**Comparison Of Key Features**

H.R. 1526 (2013) and Draft dated Nov. 26, 2013 titled “Oregon and California Land Grant Act of 2013”

Grey box = Comparison requires plausible but disputable inference from text of legislation and expert analysis of factors (such as markets for timber, amount of timber included or excluded from categories governed by biologic or hydrologic standards established in the legislation)

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| **Feature** | **H.R. 1526** | **Senate Discussion Draft** |
| Estimated yield, annually, to counties.  Sources: Governor’s O&C Lands Report; Association of O&C Counties. | $120 million annually | $30 million annually |
| Number of acres managed primarily for the monetary benefit of counties vs. Number of acres managed primarily for non-monetary purposes. | 1.6 million acres placed in the newly-created O&C Trust; 1.1 million managed by Forest Service.  Source: House Report 113-213, Part I, page 51, (113th Congress, 1st Session)(September 17, 2013). | “About half” (1.3 million acres) placed in a new classification called “forestry emphasis areas” and the remainder in newly-created “conservation emphasis areas.” §102(a).  Source: Senator Wyden. http://www.wyden.senate.gov/priorities/oc-act-of-2013 |
| Addresses subjects and lands in addition to the O&C Lands. | Yes.  Titles I, II, and IV address matters beyond the O&C Lands. Titles III and V expressly address O&C Lands and the Secure Rural Schools and Community Self-Determination Act of 2000 | No. |
| Treatment of federal title | Federal title retained, **but** as to the lands included in the O&C Trust, it is subjected to an explicit trust, governed by a Board of Trustees, and bearing “fiduciary responsibilities to act for the benefit of the O&C Trust counties in the management of O&C Trust lands.” §312(a); §302(7); §311(a). The O&C Trust is the “beneficial owner of the surface estate for purposes of all legal proceedings . . . .” §312(a)(2), and O&C Counties are infused with “all the rights and remedies that would normally accrue to a beneficiary of a trust.” §312(f). | Senate draft does not create a trust. |
| Lands designated primarily for harvest -- Does federal or state law govern harvest of timber? | General rule: managed “in compliance with all Fedeeral and State laws “in the same manner as such laws applies to private forest lands.” Oregon law applies to lands in the O&C Trust, “in the manner applicable to privately owned timberlands in the State \* \* \* \* “ §312(a)(3); | Senate draft does not create a trust. No change in the relation of federal to state law is mandated by the text. |
| Lands designated primarily for harvest -- What lands are included? | Lands “previously managed for timber production” or “materially altered by natural disturbances since 1886”, all of which are <125 years old. §311(d)(1). | “Forestry emphasis areas” are defined by reference to a map. §102(5). The parameters of the designated areas are determined according through the application of principles of “ecological forestry,” which is defined to be based on “the best available ecological understanding of forest ecosystems in managing those ecosystems to achieve integrated environmental, economic, and cultural outcomes.” |
| Timber harvest in riparian areas | Notwithstanding the general proposition that state law will apply to O&C Trust lands, new federal statutory standards for harvest in riparian areas will be applied to harvest near fish-bearing streams, non-fish-bearing streams, ponds/lakes > 1/4 acre, and ponds/lakes < 1/4 acre. §314(i) | Intricate statutory standards for “dry” and “moist” forests within forest emphasis and conservation emphasis areas. §103(Forest emphasis areas); §105 (Conservation emphasis areas) |
| Forest land management -- federal statutory goals | O & C Trust lands: The O&C Trust is “to produce annual maximum sustained revenues in perpetuity for O&C Trust counties . . . on a sustained-yield basis . . . “ §311(b).  O&C Lands managed by Forest Service:  Under the Northwest Forest Plan. “Old growth,” as mapped by an administrative rule that would be enacted pursuant to the federal APA, “shall not be harvested . . . .” §322(b) & (c). | Forest emphasis areas: “shall be managed for permanent forest production”, §102(c), providing a “sustained yield of timber, averaged over a 10-year period. . . .” §102(8). “Sustained yield” is subject to the limiting principle that harvest at the calculated level will “have a severe adverse environmental, economic, or social consequence.” Id.  “Conservation emphasis areas: Shall be managed “for the general purposes of ecological and conservation benefits . . . “ §105(a).  Trees designated as “old growth”, as defined in §101(a)(12), and stands in newly-designated “Legacy Old Growth Protection Network”, cannot be harvested (with exceptions). §102(d)(1) and (2). |
| Relation to ESA as applied to Northern Spotted Owl habitat; | Provided that the O&C Trust lands comply with certain conditions, including protection “consistent with the forest practices in the Oregon Forest Practices Act”, the O&C Lands “shall be considered to comply with” the ESA prohibition on “taking” a spotted owl by degrading spotted owl habitat. §314(k). | Modifies procedures for EIS. §104. Principally: EIS statements must be prepared (e.g. for the forest emphasis area plan, the conservation emphasis area plan) for the various plans required. The EIS applies to all activities under the plan for a 10-year period. Existing EIS machinery operates as to the EIS addressing the plan, but no longer would be available as to each action (e.g., each timber sale), anticipated in the 10-year plan. |
| May raw logs harvested be exported for processing in a foreign country? | No. §314(e). | No.  Existing law prohibits export of raw logs from federal land, and the Senate draft does not change that rule. |
| Landowner and public access to the lands. | Statutory mandates compels the O&C Trust and the Forest Service to “preserve all rights of access and use” and to grant “land owners” access securing for “the landowner reasonably use and enjoyment of the landowner’s land . . . .” §334(b).  “public access shall be preserved consistent with the policies . . . as of the date on which management authority . . . .” is transferred to the O&C Trust. §312(d).  The text contains no specific reference to access currently protected pursuant to the “public trust doctrine” or by the right of navigation of navigable rivers | During transition from status quo to the new scheme, federal agencies “shall protect all (existing) rights of access and use . . . “ §123(d). Nothing in the Act affects “any (existing) private ownership or rights . . . including tribal treaty rights . . . . .” §124.  The text contains no specific reference to access currently protected pursuant to the “public trust doctrine” or by the right of navigation of navigable rivers |
| Judicial review of the O&C Trust Board’s decisions -- standing | Allowed “only in an action brought by an O&C County” (although claims that could be brought against a private landowner are allowed to be brought by others). | Senate draft does not create a trust. |
| Rights of beneficiaries of the trust -- preconditions to lawsuit | An O&C Trust county must give 60 days notice of intent to sue. §312(f) | Senate draft does not create a trust. |
| Public meetings, public records laws. | The state public meetings law applies to meetings of the O&C Trust Board of Trustees. §313(e)(2).  Silent as to which Public Records Law -- state or federal -- applies to the O&C Trust. | Senate draft does not create a trust. |