.C. § 1181a (emphasis added).

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8. In two cases, the Ninth Circuit Court of Appeals has ruled that Congress designated timber production as the primary use of O&C Lands. Headwaters v. BLM, Medford Dist., 914 F.2d 1174, 1184 (9th Cir. 1990) (holding that timber production is the "dominant use" of O&C Lands); O'Neal v. United States, 814 F.2d 1285, 1287 (9th Cir. 1987) (there is nothing in the O&C Act to "suggest that wildlife habitat conservation or conservation of old growth forest is a goal on a par with timber production, or indeed that it is a goal of the O&C Act at all.").

**O&C LANDS DESIGNATED BY CONGRESS FOR TIMBER PRODUCTION
ARE EXEMPT FROM RESERVATION UNDER THE ANTIQUITIES ACT**

9. In 1940, when President Roosevelt was considering expanding the Oregon Caves National Monument, the Secretary of Interior sought a legal opinion from its Office of the Solicitor as to whether the President had the authority to include O&C Lands in the monument expansion. In concluding that the President had no such authority, the Solicitor discussed the clear purpose established for the O&C Lands by Congress:

Congress directed that certain lands (those heretofore or hereafter classified as timberlands and power-site lands valuable for timber) be managed 'for permanent forest production and the timber thereon shall be sold, cut, and removed in conformity with the principle of sustained yield.' . . . It is clear from the foregoing that Congress has specifically provided a plan of utilization of the Oregon and California Railroad Company revested lands. This plan among other things involves the disposal of lands and timber and the distribution of the moneys received from such disposition. It must be concluded that Congress has set aside the lands for the specific purpose.

Solicitor's Opinion M. 30506, 2-3 (Mar. 1940) (emphasis added).

10. The Solicitor then turned to the land management options under the Antiquities Act, which severely limits any timber harvest in national monuments to insect and disease

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control. Given the clear conflict between the timber production purpose of the O&C Act and the preservation purpose of the Antiquities Act, the Solicitor reached the following unequivocal conclusion:

There can be no doubt that the administration of the lands for national monument purposes would be inconsistent with the utilization of the O. and C. lands as directed by Congress. It is well settled that where Congress has set aside lands for a specific purpose the President is without authority to reserve the lands for another purpose inconsistent with that specified by Congress. [citation omitted] In my opinion, therefore, the President is not authorized to include the Oregon and California Railroad Company revested lands in the Oregon Caves National Monument.

Id. at 3-4.

FIRST CLAIM FOR RELIEF

11. Plaintiffs reallege paragraphs 1 through 10.

12. Plaintiff Murphy Company's Oregon operations are dependent upon timber harvest from public forests in southern Oregon for approximately half of their annual raw material needs. These public timber sources include timber sales purchased by plaintiff from the U.S. Forest Service, BLM, the Oregon Department of Forestry and Josephine County. On average, timber harvested from lands managed by BLM, including O&C Lands, account for over 20% of this volume. Permanent removal of over 40,000 acres of O&C Lands from the timberland base managed by BLM will harm Murphy Company by reducing the supply of timber sold annually by BLM, which jeopardizes plaintiff's log supply and the jobs of over 400 employees at its four Oregon manufacturing plants.

13. In 2014, plaintiff Murphy Company purchased the Howard Timber sale from BLM with an advertised volume of 3.5 million board feet. The Howard Timber Sale is entirely a thinning operation designed to address overstocked stands on 613 acres that pose significant

wildfire risk. This timber sale is currently being harvested on O&C Lands both within and outside the expansion of the Cascade-Siskiyou National Monument. Unless Proclamation 9564 is vacated as illegal, plaintiff Murphy Company will no longer have the opportunity to purchase BLM timber sales on over 40,000 acres of O&C Lands within the Monument expansion that were specifically designated for permanent timber production by Congress.

14. The expansion of the Cascade-Siskiyou National Monument has already caused BLM to withdraw the Griffen Moon Timber Sale, a thinning sale that included 4.0 million board feet, to be withdrawn from BLM's scheduled timber sale offerings in the third quarter of 2017. BLM has not identified any timber sale to replace the lost volume from the Griffen Moon Timber Sale, which represented 15% of the annual timber sale volume for BLM's Medford District in Fiscal Year 2017.

15. Plaintiff Murphy Timber Investments, LLC owns 2,101 acres of timberland in the expanded Cascade-Siskiyou National Monument that is largely surrounded by O&C Lands. Murphy Timber Investments, LLC also owns 1,869 acres that are immediately adjacent to the boundaries of the Monument expansion. Based upon the experience of timberland owners in the original Cascade-Siskiyou National Monument, the value and productivity of timberland declines significantly whenever private timberlands are included within the boundaries of a national monument.

16. Unless Proclamation 9564 expanding the Cascade-Siskiyou National Monument is vacated as illegal, Murphy Timber Investments, LLC will suffer the following losses:

- a. Loss of access needed to efficiently manage its timberlands as a result of BLM decommissioning or abandoning roads to which plaintiff has rights pursuant to reciprocal right-of-way agreements between BLM and plaintiff; and

- b. Substantial increased risk of catastrophic loss through wildfires that begin on adjacent O&C Lands that, if managed as a national monument, will not be thinned to address the risk of catastrophic wildfire.

17. The O&C Lands were set aside for a specific purpose – timber production – in the O&C Act to generate valuable resources and to support local communities through the contribution of 50% to 75% of all timber sale proceeds to the county in which the timber harvest occurs. Pursuant to that statutory mandate, the Secretary of Interior is required to manage O&C Lands for permanent forest production consistent with sustained yield principles.

18. Proclamation 9564 permanently removes over 40,000 acres of O&C Lands from sustained yield timber production. This redesignation of productive forestland for permanent preservation in a national monument violates the Congressionally designated timber production purpose of the O&C Lands set out in the O&C Act as demonstrated by Ninth Circuit precedent and opinions issued by the Office of the Solicitor for the Department of Interior.

19. Since 1937, when Congress set aside the O&C Lands for permanent timber production, the President has had no authority to include those lands within a national monument under the Antiquities Act of 1906. Proclamation 9564 violates the O&C Act and exceeds the authority granted to the President in the Antiquities Act.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for judgment as follows:


1. A declaration that Proclamation 9564 violates the O&C Act and the Antiquities Act;
2. An order vacating Proclamation 9564 to the extent that it includes O&C Lands and enjoining defendants from managing those lands except pursuant to the O&C Act; and

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3. Granting plaintiffs such other relief as the Court deems just and equitable.

DATED this 17th day of February, 2017.

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INFORMATION MEMORANDUM FOR THE ACTING SOLICITOR

DATE: February 28, 2017

FROM: Lynn Peterson, Regional Solicitor, Pacific Northwest Region
Laura Brown, Associate Solicitor, Division of Land Resources

RE: Complaints challenging the Cascade-Siskiyou National Monument expansion

(b)(5) DPP, ACP, AWP



Privileged/ Attorney Client Communication/ Attorney Work Product/ Do Not Disclose

(b)(5) DPP, ACP, AWP



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ASSOCIATION OF O&C COUNTIES,
16289 HWY 101 South Ste. A, Brookings
OR 97415,

Plaintiff,

v.

DONALD J. TRUMP, in his official
capacity as President of the United States of
America, 1600 Pennsylvania Avenue NW
Washington, DC 20500; **UNITED STATES
OF AMERICA**; **KEVIN HAUGRUD**, in
his official capacity as acting Secretary of the
Interior, U.S. Department of the Interior,
1849 C Street NW, Washington, DC 20240;
and **BUREAU OF LAND
MANAGEMENT**, 1849 C Street NW,
Washington, DC 20240,

Defendants.

Civil No. 1:17-cv-0280

Action for Declaratory and Injunctive
Relief to Remedy Violations of the Oregon
and California Railroad Lands Act of 1937,
43 U.S.C. § 1181a; and the Antiquities Act
of 1906, 54 U.S.C. § 320301

COMPLAINT

Plaintiff Association of O&C Counties (“AOCC” or “Plaintiff”) for its complaint against Defendants Donald J. Trump, in this official capacity as President of the United States of America; the United States of America; Kevin Haugrud, in his official capacity as Acting Secretary of the Interior (“Secretary”); and the Bureau of Land Management (“BLM”) states and alleges as follows:

I. INTRODUCTION

1. This case arises out of President Barack Obama’s Proclamation issued on January 12, 2017 (“Proclamation 9564”), expanding the boundaries of the Cascade-Siskiyou National

Monument pursuant to the Antiquities Act, 54 U.S.C. §§ 320301-320303. Proclamation 9564 adds approximately 48,000 acres to the existing Cascade-Siskiyou National Monument.

Proclamation 9564 states that the Secretary will manage the lands through the BLM as a unit of the National Landscape Conservation System, under the same laws and regulations that apply to the rest of the monument. Those laws and regulations include a blanket prohibition on commercial timber harvest inside the monument.

2. Of the 48,000 acres set aside for the monument expansion, approximately 40,400 of those acres *have already been set aside* by Congress for a special purpose in the Oregon and California Railroad Grant Lands Act of 1937 (“O&C Act”), 43 U.S.C. §§ 1181a-1181f. The federally-owned lands governed by the O&C Act (the “O&C Lands”) serve a particular purpose. In particular, Congress mandated that all of the O&C Lands classified as timberlands “shall be managed” for the purpose of “permanent forest production” on a sustained yield basis and required that at least 50 percent of the proceeds from the timber sales on such lands shall be paid to local county governments. Congress entrusted the Secretary to manage these O&C Lands, but with an express mandate: the timber “shall be sold, cut, and removed in conformity with the principal of sustained yield.” 43 U.S.C. § 1181a. Furthermore, to ensure adequate revenues to the counties, Congress expressly mandated that the amount of timber sold each year from the O&C Lands shall not be less than one-half billion board-feet or the annual sustained yield capacity of those forests. *Id.*

3. President Obama’s inclusion of O&C Lands within the Cascade-Siskiyou National Monument violates the O&C Act and exceeds the scope of presidential authority under the Antiquities Act. Where Congress has set aside lands for a specific purpose, the President is

without authority to reserve those lands for another purpose. Congress set aside O&C Lands for sustained yield timber production for the benefit of counties in Oregon. The President may not, therefore, reserve those lands for a monument that *prohibits* the very sustained yield timber production for which the same lands were previously set aside by Congress. As a result, the President's inclusion of O&C Lands in Proclamation 9564 must be set aside as *ultra vires*.

II. JURISDICTION AND VENUE

4. The Court has jurisdiction of this action pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. §§ 2201-2202 (declaratory judgment and injunctive relief). *See Mountain States Legal Found. v. Bush*, 306 F.3d 1132, 1136 (D.C. Cir. 2002) (“In reviewing challenges under the Antiquities Act, the Supreme Court has indicated generally that review is available to ensure that the Proclamations are consistent with constitutional principles and that the President has not exceeded his statutory authority.”); *id.* (judicial review of Presidential action available where “the authorizing statute or another statute places discernible limits on the President’s discretion”).

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because this is an action against the United States and United States agencies and officials and because a substantial part of the events and omissions giving rise to the claims in this case occurred in this District, and the Defendants reside in the District. Furthermore, the President signed 9564 Proclamation at issue in this case in the District.

III. PARTIES

A. Plaintiff Association Of O&C Counties

6. Plaintiff AOCC is an association whose members are 17 counties in western Oregon containing O&C Lands managed by BLM (“O&C Counties”). AOCC’s members include Klamath, Douglas, Curry, Coos, Lane, Lincoln, Linn, Polk, Yamhill, Marion, Clackamas, Multnomah, Columbia, Washington, Tillamook, Jackson and Josephine Counties. AOCC’s sole function is to protect and enhance the O&C Counties’ interest in the O&C Lands. AOCC (then known as the O&C County Courts Association) was a proponent of the legislation that ultimately became the O&C Act. AOCC has also participated actively in every significant administrative or legislative process concerning such lands from 1937 to present.

7. AOCC’s member counties are the intended beneficiaries of the O&C Act. The O&C Act expressly provides that AOCC’s member counties have the right to 75 percent of gross receipts from timber sales and harvests on O&C Lands, 43 U.S.C. § 1181f(a), which percentage since the 1950s has been reduced to 50 percent by periodic Interior Appropriations Acts. As such, AOCC’s members have a direct financial stake in the validity of Proclamation 9564 because it removes 40,400 acres of O&C Lands from timber production by placing such lands into the Cascade-Siskiyou National Monument. The monument designation of these O&C Lands causes, and will continue to cause, immediate and direct financial harm to AOCC’s member counties by removing timberlands from sustained yield timber production, thereby thwarting the purpose of the O&C Act. Proclamation 9564 will necessarily deprive the O&C Counties of the receipts from timber sales that would otherwise be harvested on those lands each year. Proclamation 9564 will also necessarily deprive the O&C Counties of timber supply that would

support the wood products industries in those counties, resulting in increased levels of unemployment, as well as increased demand on certain services provided by the O&C Counties.

8. The relief requested by AOCC will redress that harm by ensuring that the Secretary manages the O&C Lands by and through the BLM in accordance with the O&C Act for the intended purpose of permanent forest production on a sustained yield basis with the required statutory minimum level of timber harvest. This relief will ensure that AOCC's members receive the receipts from timber sales promised by the O&C Act, and will further help provide for the economic stability and development of the O&C Counties as contemplated by the O&C Act.

9. AOCC and its member counties have no other plain, speedy, or adequate remedy at law. President Obama's decision to withdraw O&C Lands from sustained yield timber production and place those lands in the Cascade-Siskiyou National Monument is final, and ripe for judicial review.

B. Defendants

10. Defendant Donald J. Trump is the President of the United States of America. President Trump's predecessor President Obama issued Proclamation 9564 that is the subject of this lawsuit. Defendant Kevin Haugrud is the acting Secretary and the official charged with administering the O&C Act and the Cascade-Siskiyou National Monument through the BLM. Defendant BLM is responsible for managing O&C Lands and the Cascade-Siskiyou National Monument.

IV. BACKGROUND ALLEGATIONS

A. The Antiquities Act Of 1906

11. The Antiquities Act of 1906 authorizes the President to proclaim national monuments on federal lands that contain “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest.” 54 U.S.C. § 320301(a). The President is to reserve “the smallest area compatible with the proper care and management of the objects to be protected.” *Id.* § 320301(b).

B. The O&C Act Of 1937

12. The O&C Act of 1937 mandates that approximately 2.1 million acres of federally-owned land located in eighteen western Oregon counties that have been classified as timberlands, namely the O&C Lands, be managed for permanent forest production on a sustained yield basis, and that between fifty and seventy-five percent of the revenue from the timber sales on such land be paid to the counties in which the land is located, namely the O&C Counties. 43 U.S.C. § 1181a .

13. The O&C Act was enacted to guide the management of lands that Congress had originally granted to the Oregon and California Railroad (the “Railroad”) in connection with the construction of a rail line connecting Portland, Oregon to California. *See* Act of July 25, 1866, ch. 242, § 1, 14 Stat. 239. Under the original land grant, as subsequently amended, the Railroad was required to sell the lands in 160-acre parcels at a price of \$2.50 per acre to foster settlement and development of the region. Act of July 25, 1866, ch. 242, § 2, 14 Stat. at 240. However, the Railroad sold only a small portion of the lands in 160-acre tracts, choosing instead to sell off much larger tracts at prices ranging between \$5 and \$40 per acre for timber speculation, in direct contravention to the statutory terms of the land grant. Eventually, in 1903, the Railroad, which

by then had been acquired by Southern Pacific Railroad, withdrew all of the remaining lands from sale, asserting they were timberlands and unsuitable for settlement.

14. The Railroad's refusal to sell additional O&C Lands had a detrimental impact on the anticipated settlement and development of the O&C Counties and was criticized by local governments. In response, Congress directed the U.S. Attorney General to enforce the terms of the O&C grant. *See* S.J. Res. 18, 60th Cong., 35 Stat. 571 (1908). As a result, the federal government filed suit and obtained a decree forfeiting the unsold O&C Lands back to the United States (causing the railroad to cease making property tax payments on the lands); however, the United States Supreme Court reversed the forfeiture decree and invited Congress to formulate an appropriate remedy. *Oregon & California Railroad Co. v. United States*, 238 U.S. 393 (1915).

15. Congress then stepped in again in 1916 by passing the Chamberlain-Ferris Revestment Act (39 Stat. 218), which, among other things, (a) revested all of the unsold lands granted to the railroad back into the United States, (b) directed the United States to pay the O&C Counties the unpaid property taxes owed on such lands and (c) directed the Department of the Interior to sell the timber from those lands "as rapidly as reasonable prices [could] be secured" in a normal market. Chamberlain-Ferris Revestment Act of 1916, ch. 137, § 4, 39 Stat. at 220. Finally, because the O&C Counties would not be able to impose property taxes on the O&C Lands revested in the federal government, the Act also provided that a portion of the revenues from such timber and land sales would be directed to the O&C Counties. Chamberlain-Ferris Revestment Act of 1916, ch. 137, §§ 9-10, 39 Stat. at 221-22.

16. But timber sales under the Chamberlain-Ferris Act produced little revenue, causing continued financial hardship to the O&C Counties and eventually leading Congress to

pass the O&C Act in 1937 “to provide the counties in which the O&C land was located with the stream of revenue which had been promised but not delivered by the Chamberlain-Ferris Revestment Act.” *Headwaters, Inc. v. BLM, Medford Dist.*, 914 F.2d 1174, 1183 (9th Cir. 1990).

17. To achieve this purpose, the O&C Act mandates that that the O&C Lands be managed for permanent forest production on a sustained yield basis for the benefit of the O&C Counties. Specifically, the O&C Act provides that the O&C Lands

which have heretofore or may hereafter be classified as timberlands, and power-site lands valuable for timber, *shall* be managed . . . for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facil[i]ties[.]

43 U.S.C. § 1181a (emphasis added).¹ In addition, the O&C Act provides that no less than “[f]ifty per centum” and up to 75 percent of the revenue obtained from such sales shall be payable “to the counties in which the [O&C] lands revested . . . are situated.” *Id.* § 1181f(a).

18. In a further effort to ensure a dependable revenue stream to the O&C Counties, the O&C Act also expressly requires a minimum level of annual timber sales. At the time of the enactment of the O&C Act, the best available estimate of the standing timber on O&C Lands

¹ As the Ninth Circuit Court of Appeals has held, this language makes “clear that the primary use of the revested lands is for timber production.” *O’Neal v. United States*, 814 F.2d 1285, 1287 (9th Cir. 1987). Thus, while the statute mentions additional benefits of sustained yield timber management such as protecting watersheds and recreation, there is nothing in the statute or its history to “suggest that wildlife habitat conservation or conservation of old growth forest is a goal on a par with timber production, or indeed that it is a goal of the O & C Act at all.” *Headwaters, Inc.*, 914 F.2d at 1184. Instead, timber production is the “dominant use” of the O&C Lands. *Id.*

was approximately 50 billion board feet and the best estimate of the annual sustained yield was at least 500 million board feet per year, based on an assumed 100-year rotation period on the O&C Lands. This reasoning is reflected in the statute:

The annual productive capacity for such lands shall be determined and declared as promptly as possible after August 28, 1937, but until such determination and declaration are made the average annual cut therefrom shall not exceed one-half billion feet board measure: Provided, That timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained yield capacity when the same has been determined and declared, shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market.

Id. § 1181a (underline added).

19. The purpose of this minimum harvest requirement is also reflected in the legislative history of the 1937 O&C Act. The underlined language in the above paragraph was added to the O&C Act at the insistence of Representative Mott (of Oregon) and the AOCC. As originally introduced in H.R. 5858, 75th Cong. (1937), the O&C Act would have provided only that “[t]he annual productive capacity shall be determined and declared as promptly as possible after passage of this act, but until such determination and declaration are made, the average annual cut shall not exceed one-half billion board feet.” While this language plainly capped harvest in the short term, it provided no minimum cut. Representative Mott noted this and objected to any bill that would not provide minimum harvest levels needed to guarantee adequate revenues for the O&C Counties. *See* Report of Hearing from April 13, 1937, at 6-8, 25-27, 30.

20. Similar objections were made by the witness for the AOCC. Testifying before Congress, the AOCC’s attorney Guy Cordon offered the following language to provide a minimum cut level: “Timber from said lands in an amount not less than one-half billion board

feet measure or not less than the maximum annual sustained yield capacity shall be sold annually if the same can be done at reasonable prices on a normal market.” Report of Hearings from May 25, 1937, at 121-22. Representative Mott and Mr. Cordon both emphasized several times that the intent of the proposed amendment was to limit the Secretary’s discretion and to guarantee a minimum harvest level for the benefit of the O&C Counties. *Id.* at 122-24.

C. Implementation Of The O&C Act

21. Following passage of the O&C Act, the Secretary immediately began to determine the inventory of standing timber and the proper classification of O&C Lands as timberlands or agricultural lands suitable for settlement. By 1942, the Secretary, through the Department of the Interior, determined that 2,446,000 acres of O&C Lands were properly classified as “timberlands.” U.S. Department of Interior General Land Office, *Forever Timber: Perpetual Sustained Yield Forestry on the Revested Oregon and California Railroad Grant Lands and the Reconveyed Coos Bay Wagon Road Grant Lands in Western Oregon* 17 (1945).

22. In addition, the Secretary immediately began identifying the annual productive capacity of the O&C Lands and marketing timber from such lands in accordance with the O&C Act. Starting in fiscal year 1940, the Secretary, through the Department of the Interior, sold 593 million board feet of timber (above the 500 million board feet minimum harvest requirement). W. Horning, U.S. Department of Interior General Land Office, *The O&C Lands and their Management, an Important Advance in Forest Conservation* 7 (Dec. 1940). Over time, the allowable sale quantities were steadily increased until starting in 1959 the BLM began selling an average of more than 1.1 billion board feet of timber from the O&C Lands every year for the next 32 years, with the peak sale level of 1.662 billion board feet occurring in 1960. *See* Final Environmental Impact Statement for the Revision of the Resource Management Plans of the

Western Oregon Bureau of Land Management at 3-239 to -240 (Oct. 2008).

23. The revenues from such timber sales provided substantial economic benefits to the O&C Counties. Indeed, in the first 50 years of implementation, the O&C Act returned more than \$1.4 billion to the O&C Counties. Those funds have been used to build and maintain public buildings and construct other public works, and to support basic public services such as law enforcement, corrections, public and mental health services, taxation and assessment, libraries, and a broad array of other services supported by O&C County general fund budgets.

D. The United States Previously Determined That O&C Lands Cannot Be Reserved Under The Antiquities Act

24. Proclamation 9564 is not the first time that a President has considered incorporating a portion of the O&C Lands into a national monument. In 1940, President Roosevelt was considering expanding the Oregon Caves National Monument, a 488-acre area in the Siskiyou Mountains. The contemplated expansion would have included O&C Lands.

25. The Secretary sought a legal opinion from the Office of the Solicitor as to the whether the President has the authority to set aside O&C Lands “as an addition to the Oregon Caves National Monument.” Solicitor’s Opinion M. 30506 (Mar. 9, 1940). The Solicitor concluded that “[i]t is my opinion that the President does not have such authority.” *Id.*

26. The Solicitor explained that through the O&C Act,

Congress directed that certain lands (those heretofore or hereafter classified as timberlands and power-site lands valuable for timber) be managed ‘for permanent forest production and the timber thereon shall be sold, cut, and removed in conformity with the principle of sustained yield.’ . . . It is clear from the foregoing that Congress specifically provided a plan for the utilization of the Oregon and California Railroad Company revested lands. The plan among other things involves the disposal of lands and timber and the distribution of the moneys received from such disposition. **It must be concluded that Congress has set aside the lands for**

the specified purpose.

Id. at 2-3 (emphasis added).

27. The Solicitor then contrasted this purpose with the management of property under the Antiquities Act, in which “the disposal of timber in national monuments is restricted” to insect and disease control. *Id.* at 3.

28. Based on that review, the Solicitor concluded that

[t]here can be no doubt that the administration of the lands for national monument purposes would be inconsistent with the utilization of the O. and C. lands as directed by Congress. It is well settled that where Congress has set aside lands for a specific purpose the President is without authority to reserve the lands for another purpose inconsistent with that specified by Congress. In my opinion, therefore, **the President is not authorized to include the Oregon and California Railroad Company revested lands in the Oregon Caves National Monument.**”

Id. at 4-5.

29. The Solicitor has also issued a number of subsequent opinions conforming the specific purpose of the O&C Lands. The Solicitor concluded that O&C Lands could not be used for mining purposes (*see* Department of Interior Memorandum, Aug. 25, 1941), could not be withdrawn for a state park (*see* Solicitor Opinion, May 17, 1955), and could not be included within wilderness study areas otherwise required as part of FLPMA (*see* Solicitor Opinion, June 1, 1977).

30. In addition, in 1986 the Solicitor issued an opinion to the Secretary on the issue of whether the BLM could develop a program to conserve northern spotted owls on BLM-managed land. *See* Solicitor Opinion, Oct. 28, 1986. The Solicitor concluded that the BLM could develop such a program consistent with the multiple use provisions of FLPMA. But that freedom was “limited” on any O&C Lands because “Congress defined how the Secretary must manage” those

lands under the O&C Act. The Solicitor explained that the Secretary could establish a program for managing spotted owls on O&C Lands “if it is possible to do so without creating a conflict with the dominant use there – timber production.” *Id.* However, “[i]f a program for managing northern spotted owls conflicts with producing timber on a sustained basis in O&C timberlands, the O&C Act will preclude the program’s application to that reality.” *Id.*

E. The Cascade-Siskiyou National Monument

31. President Clinton created the Cascade-Siskiyou National Monument under the Antiquities Act by Presidential Proclamation 7318 on June 9, 2000 (“Proclamation 7318”). Proclamation 7318 set aside 52,000 acres of federal land. The proclamation states that “[t]he commercial harvest of timber or other vegetative material is prohibited, except when part of an authorized science-based ecological restoration project aimed at meeting protection and old growth enhancement objectives.” 65 Fed. Reg. 37249, 37250 (June 9, 2000). The proclamation further states that “[n]o portion of the monument shall be considered to be suited for timber production, and no part of the monument shall be used in a calculation or provision of a sustained yield of timber.” *Id.*

32. Proclamation 7318 placed management of the Cascade-Siskiyou National Monument with the Secretary, through the BLM, and instructed the Secretary to prepare a management plan for the monument.

33. The current management plan for the Cascade-Siskiyou National Monument was issued in 2008. As per the instruction in Proclamation 7318, the plan prohibits commercial timber harvest inside the monument.

F. President Obama Acts To Expand The Cascade Siskiyou National Monument To Include O&C Lands Despite The United States' Own Prior Determination That O&C Lands Cannot Be Reserved Under The Antiquities Act

34. In October of 2016, the BLM released a proposed expansion to the Cascade - Siskiyou National Monument. The proposed expansion was for 53,100 additional acres, of which 50,900 were O&C Lands.

35. AOCC sent a letter on October 14, 2016 to the Assistant Secretary explaining that the President lacked the authority to include O&C Lands in the Cascade-Siskiyou National Monument, and cited and provided the 1940 opinion from the Solicitor General. The letter further explained that the designation would “cut deeply” into the available harvest areas for O&C Lands and would cause significant financial hardship to Klamath and Jackson Counties in particular.

36. On January 12, 2017, President Obama issued Proclamation 9564, titled Boundary Enlargement of the Cascade-Siskiyou National Monument. Proclamation 9564 expands the boundaries set by President Clinton in Proclamation 7318, including an additional 48,000 acres.

37. Proclamation 9564 states that “[a]ll Federal lands and interests in lands within the boundaries” of the monument “are hereby . . . withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws.” 82 Fed. Reg. 6145, 6148-49 (Jan. 12, 2017).

38. Proclamation 9654 further states that the Secretary “shall manage the area being added to the monument through the [BLM] as a unit of the National Landscape Conservation System, under the same laws and regulations that apply to the rest of the monument.” *Id.* at 6149.

39. The effect of this Proclamation is that sustained yield timber production is prohibited on all federal lands within the new portions of the monument, just as they are currently prohibited in the original portions of the monument.

40. The 48,000-acre expansion includes 42,600 acres in Oregon, of which 40,400 acres are O&C Lands, approximately 95% of the expansion in Oregon.

41. At least 35,500 acres of those O&C Lands within the new monument are classified as timber lands that must be managed on a sustained yield basis under the O&C Act. As a result of Proclamation 9564, none of those 35,500 acres will be managed for sustained yield timber production as mandated by Congress.

FIRST CLAIM FOR RELIEF

Proclamation 9564 Violates The O&C Act And Exceeds Presidential Authority Under The Antiquities Act By Reserving O&C Lands From Timber Production

42. Plaintiff re-alleges and incorporates by reference the preceding paragraphs.

43. Congress set aside the O&C Lands for a specific purpose: to benefit the O&C Counties.

44. In accordance with that purpose, the O&C Act requires the Secretary to manage all O&C Lands under the jurisdiction of the Department of the Interior that are classified as timberlands and power site lands valuable for timber for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principle of sustained yield. 43 U.S.C. § 1181a.

45. Proclamation 9564 permanently removes at least 35,000 acres of O&C Lands classified as timberlands from sustained yield timber production. The reservation is inconsistent with and directly contrary to the purpose for which these lands were designated in the O&C Act.

46. Once Congress sets aside lands for a particular purpose, the President is without authority to reserve those lands for a different purpose. By reserving O&C Lands for a monument purpose, and prohibiting their use for sustained yield timber production, Proclamation 9564 violates the O&C Act, and exceeds the authority granted to the President in the Antiquities Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A. Adjudge and declare that Proclamation 9564 violates the O&C Act and the Antiquities Act by reserving O&C Lands from sustained yield timber production;
- B. Vacate and enjoin Proclamation 9564 to the extent that it includes O&C Lands;
- C. Award Plaintiff its reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- D. Grant Plaintiff such further relief as may be just, proper, and equitable.

DATED: February 13, 2017.

STOEL RIVES LLP

/s/ Per Ramfjord
Per Ramfjord (D.C. Bar No. 392237)
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
Phone: (503) 294-9257
Email: per.ramfjord@stoel.com

Attorneys for Plaintiff

CIVIL COVER SHEET

JS-44 (Rev. 7/16 DC)

I. (a) PLAINTIFFS ASSOCIATION OF O&C COUNTIES, 16289 HWY 101 South Ste. A, Brookings OR 97415 (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES) (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Per A. Ramfjord (D.C. Bar No. 392237) STOEL RIVES LLP 760 SW Ninth Ave, Suite 3000, Portland, OR 97205 503-294-9257	DEFENDANTS DONALD J. TRUMP, President of the United States of America; UNITED STATES OF AMERICA; KEVIN HAUGRUD, Secretary of the Interior; and BUREAU OF LAND MANAGEMENT + COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>																								
II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY) <input type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY! <table style="width: 100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input checked="" type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input checked="" type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
<input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge
 ☐ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Declaratory and Injunctive Relief - 43 U.S.C. § 1181a; 54 U.S.C. § 320301

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form
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DATE: 02/13/2017	SIGNATURE OF ATTORNEY OF RECORD
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

ASSOCIATION OF O&C COUNTIES,
16289 HWY 101 South Ste. A, Brookings OR 97415

Plaintiff(s)

v.

DONALD J. TRUMP, President of the United States
of America; UNITED STATES OF AMERICA; KEVIN
HAUGRUD, Secretary of the Interior; and BUREAU
OF LAND MANAGEMENT,

Defendant(s)

Civil Action No. 1:17-cv-0280

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* DONALD J. TRUMP, President of the United States of America
1600 Pennsylvania Avenue NW
Washington, DC 20500

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,

whose name and address are: Per A. Ramfjord
STOEL RIVES LLP
760 SW Ninth Ave, Suite 3000
Portland, OR 97205
Telephone: 503-294-9257

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:17-cv-0280

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

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ASSOCIATION OF O&C COUNTIES,
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Plaintiff(s)

v.

DONALD J. TRUMP, President of the United States
of America; UNITED STATES OF AMERICA; KEVIN
HAUGRUD, Secretary of the Interior; and BUREAU
OF LAND MANAGEMENT,

Defendant(s)

Civil Action No. 1:17-cv-0280

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* JEFF SESSIONS, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Per A. Ramfjord
STOEL RIVES LLP
760 SW Ninth Ave, Suite 3000
Portland, OR 97205
Telephone: 503-294-9257

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

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AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

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Printed name and title

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Additional information regarding attempted service, etc:

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ASSOCIATION OF O&C COUNTIES,
16289 HWY 101 South Ste. A, Brookings OR 97415

Plaintiff(s)

V.

Civil Action No. 1:17-cv-0280

DONALD J. TRUMP, President of the United States of America; UNITED STATES OF AMERICA; KEVIN HAUGRUD, Secretary of the Interior; and BUREAU OF LAND MANAGEMENT,

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* CHANNING D. PHILLIPS
United States Attorney's Office
555 4th Street, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Per A. Ramfiord

Per A. Ramfjord
STOEL RIVES LLP
760 SW Ninth Ave, Suite 3000
Portland, OR 97205
Telephone: 503-294-9257

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:17-cv-0280

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OF LAND MANAGEMENT,

Defendant(s)

Civil Action No. 1:17-cv-0280

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* KEVIN HAGRUD
Secretary of the Interior
1849 C Street NW
Washington, DC 20240

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,

whose name and address are: Per A. Ramfjord
STOEL RIVES LLP
760 SW Ninth Ave, Suite 3000
Portland, OR 97205
Telephone: 503-294-9257

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 1:17-cv-0280

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

ASSOCIATION OF O&C COUNTIES,
16289 HWY 101 South Ste. A, Brookings OR 97415

Plaintiff(s)

v.

DONALD J. TRUMP, President of the United States
of America; UNITED STATES OF AMERICA; KEVIN
HAUGRUD, Secretary of the Interior; and BUREAU
OF LAND MANAGEMENT,

Defendant(s)

Civil Action No. 1:17-cv-0280

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1849 C Street NW
Washington, D.C. 20240

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Per A. Ramfjord
STOEL RIVES LLP
760 SW Ninth Ave, Suite 3000
Portland, OR 97205
Telephone: 503-294-9257

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Additional information regarding attempted service, etc: