

FAQs on State Forests and the Linn County Lawsuit

By Wild Salmon Center

Background: Linn County and their attorney held a press conference in the Capitol building on January 13, 2016 to announce [their intent to file a \\$1.4 billion lawsuit](#) against the State of Oregon. The county claims that the state should have managed state-owned forests to maximize revenue for counties and other taxing districts, and because the state has not maximized revenue through industrial timber practices, the county claims they and other counties and taxing districts are owed hundreds of millions of dollars. [Timber companies and their lobbying group](#) said they had helped pay for the lawsuit.

What does the law say about the purpose of the state forests?

The law requires the lands to be managed for the “[greatest permanent value of those lands to the state.](#)” State law does not mention a primary use for the forest. The law that allows state acquisition of forests notes the purposes of “watershed protection,” “erosion control,” and “recreation” as well as “forest crops” [ORS 530-010\(1\)](#). The 1998 administrative rules note the importance of the county interest, but also says that the Board of Forestry and State Forester “are not required to manage these lands to maximize revenue, exclude all non-revenue producing uses on the these forests, or to produce revenue from every acre” [OAR 629-035-0010\(4\)a](#).

The Linn County suit claims that the rules for the forest adopted in 1998 resulted in lower revenues for the County. Have revenues declined for Linn County from state forests?

No. If one compares the level of harvest for the 30 years before the 1998 rule with the 15 years after the 1998 rule, it shows that the level of harvest more than doubled. The more accurate story is that the new rules the state adopted in 1998 were essential to dealing with endangered species, increasing public recreation, and broader changes to public expectations over forest management. That allowed harvests to continue under a broadly accepted plan, something that didn’t happen on federal forests.

[Linn County claims](#) that reduced state timber harvests have had “devastating effects local communities” and caused the unemployment rate to “skyrocket.” Is this true?

Linn County did not provide evidence for this claim, but it seems highly unlikely, given that state forest harvest in Linn County tripled following the adoption of the 1998 rule, as compared with the 1990-1998 period. In addition, state forest revenues are simply not that large in relation to the overall county employment level. For example, the new jobs produced by a 20% increase in state forest harvest in Linn County would produce less than one one-hundredth of one percent of the total employment in the county. Linn County has [total nonfarm employment of approximately 42,000 people](#); so that’s about 20 jobs

How about the Linn County budget? Would increases in timber harvest on state forests make a big difference to the county budget?

While every dollar is undoubtedly welcome by county governments, it is unlikely that harvest increases would have a major effect. For example if harvest and annual revenue increased by 20% from state forests in Linn County, it would increase their budget by less than 1%.

What is the state forest management plan like now? Does it allow clearcutting?

The state forest plan tries to strike a balance among many values, but it does lean strongly toward timber production. The current state plan allows extensive clearcutting of even the oldest forests. There are no permanent protected areas in the current plan, and the current plan has not been approved by federal scientists as adequate to protect threatened salmon. In terms of percentages, approximately 27% of the current forest is off limits to harvest because it is near streams, too steep, too rocky, or home to endangered species. 55% is devoted to clear cuts and roads. 18% is open to thinning and road construction.

The counties say there is a contract that mandates the land to be managed for the county to maximize revenue. Is there a contract?

There is no written or formal contract that one can hold and read. At best there is a claim for some kind of implied contract, but even that is a shaky proposition. There are two important court cases on the state forests. One says that the state forest can't be given away without some consideration of county interests. The other says that the revenue from the forest that goes to the Department of Forestry should be used for forest management, and not simply swept away for other uses. Both cases rely on interpreting statutes. Neither case says anything about a mandate to manage for timber revenue over all other uses.

What does the Oregon Attorney General's office say about the purpose of the state forests?

The Department of Justice wrote an extensive brief in 2006 that found "Neither the governing statutes nor the deeds conveying the lands nor any other sources of authority establish a fiduciary relationship between Forestry and the counties with respect to the forest lands conveyed by the counties."

What about the history of the lands? Doesn't the history show that the counties deserve timber to be maximized for their government?

No. The lands in question largely came into state ownership in the 1930s and 1940s after private owners had stopped paying taxes on the land. First the land came to the counties, who they were the tax collectors. But as the Linn County lawsuit notes, the lands were a "financial burden on the counties" because the counties were stuck paying for fire protection and management costs. The lands were virtually worthless at the time, which is why private owners abandoned the land instead of selling it. Burned and cut over, the lands needed extensive restoration. Once the state received the land, the state paid for fire protection and management. Moreover, a statewide bond passed in 1948 covered many of the costs of replanting. The counties paid some of this money back, but decades later without any consideration for interest or inflation.