



Date: November 29, 2020
From: Bob Sallinger, Conservation Director, Audubon Society of Portland
To: The Oregon Land Board
Re: Elliott State Research Forest Proposal

November 29, 2020

Dear Governor Brown, Treasurer Read and Secretary of State Clarno,

I am writing on behalf of the Audubon Society of Portland to express our strong support for advancing the Elliott State Research Forest process into its next phase.

The 82,000 acre Elliott State Forest is one of the crown jewels of the Oregon Coast Range. It is a stronghold for nesting Marbled Murrelets and contains some of Oregon's most productive and pristine streams for coho salmon. It is an amazing place that deserves real and durable protections.

The forest also comes with a long history of conflict and mismanagement including illegal clearcut logging and illegal land sales that have put those values in jeopardy. Further complexity is added by the fact that the Elliott is legislatively bound to the Common School Fund—and anachronistic structure that ties school funding to timber harvest and which has driven unsustainable liquidation of the forest in recent decades.

Over the past fifteen years, Audubon has been a plaintiff on three lawsuits focused on protecting federally listed Marbled Murrelets on the Elliott, actively opposed the sale of the Elliott to private interests, and advocated in the legislature for funding to decouple the Elliott from the Common School Fund. For the past two years, Audubon has served as one of three conservation representatives on the Elliott State Research Forest Stakeholder Advisory Committee, working with Oregon State University ("OSU") and Division of State Lands ("DSL") to develop a strategy to convert the Elliott into an OSU Research Forest. Audubon has viewed this as an opportunity to put decades of conflict and controversy behind us and truly provide the Elliott with the protection that it deserves. We believe that the proposal before you, while still a work in progress, has the potential to meet those objectives and we are enthusiastic about advancing this process forward and bringing it to a successful resolution over the next 12-18 months.

Research Platform: We believe that the research platform in this proposal represents the basic bones of an agreement sufficient to propel the Elliott State Research Forest Process forward. We had hoped that the research platform would be in final form by the December 8th hearing. However, there are still significant aspects of the proposal, most notably riparian protections, which are still in flux as the public comment period comes to an end and the hearing approaches. It will unfortunately require fine tuning post December 8th. While we expect fine tuning, any significant reduction in negotiated protections would require us to reevaluate our support for this proposal. This work is complex and the data on the Elliott is far from complete or perfect. We are prepared to work through outstanding issues related to the research platform in good faith and with the goal of bringing this process to a successful resolution. However, the number of last minute changes, inadequate review periods and unresolved issues, is cause for us to feel it necessary to put ourselves on record that this element of the process, which we had expected to be substantially complete, is at this time still a work in progress.

Our support for this platform is predicated on the belief that it will result in substantial improvement in the ecological health of the Elliott State Forest and imperiled species that occur within the Elliott State Forest. We believe that over time this plan will result in a forest that is significantly older, more complex and less fragmented than what exists today. Key factors in our support include the following:

- The plan protects more than 90% of the older forests (>65 years of age) in permanent reserves;
- The plan places 66% of the entire forest (54,154 acres) in permanent reserves;
- The plan creates a 34,000+ acres contiguous reserve area representing more than 40% of the entire forest and the largest in the Oregon Coast Range;
- The plan includes significantly stronger riparian protections in the Oregon Forest Practices Act;
- The plan protects trees and stands greater than 152 years of age which predate the 1868 stand replacement fire;
- In 50 years, more than 70% of the Elliott will be mature/ old growth forest >100 years in age as compared with approximately 49% which is currently > 65 years in age today;
- The plan prescribes 60-year rotations in harvest areas;
- The Plan bans the use of rodenticides to kill mountain beaver and other wildlife on the Elliott;
- The plan limits aerial spraying only to extensive treatment areas where ground application is not practicable;
- The plan includes a firm commitment to base management on science rather than financial or harvest volume targets;
- The plan will create the opportunity for significant research on a wide array of important topics;
- The plan will increase opportunities for recreation on the Elliott.

The plan also includes elements that we do not agree with but are willing to accept as part of an overall package which substantially improves the overall health of the Elliott, achieves decoupling and meets the needs of diverse stakeholders. It is critical to the degree that these elements are part of the plan, that they be grounded in legitimate research, they be sequenced such that ecological benefits accrue ahead of losses, and that they adhere to OSU's commitments minimize impacts on listed species. These elements include:

- Clearcut logging on approximately 14,000 acres of existing plantations, less than 65 years in age;

- Inclusion of approximately 3,287 acres of older forest (between 65 and 152 years in age) including 1,400-1,600 acres of occupied Marbled Murrelet habitat, in selective harvest regimes.

If this process moves forward beyond the 8th, we would recommend the following in terms of fine tuning the plan during the final phase of this process:

1. There should be no significant reductions in protection levels that have previously been outlined. We are particularly concerned here about potential reductions to riparian protections;
2. The plan should increase its focus on climate resilience and away from “spare and share.” As currently written the plan emphasizes a focus on comparing the relative impacts of clearcuts, selective harvest and reserves. Many, ourselves included, question this as a primary research focus. We believe that the plan would be better served by emphasizing climate change, consistent with the Governor’s executive order, as a primary driver.
3. OSU should demonstrate increase ability to engage scientists and researchers outside the School of Forestry in this process, most notably we are interested in seeing engagement from staff within the OSU Department of Fisheries and Wildlife and also academics from the social sciences.
4. Final adoption of this plan should only proceed if OSU can secure a Habitat Conservation Plan (“HCP”) from the US Fish and Wildlife Service and NOAA Fisheries, that mirrors the commitments made in the research platform. These two documents go hand in hand and alignment is critical to the long-term success of this effort.
5. Scientific research must remain the guiding principle driving this plan, as opposed to revenue or timber harvest targets.

It has not been easy to get to this point. It has taken a monumental amount of negotiation. We very much appreciate the degree to which all parties have worked in good faith to bridge divides and find common ground. For Audubon, the North Star on the Elliott has always been achieving an outcome that we believe will substantially improve forest health and support the recovery of imperiled species. We believe that this plan can accomplish those goals.

Governance and Accountability: One of the most significant tasks during the final phase of this process involves development of binding governance and accountability mechanisms. While significant progress has been made in the weeks leading up to the December Land Board Hearing, this work has been frenetic, nascent and comes too late to allow for meaningful public review. The proposal will ultimately only be as strong as the public’s ability to hold institutions accountable to its provisions. This proposal must be able to transcend individuals that enter and depart the process, and the changing politics and priorities that drive large institutions.

We are heartened by the work done to date on these issues and especially by the ability of advisory committee stakeholders to work through complex and difficult issues and come to consensus. The ball lies largely in OSU’s court at this point. Our understanding at this point is time includes the following:

1. We have an agreement in principle to have a robust public involvement process including public notice and comment on decisions involving the Elliott and dedicated staff to facilitate public involvement.

2. We have an agreement in principle that OSU will adhere to the same public records standards applied by the State of Oregon;
3. OSU will agree to establish a third party right to litigate potential violations of the foundational documents, management plans and operational plans that will provide the framework for the Elliott State Research Forest;
4. OSU/ DSL will include a reversionary clause describing the terms under which the Elliott would revert to the State.
5. OSU will create legally binding instruments to provide the public with confidence the reserve areas will be protected in perpetuity.

Based on this preliminary work, we have confidence that these issues can be brought to successful resolution. However, the devil is in the details and there is extensive work ahead as the legal terms for transfer (contracts, easements, legislations, reversionary clauses, etc.) are developed. Audubon considers sufficient governance and accountability mechanisms to be fundamental to maintaining the Elliott's status as a "public forest" and essential to reaching any sort of final agreement to support the transfer.

Funding: As in the case of governance and accountability mechanisms, funding plans also only began to emerge in the final weeks leading up the December 8th hearing. Preliminary work indicates that the model being proposed is potentially financially viable, but significant work remains to be done to provide stakeholders with confidence in the financial models. It is important to note here that OSU has committed to a financial structure in which the management of the forest is guided by research rather than either revenue targets or timber targets. It will be fundamentally important to maintain that commitment as revenue plans are refined. We remain particularly interested in the role that carbon credits can play in terms of the funding strategy for the Elliott, both for the direct financial benefits that would accrue and also for the purpose of integrating the Elliott into the evolving green economy. Any research related to developing a vision of sustainable forestry must include exploration of how carbon credits and carbon sequestration can fit into that model.

Elliott State Research Forest Advisory Committee: The ESRF Stakeholder Advisory Committee brought together diverse and sometimes conflicting viewpoints. It included representatives from tribes, conservation organizations, counties, timber interests, education, and recreational interests. Over the course of two years, we have met dozens of times, listened and learned from one another, worked through difficult and complex issues and found common ground. We started from a place of conflict and over time have developed trust, respect and understanding. We very much appreciate the collegial and collaborative manner in which all parties have approached this challenge. The current term of the Advisory Committee expires on December 8, 2020. We urge the Land Board to extend the term of the Advisory Committee through completion of this process. We believe that extending the term of the current advisory committee is essential to maintain continuity and credibility of this process. We also believe that the relationships that are developing via this process have the potential to help transcend historic divides that extend well beyond the boundaries of the Elliott State Forest.

Oregon State University Capacity: Should the Elliott proposal advance beyond December 8th, it will be essential that OSU put in place capacity and expertise necessary to fully support advancement of this

proposal. We fully appreciate that challenges that OSU faced in terms of investing resources prior to knowing if they had a viable path forward. We also appreciate the unique and unprecedented challenges presented by the Covid-19 pandemic. However, it has also been clear that OSU has been under-resourced throughout this current phase of the process, resulting in extensive delays, incomplete and inaccurate materials, internal communication issues and short review times for stakeholders and the community. The materials before the Land Board are less complete that they should be at this point in the process and they have been evolving significantly even as the public comment period has proceeded. It is important that OSU appreciate that as the hub of this process, when it falters, there is a chain reaction which undermines stakeholders, who are dealing with capacity and pandemic challenges of their own, ability to review, respond and reach out to their own constituencies. This can be a challenge in any complex public process, but from our experience, it has been writ particularly large in this process.

There are legitimate questions being raised by the public as to whether OSU has the capacity to take on the 82,000 acre Elliott State Forest. There is a reason why landscapes of this size and complexity are typically owned and managed by public agencies with the types of resources and infrastructure designed to manage public lands. It is also important to acknowledge that OSU has a deficit of trust within the environmental community due to practices on smaller forests which it currently manages.

Should the Elliott advance beyond December 8th, it will be important that OSU demonstrate that it can put in place the necessary human resources to deliver a more functional, competent and publicly accessible process. This will go a long way towards creating confidence that OSU is prepared to fully take on the responsibility of owning and managing the Elliott when the Land Board is presented with a final decision.

Oregon Consensus: We consider Oregon Consensus to be an essential component in continuing to advance the Elliott State Research Forest Proposal and we continue to be impressed with their ability to bring diverse parties together to resolve long-standing conflicts. Our understanding is that their contract for this project expires in December 2020. We would have serious misgivings about entering the next phase of this process without their participation. From our perspective, it would a wise investment for OSU/ DSL to anticipate that Oregon Consensus will be part of this process for several years to come and to plan and budget accordingly. OSU and DSL should not underestimate the importance of having good facilitation in both the development and implementation phases of this type of process. The Elliott has been a landscape that has been mired in conflict for decades. We are at a unique moment where many those parties appear to be on the verge of consensus, but that consensus can be ephemeral if it is not nurtured over time. There is extremely complex and difficult work ahead over the next 12-18 months to bring a final agreement to completion and that complexity will continue as we enter the implementation phase as well, and develop the first biennial operational plans, engage in the first formal public review/ involvement process and potentially deal with the first formal complaints. We have found strong, unbiased, long-term facilitation to be invaluable in the success of other similarly situated public lands processes such as the work at Malheur/ Harney County where OC has successfully shepherded 15 years of consensus and collaboration on one of Oregon's most historically conflicted landscapes. We believe that the cost of the annual OC contract is a small price to pay relative to the benefits that accrue.

Decoupling: At the core of the issues that have historically driven conflict on the Elliott is the anachronistic legislative mandate binding the Elliott to the Common School Fund. In 2017 the Oregon Legislature allocated \$100 million in bonding towards a total appraised value of \$220.8 million to begin the process of decoupling the Elliott from the Common School Fund. Additionally, the Oregon Land Board established full decoupling as one of the primary goals to be accomplished by the creation of an Elliott State Research Forest. Specifically the Land Board stated the following a priority:

Decoupling the forest from the Common School Fund, compensating the school fund for the forest and releasing the forest from its obligation to generate revenue for schools

OSU has also stated that it is not prepared to take ownership of the Elliott until full decoupling has occurred and is not itself in a position to finance the remaining \$120.8 million. We believe that as long as the Elliott is bound to the Common School Fund, intense pressure will remain to “up the harvest” and historic conflicts will quickly resurface and undermine research and conservation objectives. It is essential that in the final phase of this process that either the remaining financial obligation be resolved or that a clear and credible pathway to resolution is developed. We believe that the diverse stakeholder entities serving on the advisory committee will be able to assist the State in conveying the importance of completing the decoupling process.

Conclusion:

Again, we respectfully urge the Land Board to advance the Elliott State Research Forest Process into its final stage. At the same time it is important that the Land Board recognize that this is still a work in progress with significant unresolved issues remaining that could erode support for this proposal. The ultimate transfer of the Elliott should not be a forgone conclusion at this time. Stakeholders and the public at large need to know that outstanding issues will be given the attention that they require and that there will be an opportunity for review and comment on a complete draft final proposal as well as the legal documents that go with it.

At the same time, we believe that this proposal is on the right track and have confidence that remaining issues can be resolved. The proposal before you lays a foundation that will achieve meaningful research, significantly improve the ecological health of the forest, support local economies, increase recreational opportunities and advance the types of partnerships that will be necessary to achieve decoupling from the Common School Fund. It has the potential to transcend decades of conflict and usher in an era of collaboration.

Thank you for your consideration of these comments.

Respectfully,



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