American Bird Conservancy • Audubon Society of Corvallis
Audubon Society of Portland • Benton Forest Coalition
Birch Creek Arts and Ecology Center • Cascadia Wildlands
Center for Biological Diversity • Coast Range Association • Earthjustice
Forest Web of Cottage Grove • Klamath-Siskiyou Wildlands Center • Lane County Audubon Society • Native Fish Society • Oregon Wild
Soda Mountain Wilderness Council • South Umpqua Rural Community Partnership
Western Environmental Law Center • The Larch Company
Threatened and Endangered Little Applegate Valley • Umpqua Valley Audubon Society
Umpqua Watersheds

The Honorable Jeff Merkley January 30, 2014
313 Hart Senate Office Bldg.
Washington, DC 20510

Re: O&C Land Grant Act of 2013 (S. 1784)

Dear Senator Merkley:

On behalf of 21 conservation organizations representing tens of thousands of members and supporters across Oregon and over one million throughout America, we are writing to draw your attention to the O&C Land Grant Act of 2013 (S. 1784) recently introduced by Senator Ron Wyden (D-OR). We have grave concerns about the dangerous precedent the legislation would set for federal land management across the country and the impacts it will have on approximately 2.5-million acres of O&C lands in western Oregon, wildlife and watersheds, and bedrock environmental laws.

While there are some notable conservation gains for public lands in the legislation (most of which our organizations have been heavily involved in promoting for several years, often in conjunction with your office), we believe any gains in the legislation are far outweighed by the bill's serious adverse impacts. We encourage you to oppose this dangerous bill unless adequate changes are made. Significant shortcomings of S. 1784 include, but are not limited to:

S. 1784 Undermines the Landmark Endangered Species Act

Senator Wyden's legislation attempts to override critical and long-standing requirements of the Endangered Species Act. This landmark statute has helped recover iconic species, like the bald eagle, American alligator and gray wolf, from the brink of extinction. Specifically, the legislation undermines the wildlife expert consultation process, which provides a system of checks and balances to ensure a timber sale doesn't jeopardize an endangered species' existence. Other key components of the statute are also weakened in order to ramp up logging levels. At a time when a number of western

Oregon's endangered species continue on a downward spiral, now is not the time to shirk the duties of this important law.

S. 1784 Shortcuts the Bedrock National Environmental Policy Act

Senator Wyden's legislation would severely undermine our country's basic national charter for environmental responsibility, the National Environmental Policy Act (NEPA). Currently, individual timber sales go through rigorous environmental review and public vetting to ensure they are consistent with applicable law and do not irreparably harm the environment. This process allows decision makers and the public to learn from each successive project, as well as new information, and to adjust management accordingly. However, S. 1784 would authorize 10 years of logging in a single Environmental Impact Statement (EIS). To compress 10 years worth of logging into a single EIS would effectively eliminate site-specific reviews of a massive project's impacts on the environment.

The public's ability to legally oppose a project is also greatly curtailed. Instead of the current six-year statute of limitations to file a court challenge to an agency decision, the public is required to file a legal challenge within 30 days following a project decision. It would be nearly impossible to digest a 10-year timber plan, retain legal counsel, and prepare and file a legal complaint in 30 days if a member of the public believed the project was inconsistent with the law. The result will likely be, to protect one's interests, hastily filed legal complaints against the entire program — complaints that might have been precluded if the agency had to follow existing procedures.

NEPA was created for rigorous public oversight and transparency for pubic lands management. S. 1784 significantly reduces the public's involvement in federal land management and runs counter to NEPA's purpose.

S. 1784 Threatens the Northwest Forest Plan's Unique Species and Clean Water Programs

In ending region-wide, court-ordered injunctions and upholding the legality of the Northwest Forest Plan in 1994, Judge William Dwyer cautioned:

> *The Secretaries have noted, however, that the plan "will provide the highest sustainable timber levels from Forest Service and BLM lands of all action alternatives that are likely to satisfy the requirements of existing statutes and policies."* ***In other words, any more logging sales than the plan contemplates would probably violate the laws.*** *Whether the plan and its implementation will remain legal will depend on future events and conditions*. [emphasis added]

Seattle Audubon Soc'y v. Lyons, 871 F. Supp. 1291, 1300 (W.D. Wash. 1994). Judge Dwyer was clear that *all* of the NFP's provisions – including the Aquatic Conservation Strategy, the Survey and Manage mitigation measures, and the Late Successional Reserve network – would be required to ensure against species extinction and permanent impairment of the land, not to mention compliance with several federal laws

including the Organic Act, National Forest Management Act, Endangered Species Act, Federal Land Management and Policy Act, and Oregon and California Lands Act. *Id.* at 1324.

Senator Wyden's legislation makes no mention of the Late Successional Reserve network, which provides critical protections for salmonids and older forest-dependent terrestrial species, suggesting that this key component of the Northwest Forest Plan will be abolished. These reserves provide important "stepping stones" for relatively mobile species to move across the landscape, and offer important refugia to wildlife from disturbance agents like wildfire and climate change. Without the Late Successional Reserve network, plant and animal species will be much less able to migrate across the landscape over time.

The legislation also supersedes the "look-before-you-log" strategy of the Northwest Forest Plan, known as Survey and Manage mitigation measures. This mitigation program was created to ensure a system of checks and balances for lesser-known species in the temperate rainforests of western Oregon. The program not only provides a safety net for species like great grey owls and red tree voles, it also fuels a robust workforce in the woods focused on surveying for these unique species.

S. 1784 also undermines the Aquatic Conservation Strategy, which has been instrumental in protecting imperiled salmonids and water quality in the Pacific Northwest. In designated "Forestry Emphasis Areas," the legislation cuts in half streamside no-entry buffers and relaxes the requirements for what kinds of activities can occur in riparian areas. In a time of increased demand for clean water and salmon recovery, this component of the legislation is drastically out of step with public values and current science.

Given Judge Dwyer's prophetic conclusions regarding the importance of the Northwest Forest Plan to the land management agencies' compliance with the law, any attempts to supplant the Plan – even through legislation – should be viewed with extreme caution. Indeed, as attempts by the Bush administration to repeal the Survey and Manage program and undermine the Aquatic Conservation Strategy demonstrated, the Northwest Forest Plan is an integrated whole, and efforts to emasculate the Plan will invariably affect millions of acres of BLM *and* national forestlands across Washington, Oregon and California.

S. 1784 Prescribes a Controversial Form of Clearcutting on Public Lands

Senator Wyden's legislation institutes a form of clearcutting on public lands – "variable retention regeneration harvest" – that has provoked significant controversy in the conservation and scientific community. S. 1784 requires this form of "even age management," which leaves small residual patches of forest amidst the clearcuts, in forest stands up to 120 years old. This mature forest class is in line to become the next generation of old-growth and provides unique habitat attributes critical to the survival of a host of imperiled species, including the marbled murrelet and northern spotted owl.

Significant restoration headway has been made over the past ten years on O&C lands whereby the Bureau of Land Management, in conjunction with stakeholders, has advanced substantial restoration-based thinning in dense tree farms. This type of forestry has widespread buy-in, restores diversity to single-species tree farms, generates logs for local mills, provides timber receipts for counties, and employs a workforce in the woods. This is forest management that is working. Reigniting the "timber wars" will undermine the collaborative successes seen in recent years.

S. 1784 Would Set a Dangerous Precedent for Federal Lands across the Country

After almost a century of coupling resource extraction with county revenue, the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS) decoupled natural resources extraction from funding for county services. This legislation has been highly successful, not only in terms of addressing county fiscal concerns, but also in shifting the debate from logging for logging's sake to implementation of much-needed forest restoration that has significant economic benefits. Recoupling payments to counties with timber production, as S. 1784 would do, would set a dangerous precedent for federal lands across other parts of the country.

Similarly, we are concerned that a parochial issue for Oregon (management of the O&C lands) will be leveraged to advance the current Republican national congressional agenda of maximizing logging, grazing, and mining on sensitive public lands by reducing or eliminating federal environmental laws and citizen access to the courts. While the O&C issue is a challenging one, it is still best left to Oregonians to address through the existing planning framework provided by the Federal Land Management and Policy Act and other existing law. The BLM is already engaged in revising its management plans for the O&C lands. Circumventing BLM's process with ill-advised legislation threatens to waste valuable congressional appropriations and undermine existing local stakeholder trust and investment.

Moving Forward

Advocating for a return to increased clearcutting of older forests on public lands when the demand for clean water, salmon recovery, climate security, and recreational opportunities is high is a tired strategy. As an alternative to S. 1784, we continue to support a permanent reauthorization of Secure Rural Schools legislation and look forward to working with you on finding alternate proposals that decouple payments from resource extraction that do not jeopardize our conservation values. A lasting solution for county security must also include state and county components. We ask that you oppose S. 1784 unless it undergoes adequate revisions that result in a clear gain for the conservation of forests, watersheds and species in western Oregon.

Lastly, we'd like to thank you for your support of and interest in current restoration-based, collaborative forestry being conducted on federal lands in Oregon. Whether through traditional or stewardship contracts, a restoration approach to public land management currently occurring in many parts of Oregon has garnered widespread

buy-in and has provided a successful template for federal land managers regionally. We hope to work with you more on these exciting initiatives into the future.

Respectfully,

Steve Homer, Senior Policy Advisor
American Bird Conservancy
Washington, DC

Jim Fairchild, President
Audubon Society of Corvallis
Corvallis, OR

Bob Sallinger, Conservation Director
Audubon Society of Portland
Portland, OR

Mahogany Aulenbach, Conservation Director
Benton Forest Coalition
Corvallis, OR

Susanna Bahaar, Director
Birch Creek Arts and Ecology Center
Jacksonville, OR

Josh Laughlin, Campaign Director
Cascadia Wildlands
Eugene, OR

Randi Spivak, Director Public Lands Program
Center for Biological Diversity
Washington, DC

Chuck Willer, Executive Director
Coast Range Association
Corvallis, OR

Rebecca Judd, Legislative Counsel
Earthjustice
Washington, DC

Cristina Hubbard, Project Director
Forest Web of Cottage Grove
Cottage Grove, OR

Joseph Vaile, Executive Director
Klamath-Siskiyou Wildlands Center
Ashland, OR

Debbie Schlenoff, Ph.D., Conservation Chair
Lane County Audubon Society
Eugene, OR

Michael Moody, Executive Director
Native Fish Society
Oregon City, OR

Steve Pedery, Conservation Director
Oregon Wild
Portland, OR

Dave Willis, Chair
Soda Mountain Wilderness Council
Ashland, OR

Stanley Petrowski, President/Director
South Umpqua Rural Community Partnership
Tiller, OR

Susan Jane Brown, Staff Attorney
Western Environmental Law Center
Portland, OR

Andy Kerr, Czar
The Larch Company
Ashland, OR

Chant Thomas, Director
Threatened and Endangered Little Applegate Valley
Jacksonville, OR

Diana Wales, President
Umpqua Valley Audubon Society
Roseburg, OR

Thomas McGregor, President
Umpqua Watersheds
Roseburg, OR