

A scenic view of a river flowing through a dense forest, with a prominent rock formation in the background under a cloudy sky. The river is in the foreground, surrounded by lush green trees and ferns. In the background, a large, jagged rock formation rises above the forest canopy. The sky is filled with soft, white clouds.

**Oregon and California
Railroad Lands**

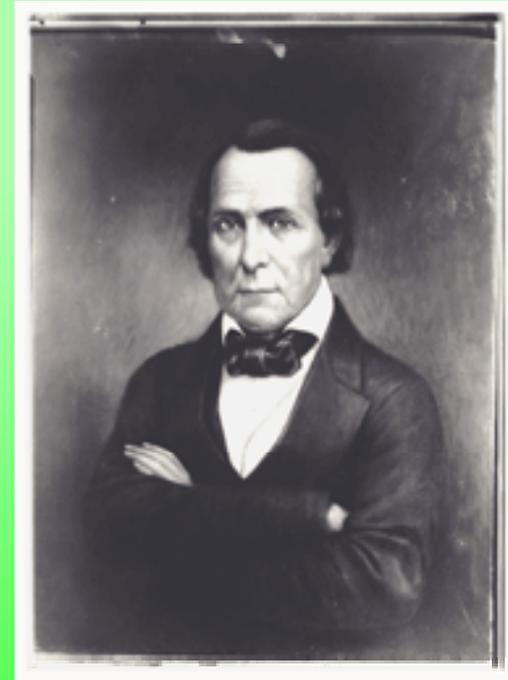
**Coos Bay Wagon Road
Lands**

Oregon and California Lands

- **Rich history intertwined with the history of America**
- **Settlement of cities and rural areas**
- **Executive: Presidents from Franklin Pierce to George W. Bush**
- **Judicial: Court rulings, lawsuits from 19th to 21st century**
- **Legislative: Laws from 1860's to 2000**
- **Public sentiment from the 19th to the 21st century**
- **Science**

Historical Context

- Campaign slogan:
 “54-40 or Fight”
- Whitman mission to
 NW in 1844
- Established the Dept. of
 the Interior
- Also



President James K. Polk

Polk's War with Mexico



Polk's War with Mexico

- Not only acquired Texas, but California as well
- After Polk's term ended in 1849, a rich gold deposit was discovered, and the rush was on
- Growing populations on the Pacific coast created need for faster transportation connection

- During the 1850's, a national debate took place on where to build a transcontinental railroad
- Four possible routes
- Deadlock in Congress over the route because of north-south contention
- Civil War broke the deadlock

Transportation to West coast in 1850's

Clipper ships around the
Horn



Or

Horse, mule, or oxen
driven wagon over the
Oregon Trail

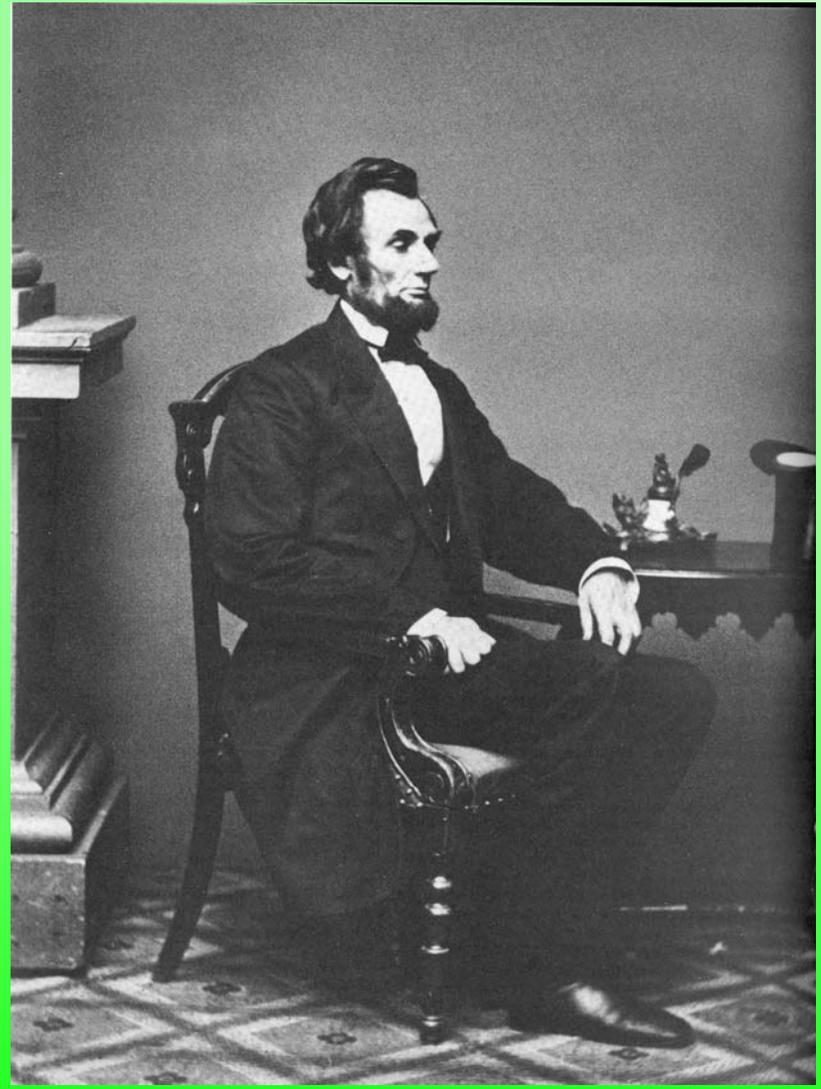


President Abraham Lincoln

Prominent railroad attorney at the time he was running for President

His platform included the following:

“That a railroad to the Pacific Ocean is imperatively demanded by the interests of the whole country; that the Federal Government ought to render immediate and efficient aid in its construction.”



President Abraham Lincoln

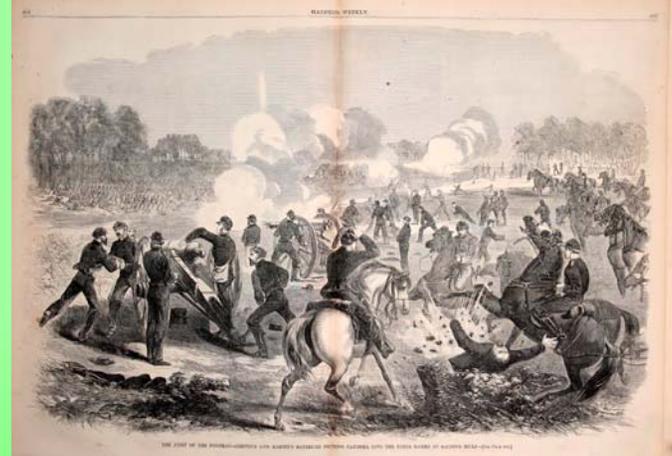
One of the interests served by the railroad connection to the west was to keep California, Oregon and territories in the Union



Building a Railway system

President Abraham Lincoln signed the Pacific Railway Act in part of the darkest periods of the Civil War on July 1, 1862.

This act provided Federal government support for the building of the first transcontinental railroad, which was completed on May 10, 1869.



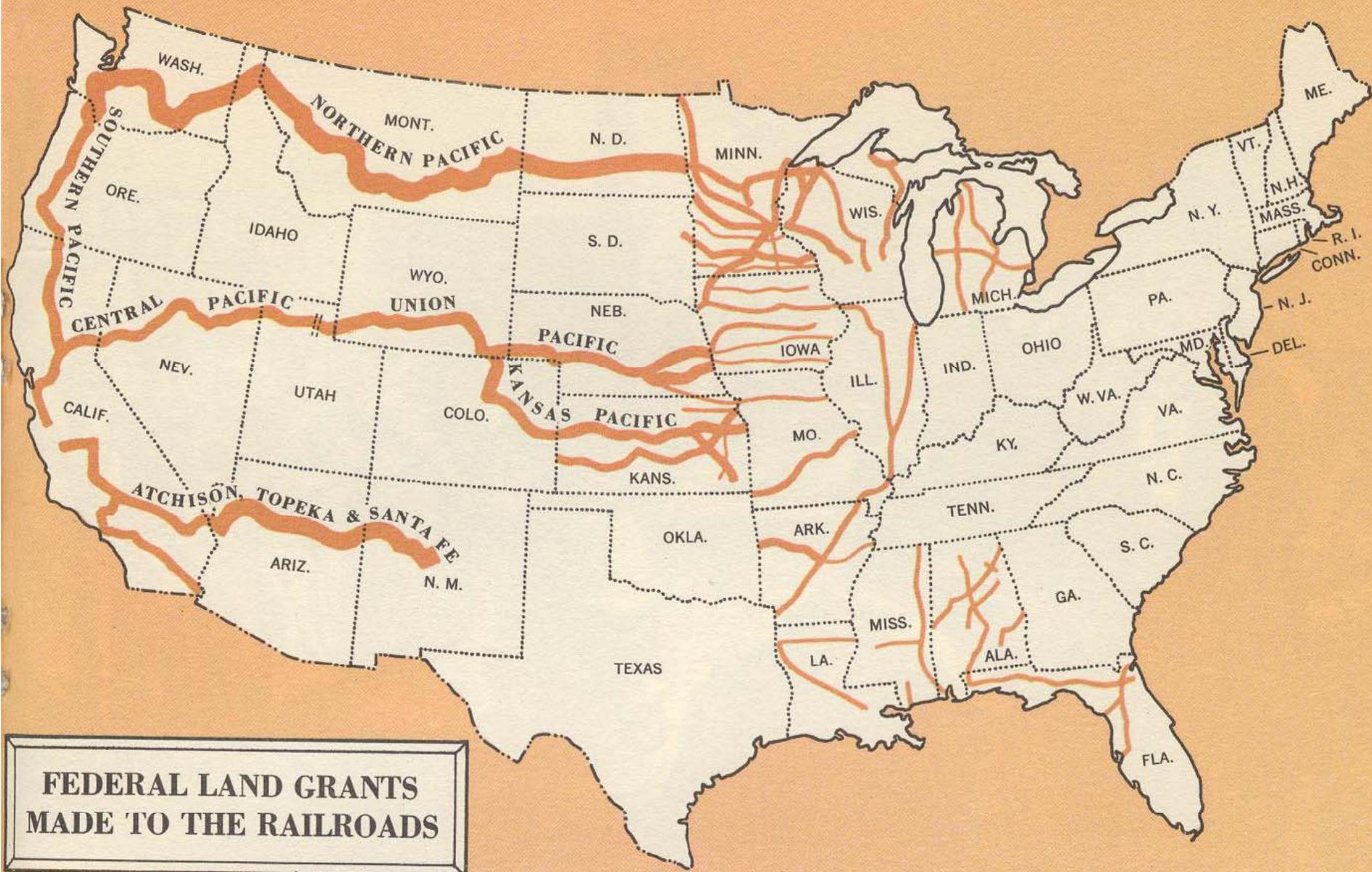
Land grants subsidize the building of railroads and wagon roads

**Fighting a Civil War, Congress had little money to
spare, but did have a lot of public lands**

**1850-1870 Congress passed twenty-four separate acts
granting companies**

**130 million acres of public domain in the trans-
Mississippi west**

An area the size of Texas



**FEDERAL LAND GRANTS
MADE TO THE RAILROADS**

Transcontinental Railroad

- Central Pacific Railroad
- Union Pacific Railroad
- 1863-1869
- Alternative sections of public land granted to railroads to subsidize construction and create customers
- New towns, such as Laramie and Cheyenne created

Trip to San Francisco from the east

- Before railroad: Over \$1000 and months
- After railroad: \$70-\$150 and seven days

1862 Homestead Act

Also in 1862 Congress passed the Homestead Act which increased settlement in the West, by giving 160 acres of free land to any person who had lived on the land and improved it for five years.

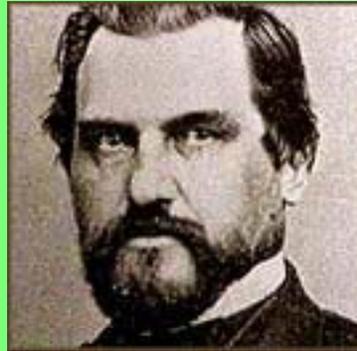


General Land Office

The Homestead Act and the railroad grants greatly increased responsibilities for the General Land Office



Birth of the O&C



Leland Stanford, the Central Pacific Railroad sets up the California and Oregon Railroad in 1865 to build a route from Sacramento to the Oregon border

Congress establishes land grant in July 1866 to complete Oregon tie from California border to Portland

1866 O&C Railroad Grant

THIRTY-NINTH CONGRESS. Sess. I. Ch. 241, 242. 1866. 239

or near Preston, in the State of Texas, with grants of land according to the provisions of this act, but upon the further special condition, nevertheless, that said railroad company shall have commenced in good faith the construction thereof before the said Kansas and Neosho Valley Railroad Company shall have completed its said railroad to said point: *And provided further*, That said other railroad company, so having commenced said work in good faith, shall continue to prosecute the same with sufficient energy to insure the completion of the same within a reasonable time, subject to the approval of the President of the United States: *And provided further*, That the right of way through private property when not otherwise provided for in this act, or by the law of any State through which the road may pass, shall be obtained by said Kansas and Neosho Valley Railroad Company, or either of the other companies named in this act, in accordance with the provisions of section three of an act to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the government the use of the same for postal, military, and other purposes," approved July first, eighteen hundred and sixty-two.

APPROVED, July 25, 1866.

CHAP. CCXLII. — An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the Central Pacific Railroad, in California, to Portland, in Oregon. July 25, 1866.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the "California and Oregon Railroad Company," organized under an act of the State of California, to protect certain parties in and to a railroad survey, "to connect Portland, in Oregon, with Marysville, in California," approved April sixth, eighteen hundred and sixty-three, and such company organized under the laws of Oregon as the legislature of said State shall hereafter designate, be, and they are hereby, authorized and empowered to lay out, locate, construct, finish, and maintain a railroad and telegraph line between the city of Portland, in Oregon, and the Central Pacific Railroad, in California, in the manner following, to wit: The said California and Oregon Railroad Company to construct that part of the said railroad and telegraph within the State of California, beginning at some point (to be selected by said company) on the Central Pacific Railroad in the Sacramento valley, in the State of California, and running thence northerly, through the Sacramento and Shasta valleys, to the northern boundary of the State of California; and the said Oregon company to construct that part of the said railroad and telegraph line within the State of Oregon, beginning at the city of Portland, in Oregon, and running thence southerly through the Willamette, Umpqua, and Rogue River valleys to the southern boundary of Oregon, where the same shall connect with the part aforesaid to be made by the first-named company: *Provided*, That the company completing its respective part of the said railroad and telegraph from either of the termini herein named to the line between California and Oregon before the other company shall have likewise arrived at the same line, shall have the right, and the said company is hereby authorized, to continue in constructing the same beyond the line aforesaid, with the consent of the State in which the unfinished part may lie, upon the terms mentioned in this act, until the said parts shall meet and connect, and the whole line of said railroad and telegraph shall be completed.

SEC. 2. *And be further enacted*, That there be, and hereby is, granted to the said companies, their successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the line of said railroad, every alternate section of

Preston, Texas, with grants of land, &c.

Work to be prosecuted with energy.

Right of way through private property.

1862, ch. 120, § 8. Vol. xii. p. 462.

July 25, 1866.

The California and Oregon R. Co., and an Oregon company; may locate and construct a railroad and telegraph line between Portland, Oregon, and the Central Pacific Railroad in California.

What part the C. & O. Company to build.

The company first completing its part, may continue its road with consent of State.

Grant of public lands, not mineral, to said companies, to aid in the construction of road &c.

240 THIRTY-NINTH CONGRESS. Sess. I. Ch. 242. 1866.

If any sections of land have been so sold, or are occupied, other lands may be selected in lieu thereof.

When maps of survey are filed, lands to be withdrawn from sale.

Lands granted to be applied to building road in the States where they lie.

Remaining lands to be sold for what price.

Settlers under pre-emption laws may purchase at what price; under homestead act may have not over eighty acres.

Right of way through public lands granted to said companies.

Materials for construction from adjacent lands.

Extent of grant of right of way.

Land for stations, &c.

When and how patents for these granted lands shall issue to said companies.

Conditions of grants.

public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line; and when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of, other lands, designated as aforesaid, shall be selected by said companies in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections designated by odd numbers as aforesaid, nearest to and not more than ten miles beyond the limits of said first-named alternate sections; and as soon as the said companies, or either of them, shall file in the office of the Secretary of the Interior a map of the survey of said railroad, or any portion thereof, not less than sixty continuous miles from either terminus, the Secretary of the Interior shall withdraw from sale public lands herein granted on each side of said railroad, so far as located and within the limits before specified. The lands herein granted shall be applied to the building of said road within the States, respectively, wherein they are situated. And the sections and parts of sections of land which shall remain in the United States within the limits of the aforesaid grant shall not be sold for less than double the minimum price of public lands when sold: *Provided*, That bona fide and actual settlers under the pre-emption laws of the United States may, after due proof of settlement, improvement, and occupation, as now provided by law, purchase the same at the price fixed for said lands at the date of such settlement, improvement, and occupation: *And provided, also*, That, settlers under the provisions of the homestead act, who comply with the terms and requirements of said act, shall be entitled, within the limits of said grant, to patents for an amount not exceeding eighty acres of the land so reserved by the United States, anything in this act to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said companies for the construction of said railroad and telegraph line; and the right, power, and authority are hereby given to said companies to take from the public lands adjacent to the line of said road, earth, stone, timber, water, and other materials for the construction thereof. Said right of way is granted to said railroad to the extent of one hundred feet in width on each side of said railroad where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, water stations, or any other structures required in the construction and operating of said road.

SEC. 4. *And be it further enacted*, That whenever the said companies, or either of them, shall have twenty or more consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated by this act, the President of the United States shall appoint three commissioners, whose compensation shall be paid by said company, to examine the same; and if it shall appear that twenty consecutive miles of railroad and telegraph shall have been completed and equipped in all respects as required by this act, the said commissioners shall so report under oath to the President of the United States, and thereupon patents shall issue to said companies, or either of them, as the case may be, for the lands hereinbefore granted, to the extent of and coterminous with the completed section of said railroad and telegraph line as aforesaid; and from time to time, whenever twenty or more consecutive miles of the said road and telegraph shall be completed and equipped as aforesaid, patents shall in like manner issue upon the report of the said commissioners, and so on until the entire railroad and telegraph authorized by this act shall have been constructed, and the patents of the lands herein granted shall have been issued.

SEC. 5. *And be it further enacted*, That the grants aforesaid are made upon the condition that the said companies shall keep said railroad and

1866 O&C Railroad Grant

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telegraph in repair and use, and shall at all times transport the mails upon said railroad, and transmit despatches by said telegraph line for the government of the United States, when required so to do by any department thereof, and that the government shall at all times have the preference in the use of said railroad and telegraph therefor at fair and reasonable rates of compensation, not to exceed the rates paid by private parties for the same kind of service. And said railroad shall be and remain a public highway for the use of the government of the United States, free of all toll or other charges upon the transportation of the property or troops of the United States; and the same shall be transported over said road at the cost, charge, and expense of the corporations or companies owning or operating the same, when so required by the government of the United States.

SEC. 6. *And be it further enacted*, That the said companies shall file their assent to this act in the Department of the Interior within one year after the passage hereof, and shall complete the first section of twenty miles of said railroad and telegraph within two years, and at least twenty miles in each year thereafter, and the whole on or before the first day of July, one thousand eight hundred and seventy-five; and the said railroad shall be of the same gauge as the "Central Pacific Railroad" of California, and be connected therewith.

SEC. 7. *And be it further enacted*, That the said companies named in this act are hereby required to operate and use the portions or parts of said railroad and telegraph mentioned in section one of this act for all purposes of transportation, travel, and communication, so far as the government and public are concerned, as one connected and continuous line; and in such operation and use to afford and secure to each other equal advantages and facilities as to rates, time, and transportation, without any discrimination whatever, on pain of forfeiting the full amount of damage sustained on account of such discrimination, to be sued for and recovered in any court of the United States, or of any State, of competent jurisdiction.

SEC. 8. *And be it further enacted*, That in case the said companies shall fail to comply with the terms and conditions required, namely, by not filing their assent thereto as provided in section six of this act, or by not completing the same as provided in said section, this act shall be null and void, and all the lands not conveyed by patent to said company or companies, as the case may be, at the date of any such failure, shall revert to the United States. And in case the said road and telegraph line shall not be kept in repair and fit for use, after the same shall have been completed, Congress may pass an act to put the same in repair and use, and may direct the income of said railroad and telegraph line to be thereafter devoted to the United States, to repay all expenditures caused by the default and neglect of said companies or either of them, as the case may be, or may fix pecuniary responsibility, not exceeding the value of the lands granted by this act.

SEC. 9. *And be it further enacted*, That the said "California and Oregon Railroad Company" and the said "Oregon Company" shall be governed by the provisions of the general railroad and telegraph laws of their respective States, as to the construction and management of the said railroad and telegraph line hereinbefore authorized, in all matters not provided for in this act. Wherever the word "company" or "companies" is used in this act it shall be construed to embrace the words "their associates, successors, and assigns," the same as if the words had been inserted, or thereto annexed.

SEC. 10. *And be it further enacted*, That all mineral lands shall be excepted from the operation of this act; but where the same shall contain timber, so much of the timber thereon as shall be required to construct said road over such mineral land is hereby granted to said companies: *Provided*, That the term "mineral lands" shall not include lands containing coal and iron.

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Companies to obtain consent of States, where road and telegraph line do not pass through public lands. Act may be amended, &c.

SEC. 11. *And be it further enacted*, That the said companies named in this act shall obtain the consent of the legislatures of their respective States, and be governed by the statutory regulations thereof in all matters pertaining to the right of way, wherever the said road and telegraph line shall not pass over or through the public lands of the United States.

SEC. 12. *And be it further enacted*, That Congress may at any time, having due regard for the rights of said California and Oregon railroad companies, add to, alter, amend, or repeal this act.

APPROVED, July 25, 1866.

July 25, 1866.

CHAP. CCXLIII. — *An Act to change the Place of holding Court in the Northern District of Georgia.*

District court for northern district of Georgia to be held at Atlanta.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the district court for the northern district of Georgia shall hereafter be held at Atlanta, instead of Marietta; and the clerk of said northern district is hereby required to remove all the books, papers, and records belonging to his office from Marietta to Atlanta.

Process.

SEC. 2. *And be it further enacted*, That all process made returnable to the court heretofore held at Marietta shall be taken and considered returnable to the court at Atlanta.

APPROVED, July 25, 1866.

July 25, 1866.

CHAP. CCXLIV. — *An Act granting to A. Sutro the Right of Way, and granting other Privileges to aid in the Construction of a Draining and Exploring Tunnel to the Comstock Lode, in the State of Nevada.*

Right of way granted to A. Sutro, &c., to construct a mining, &c., tunnel, &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of the construction of a deep draining and exploring tunnel to and beyond the "Comstock lode," so called, in the State of Nevada, the right of way is hereby granted to A. Sutro, his heirs and assigns, to run, construct, and excavate a mining, draining, and exploring tunnel; also to sink mining, working, or air shafts along the line or course of said tunnel, and connecting with the same at any point which may hereafter be selected by the grantee herein, his heirs or assigns. The said tunnel shall be at least eight feet high and eight feet wide, and shall commence at some point to be selected by the grantee herein, his heirs or assigns, at the hills near Carson River, and within the boundaries of Lyon County, and extending from said initial point in a westerly direction seven miles, more or less, to and beyond said Comstock lode; and the said right of way shall extend northerly and southerly on the course of said lode, either within the same, or east or west of the same; and also on or along any other lode which may be discovered or developed by the said tunnel.

Dimensions of tunnel, where to commence, &c.

Right of way to extend northerly and southerly, &c.

A. Sutro may purchase not over two sections of public land at mouth of tunnel, for use thereof. Not to be mineral lands, &c.

SEC. 2. *And be it further enacted*, That the right is hereby granted to the said A. Sutro, his heirs and assigns, to purchase, at one dollar and twenty-five cents per acre, a sufficient amount of public land near the mouth of said tunnel for the use of the same, not exceeding two sections, and such land shall not be mineral land or in the bona fide possession of other persons who claim under any law of Congress at the time of the passage of this act, and all minerals existing or which shall be discovered therein are excepted from this grant; that upon filing a plat of said land the Secretary of the Interior shall withdraw the same from sale, and upon payment for the same a patent shall issue. And the said A. Sutro, his heirs and assigns, are hereby granted the right to purchase, at five dollars per acre, such mineral veins and lodes within two thousand feet on each side of said tunnel as shall be cut, discovered, or developed by running and constructing the same, through its entire extent, with all the dips, spurs, and angles of such lodes, subject, however, to the

Upon filing plat, land to be withdrawn from sale. Patent to issue. Certain mineral veins and lodes may be purchased.

Railroad to be a public highway and free to the United States.

Companies when to file assent to this act. Rate of progress to be made.

Gauge. To be connected with Central Pacific Railroad.

Companies to use and operate road as one continuous line, and to secure to each other equal advantages, &c.

If companies fail to comply with certain conditions, this act to be void, and the lands not conveyed to revert to the United States. If road and telegraph line are not kept in repair, Congress may, &c.

The companies to be governed by the laws of their respective States.

The word "company" to include "associates, successors, and assigns."

Mineral lands excepted from this grant. Timber for construction. "Mineral" not coal and iron.

Terms of 1866 Act

3.7 million acres

12,800 acres/mile of track

Primary grant – 20 miles either side of route

Indemnity lands – additional 10 miles
(30 miles total)

Recipient railroad designated by Oregon legislature

Oregon Central railroad located in Salem,
intended to build west side of Willamette

Oregon Central railroad located in Portland,
intended to build east side of Willamette

No immediate public demand for the grant lands, both companies had financial problems

Called on Congress for further assistance

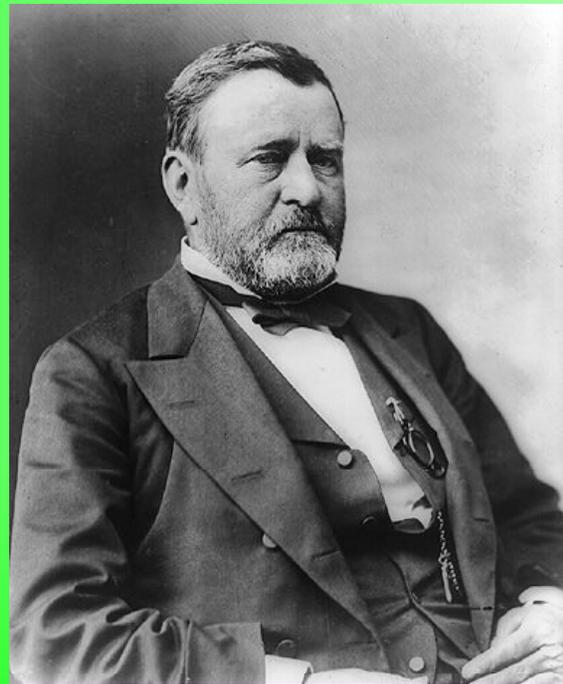
Congressional committees more concerned with protecting national interest

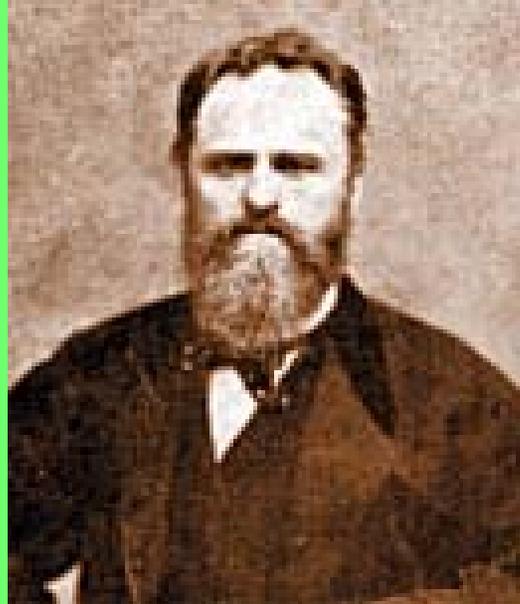
Wartime fervor for internal improvements cooled

Supplementary Act 1870

- Any railroad
- Lands to be sold only to “actual settlers”
- No more than $\frac{1}{4}$ section, 160 acres
- No more than \$2.50 acre

Before President Ulysses Grant signed the bill,





Ben Holladay secured control of both Oregon
Central railroads and renamed it the
Oregon and California Railroad

How the O&C Plan Worked

United States transferred O&C lands to the State of Oregon

State of Oregon transferred O&C lands to the railroad

Railroad transferred O&C lands to settlers and purchasers

Railroad was not liable for taxes until taking title to lands

Railroad delayed taking title, kept lands with State of Oregon

O&C Railroad Co. built
south along the east side
of the Willamette

Bridged the Clackamas,
Molalla, Santiam Rivers

Over the Umpqua
Calapooia divide



1872 the O&C Railroad reached Roseburg

Towns that were born of the
railroad:

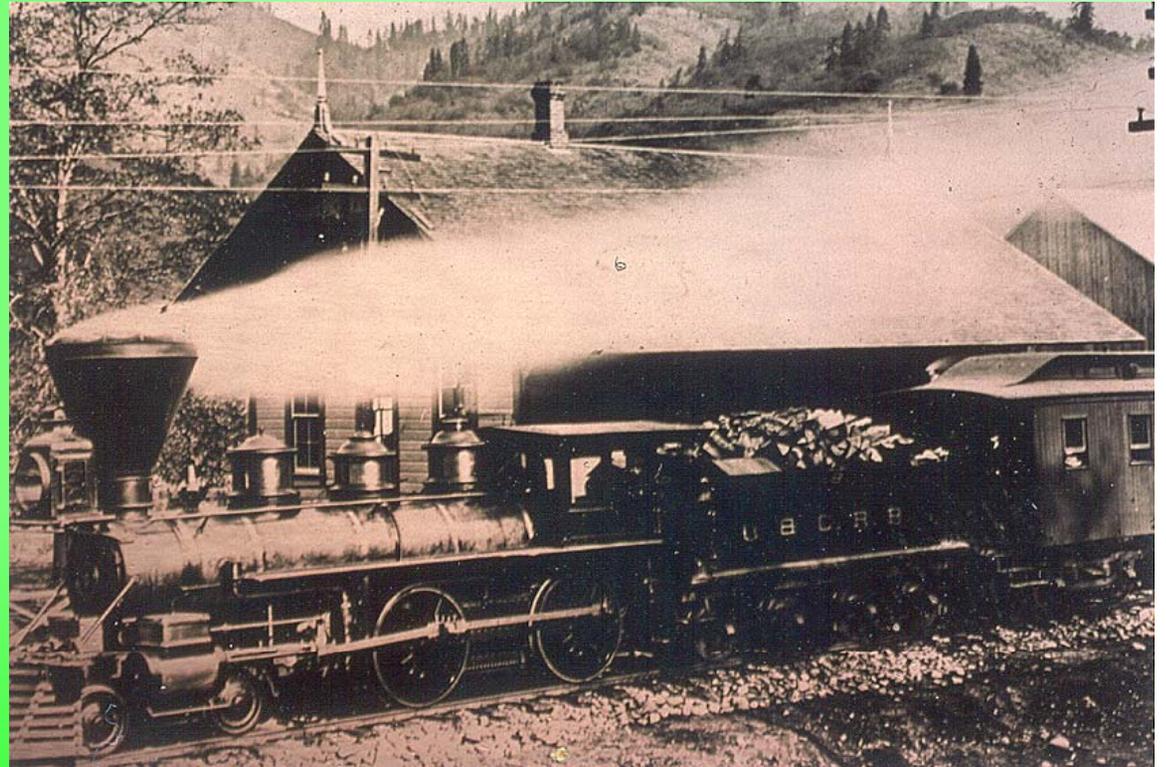
Canby, Tangent, Oakland
Harrisburg, Creswell,
Drain, Yoncalla,

(knocked out the Willamette
Steamboat service)



Trouble

- Free homesteads
- Heavy timber
- Steep topography



Villard's Take Over

- 1873 Henry Villard representing German stockholders took over the company
- Reorganized, strategy to dispose of lands to raise capital



Because of financial trouble, construction stalled and for nine years the O&C Railroad terminated in Roseburg

Roseburg prosperity as Klamath Falls and Rogue Valley shipped in and out of Roseburg



1881 Construction resumed
along the South Umpqua
River, Cow Creek canyon,
over the Umpqua Mountains
to the Rogue Valley

Towns that were born of the
railroad: Riddle, Glendale,
Grants Pass, Medford
(Jacksonville became almost
a ghost town after bypassed
by the railroad)



Bankruptcy – Villard loses control

**The O&C acquired (leased) by the
Southern Pacific (1887-1927)**



Golden Spike at Ashland

December 17, 1887

This event was important to the entire nation,
as it completed the railroad circle around the
United States



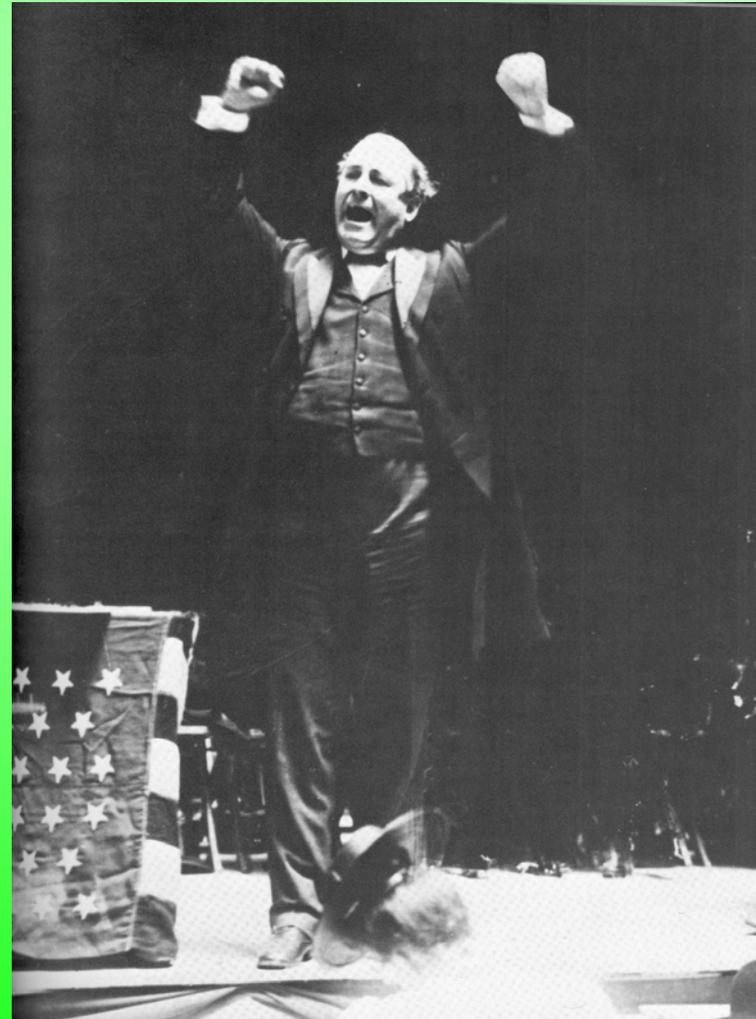
Turn of Century

Conservation

Populism

Progressivism

Populists called for federal
ownership of all
railroads and recovery
of land grants



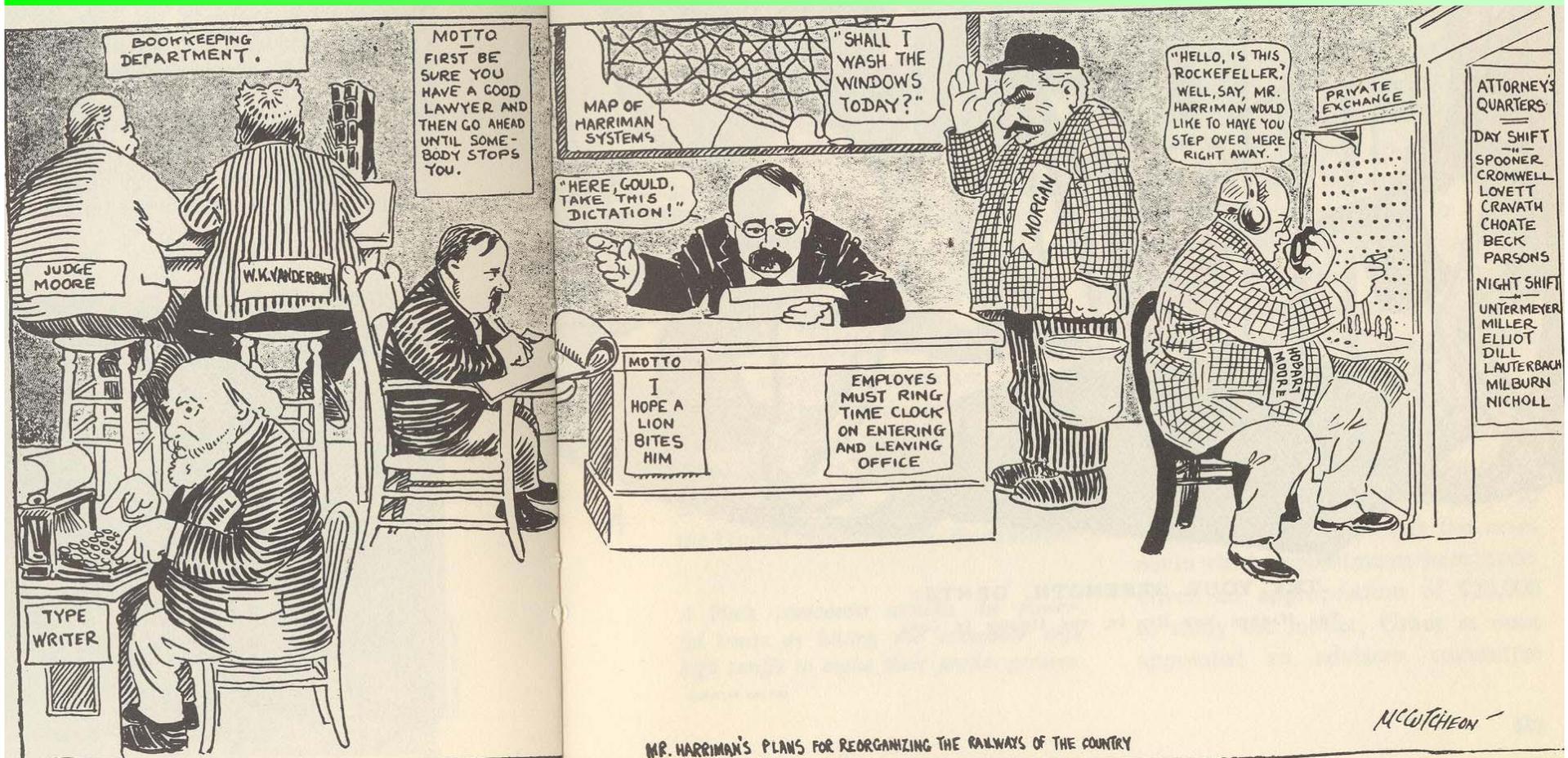
Edward Harriman

Took over the Union Pacific
and other lines

Controlled the Southern
Pacific, hence the O&C
Railroad

Made many of the decisions
that led to battle with the
State of Oregon and Federal
government over the O&C
Railroad





MR. HARRIMAN'S PLANS FOR REORGANIZING THE RAILWAYS OF THE COUNTRY

McCutcheon

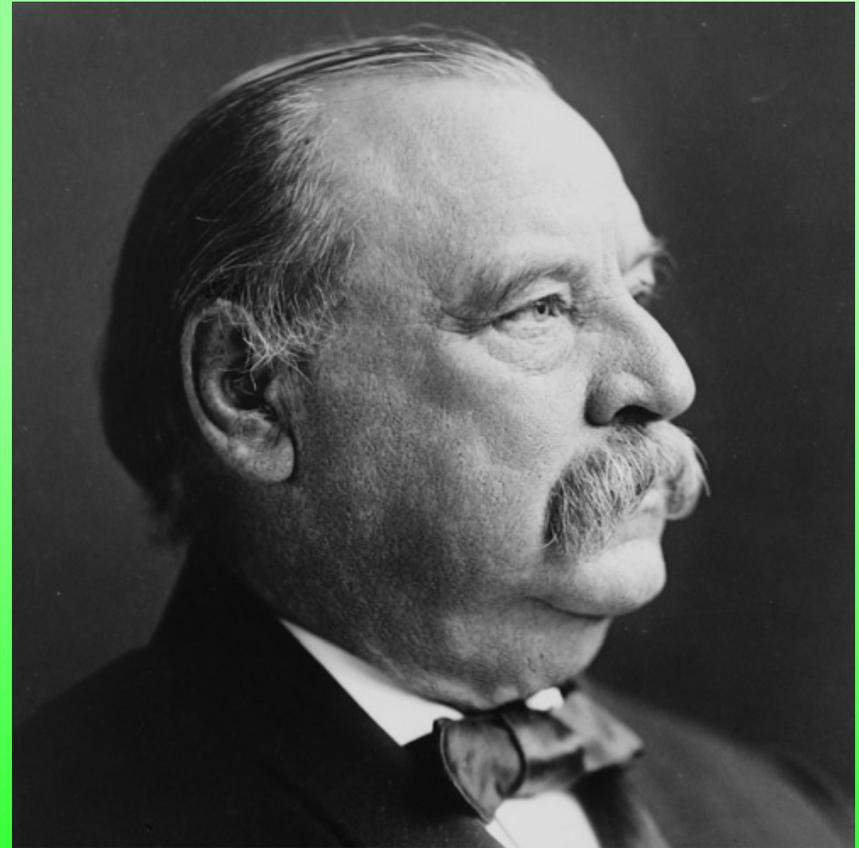
1890's, Southern Pacific sold hundreds of thousands of acres at prices up to \$40 acre

One sale to a single purchaser was 45,000 acres at \$7 an acre

Speculators employed dummy entrymen to front as “actual settlers”

President Grover Cleveland

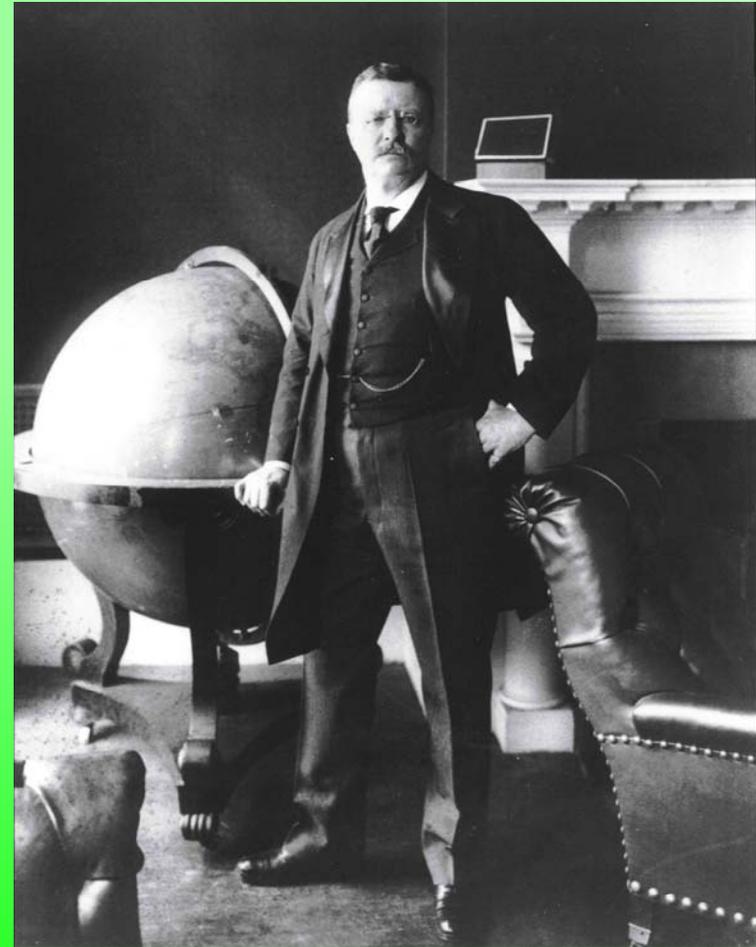
Just before leaving office
in 1897, created
National Forests by
Executive Order



President Teddy Roosevelt

Executive Order expanded
National Forests,
created National
Monuments and
Wildlife Refuges

Shifted forest policy from
Interior to Agriculture
under Gifford Pinchot



1902 Southern Pacific under Edward Harriman sold 400,000 acres to speculators and lumbermen.

Anticipating rising values, Harriman halted all sales

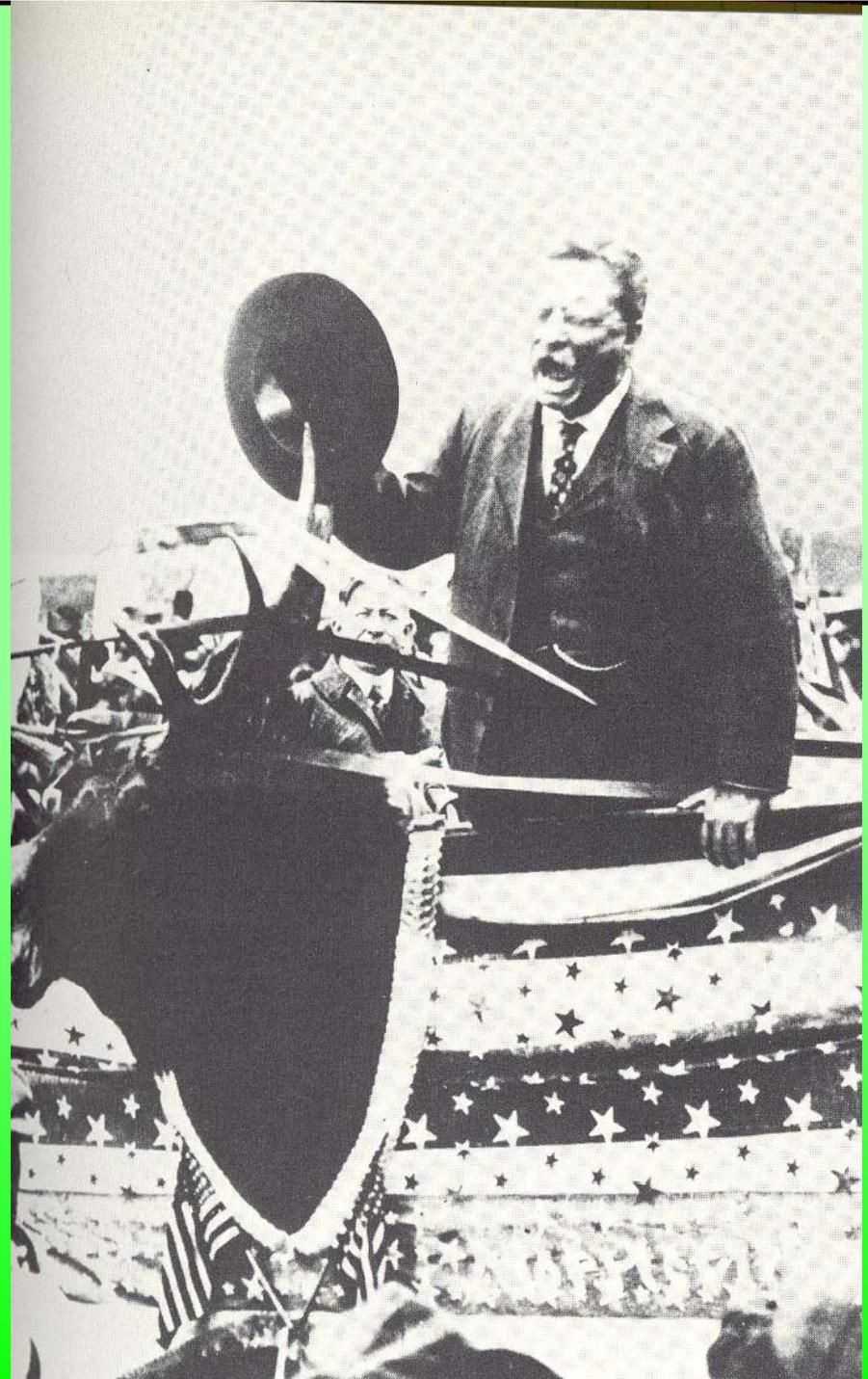
All three stipulations of O&C Act had been violated

Oregonians finally reacted at the announcement that halt of land sales was permanent

Increased evidence of
fraud, malfeasance

Oregonian articles

1902 Roosevelt appointed
Special Prosecutor to
investigate



1904-1908

Oregon land fraud trials

Congressmen, officials of General Land Office were indicted, convictions

1904 Oregonian discovered and reported the “actual settlers” clause

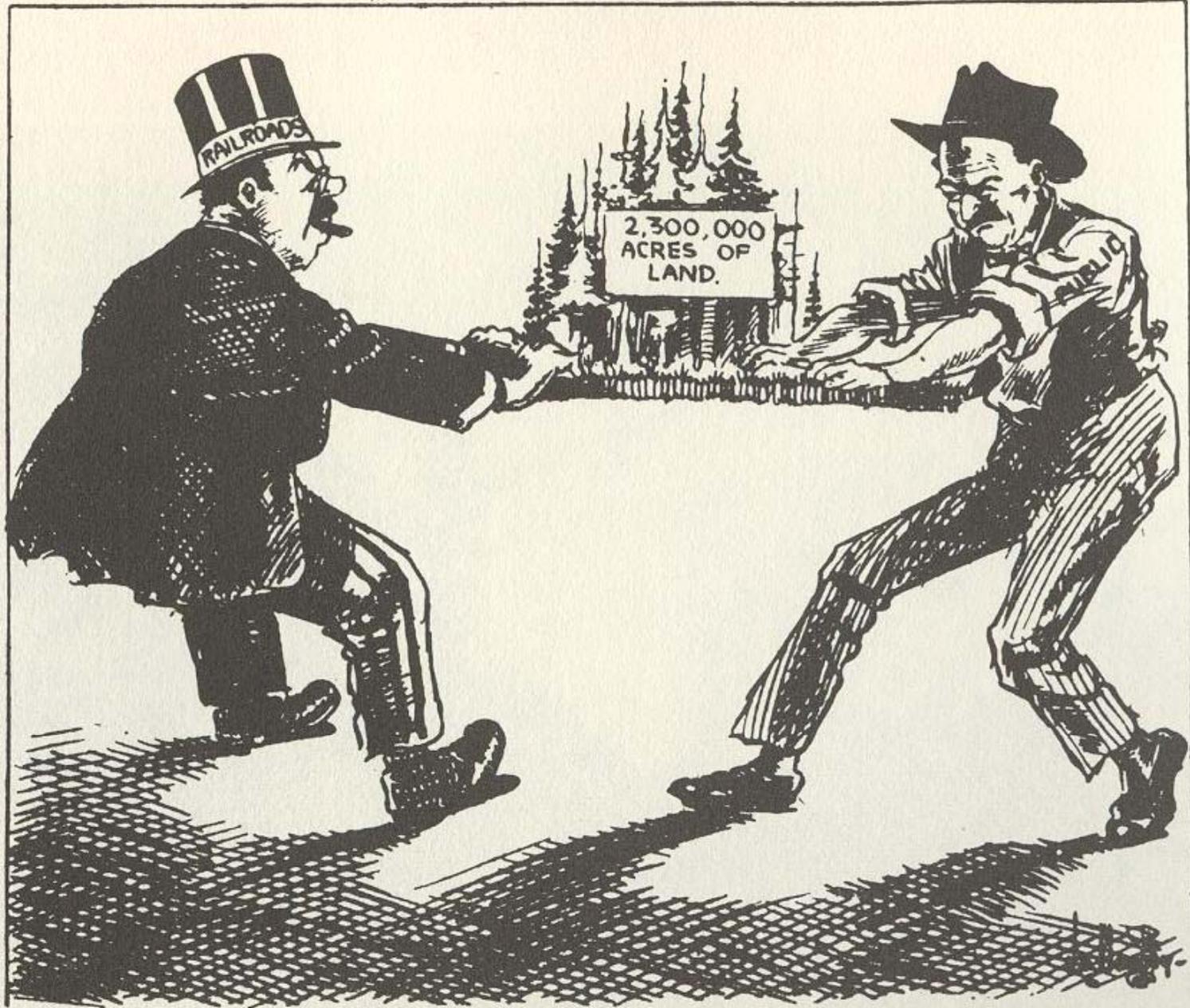
1907 Oregon legislature petitioned Congress to compel railroad to meet terms of O&C Act

Governor Chamberlain confronts Harriman at a fair

1908 Looters of the Public Domain published

1908 Justice Department brings suit against
Southern Oregon Company (successor to Coos
Bay Wagon Road Company)

AT SALEM TODAY!



1908 Senate resolution directed the attorney general to bring lawsuit

Federal court deliberated for five years

Judge Wolverton of federal district court in Portland ruled (July 1913)

Judgment puzzled everyone and satisfied no one
(lands not sold forfeit)

Appealed to the Supreme Court

June 1915 Supreme Court Ruling

Unsold grant land (both patented and unpatented)

2.3 million acres

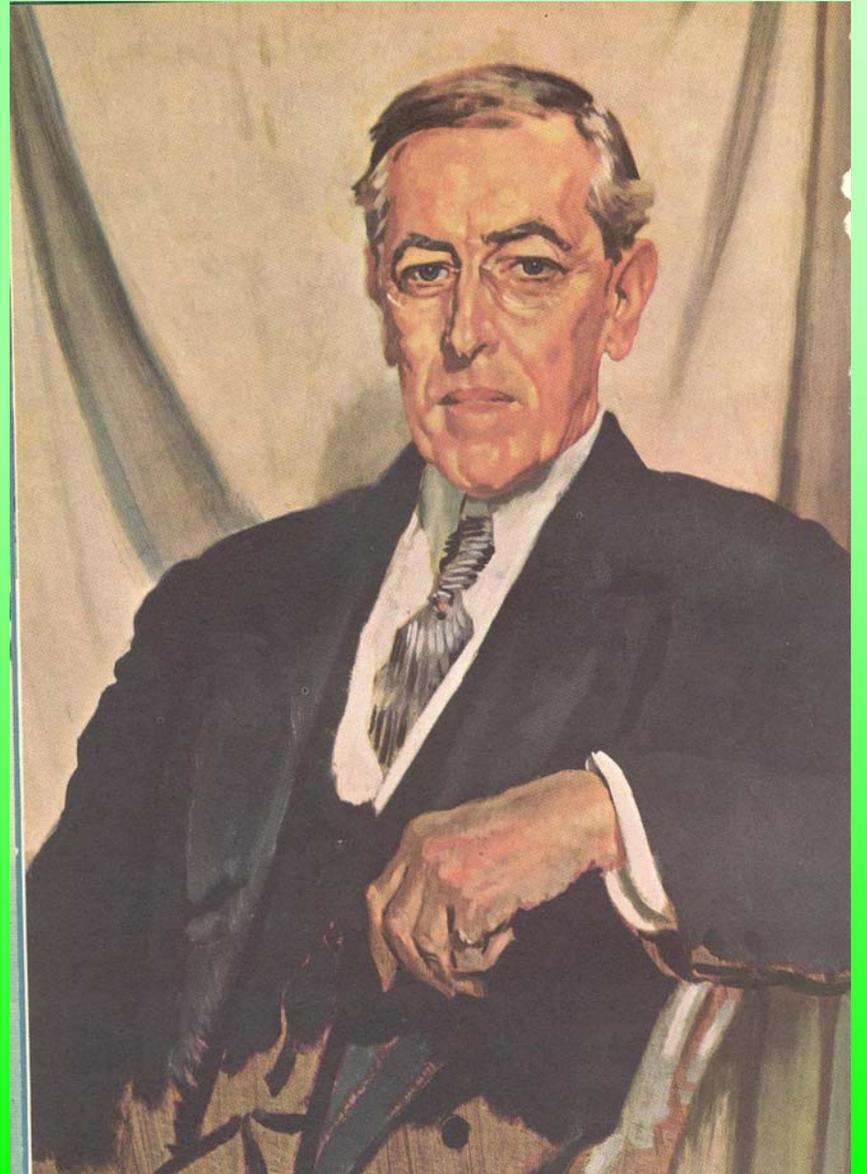
50 billion board feet

Could be disposed of by Congress within reasonable time

If Congress did not act in six months, district court could dispose of
unsold lands and timber

1916 Chamberlain-Ferris Act

Signed by Woodrow
Wilson, rewest 2.8
million acres



Sell land and timber as fast as possible

1. Pay the railroad
2. Pay treasury for taxes during litigation
3. 25% state, 25% counties, 10% U.S.
40% Reclamation Fund

Southern Pacific brought suit as to constitutionality. Supreme Court ruled for the government

Southern Pacific sued for financial loss and won \$4 million

1919 Coos Bay Wagon Road Revestment

Signed by Woodrow
Wilson,

Revested 93,063 acres



Timber sales – Public Auction –terms: cash

GLO employees would ask timber companies
what they were willing to pay

1916-1937 One instance of competitive bid at
Roseburg Office. (resulted in brawl, reduced
GLO office to shambles)

President Calvin Coolidge

1926-1927 “Coolidge Prosperity”, nationwide boom

Logging and timber receipts best yet, but still low activity compared to private

Association of O&C Counties pressed for a fix



1926 Stanfield Act

Signed by Calvin Coolidge July 1926 after the president negotiated certain terms

Relieve economic distress of counties because of lack of revenue from the O&C lands

Grant \$7 million to counties

1928 Supreme Court rejected Oregon's suit to share in Stanfield payments

1916 formula for payments remained in place

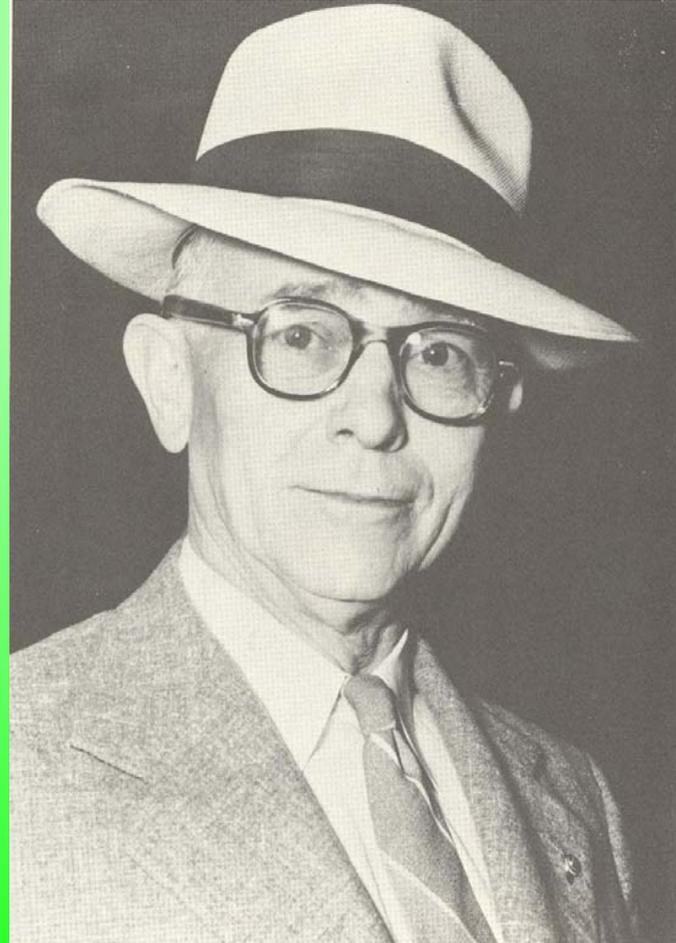
Association of O&C Counties

Established in 1926

Promoted passage of Stanfield bill

AOCC 78 year history of working with the federal government on the management of the O&C lands.

Guy Cordon of Douglas County founded AOCC

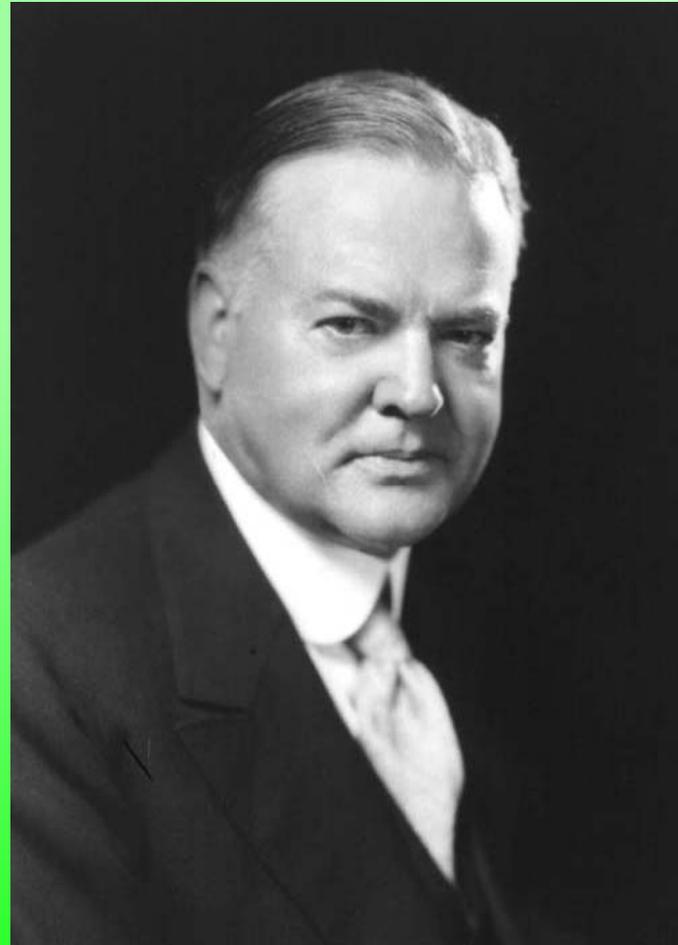


President Herbert Hoover

Prosperity prompts Hoover's desire to withdraw federal government from forestry enterprise

Secretary of Interior Wilbur favors:

- Move O&C to Agriculture,
- Consolidate all forestry under one agency,
- States to take over administration of surface rights to public domain



Sustained Yield

David Mason, consulting forester from Portland campaigned for sustained yield forestry as early as 1926

Best interests of forestry and lumbering

System of controlling rate of cut in order to perpetuate supply

Envisioned cooperation among lumbermen as well as federal and state



**1916 -1937
O&C Interests**

Courts

Railroad

Counties

**Timberland
Owners**

Congress

General Public

Conservationists

**Non-landowning
Timber business**

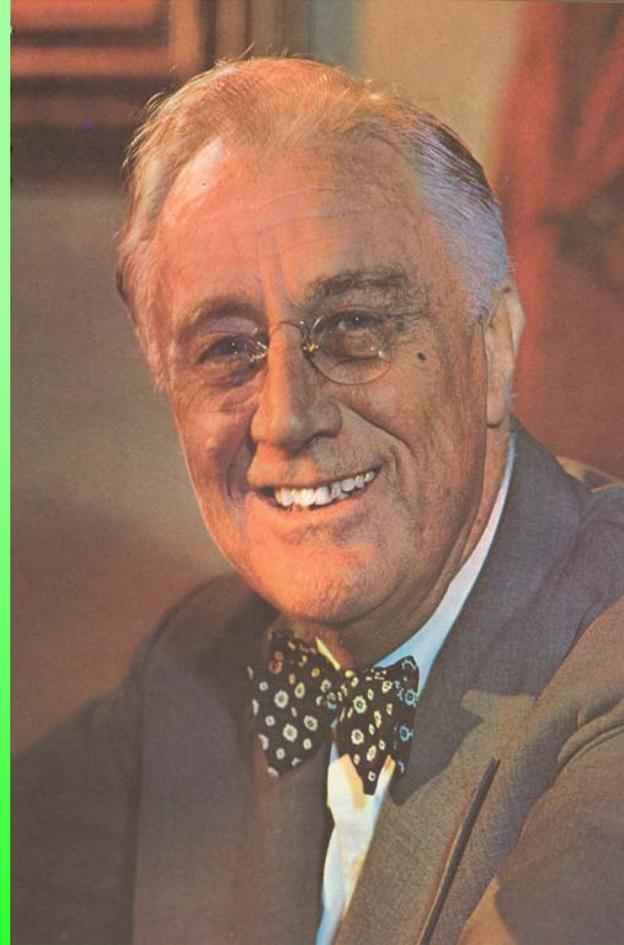
**Alternative
Land Managers**

**Federal Executive
Branch**

President Franklin Roosevelt

Administration addressed
the Depression and
World War II

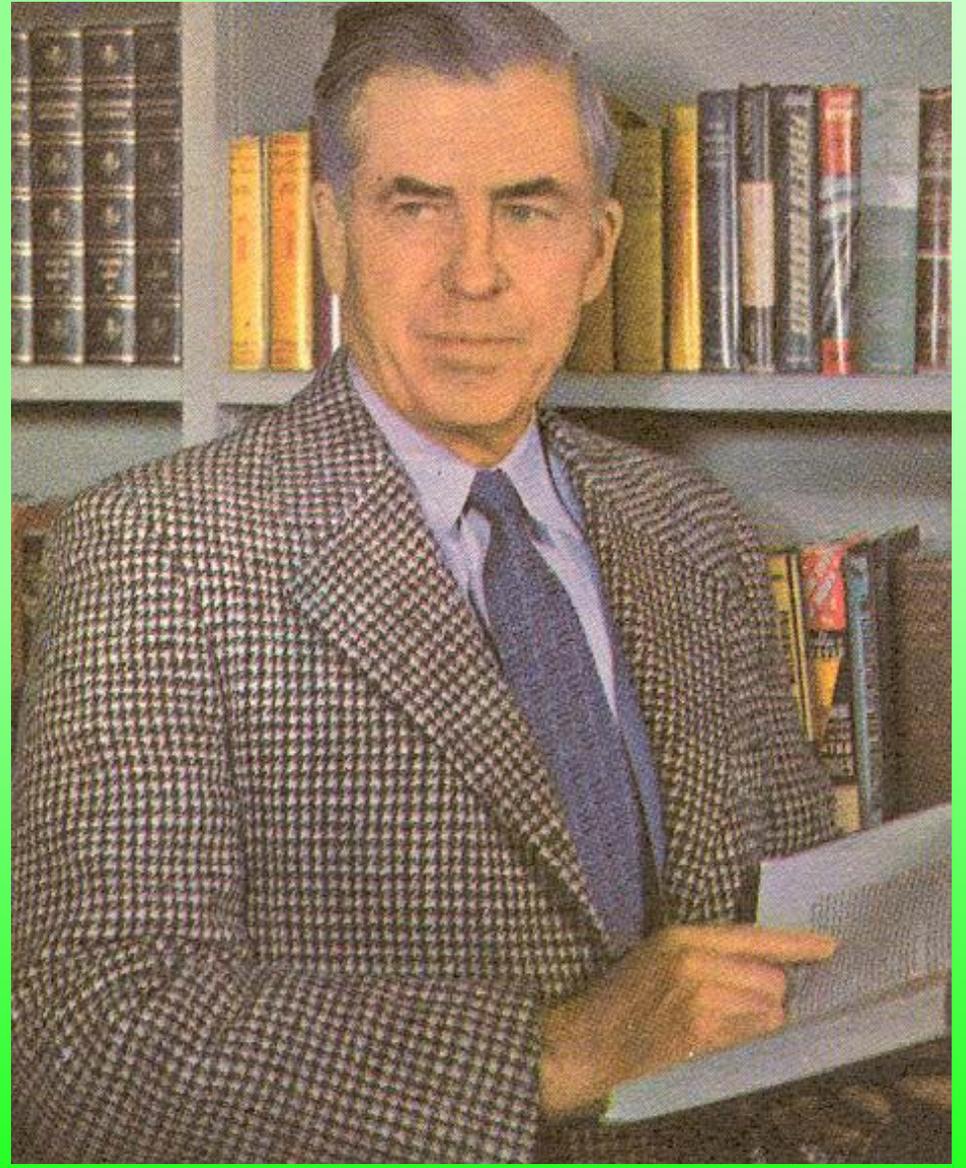
New Deal, WPA, TVA,
NRA, CCC, REA
designed to revive
America



Harold Ickes, Secretary of Interior 1933 to 1945, saw the O&C as an opportunity for Interior to showcase modern, efficient and scientific forestry



Secretary of Agriculture
Henry Wallace 1933 to
1940 wanted to move
the O&C to the Forest
Service



Rufus Poole, Interior attorney and
David Mason drafted HR 5858 in
1936

House and Senate committee hearings
regarding sustained yield forestry

Secretary Wallace attempted to
substitute “Agriculture” at every
point bill gave authority to Interior

Re-election of Franklin Roosevelt



The O&C Act, August 28, 1937

Title I

Sustained yield, permanent forest production and timber supply, determine and declare annual productive capacity, grazing, recreational facilities, protect watersheds, regulate stream flows, power sites

Title II

Administrative costs, payments, distribution of receipts

Walter Horning

Chief forester and first director
of the O&C

Professor of forestry from
Iowa State, helped
formulate forest policy for
the National Park Service,
analyzed Secretary Ickes'
Olympic National Park
proposal

Started with a budget of
\$150,000



Recruited small staff

Decision not to create
procedural handbook
similar to the Forest
Service

Opened district offices in
Medford, Roseburg,
Eugene in 1938, Salem
1943, Marshfield (Coos
Bay) 1944



Allocation of Revenues

50% payable to 18 O&C counties

25% proceeds reimburse US treasury for payments made to counties for lost tax revenue and repayment of Southern Pacific

25% proceeds to administer O&C Act

After treasury was reimbursed the 25% was to be applied to 18 O&C Counties

75% Counties

25% US Treasury

1953 Plowback Fund

Counties dedicated 25% to federal government as
an investment in the management of O&C lands

Plowback to the BLM allowed funding of:

- Reforestation and elimination of backlog acres
- Funding of nurseries for seed, seedlings
- Seed orchards
- Intensive practices of thinning, fertilization, tree improvement
- Intensive inventory

Allowable Cut Effect

Intensive practices allow more timber to be grown (productive capacity) per year therefore more timber can be harvested per year on a sustained yield basis.

Standing harvestable volume allows an immediate short term return on investment in intensive practices. (ACE)

Success at Sustained Yield Forestry

Decadal inventories in 1970, 1980 and 1990 showed that there was more standing volume on the O&C Lands than the previous decade.

After 50 years of harvest, standing volume on the O&C Lands has increased.

Plowback funded:

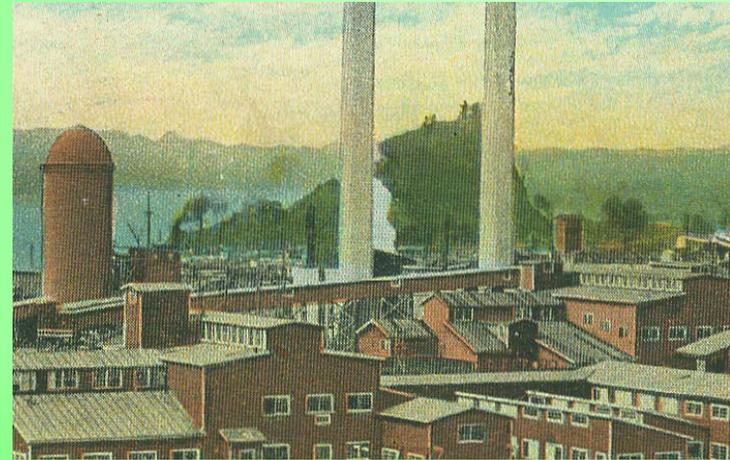
- access roads
- bridges
- district offices
- fire protection
- recreation sites



1982 Western Oregon BLM received direct appropriations from Congress, no longer funded through Plowback

Reciprocal Rights of Way

Leonard Netzorg, an attorney for BLM, wrote the rights of way regulations and forms of agreements that stipulated reciprocal access to federal and private timberland, thus breaking Big Lumber's chokehold on the family owned mills



President Richard Nixon

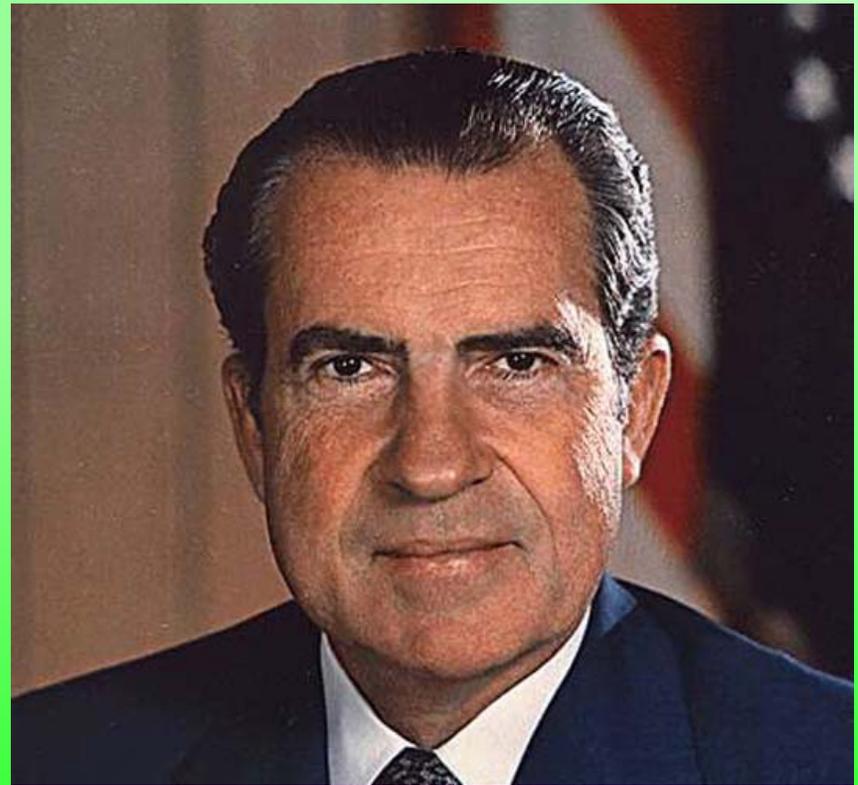
1969 National Environmental
Policy Act

1969 Council on
Environmental Quality
established

1970 Clean Air Act (extension)

1972 Federal Water Pollution
Control Act

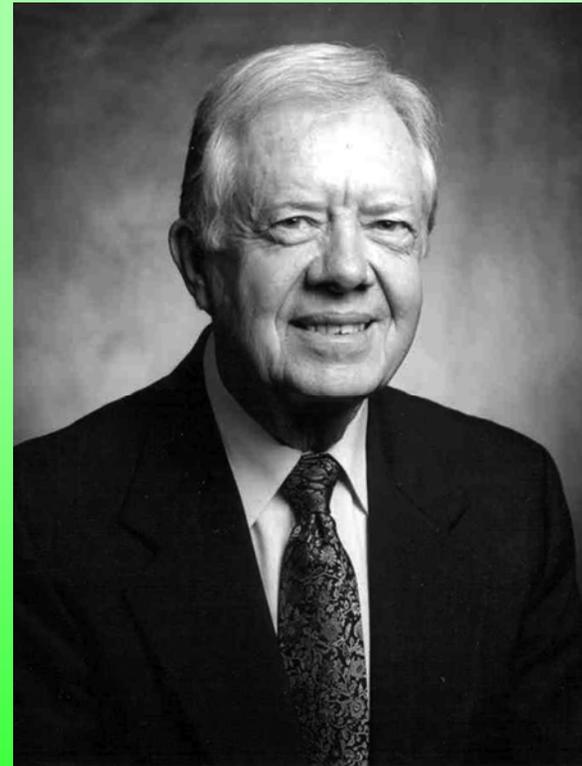
1973 Endangered Species Act



President Jimmy Carter

October 1976 Federal
Land Management
Policy Act

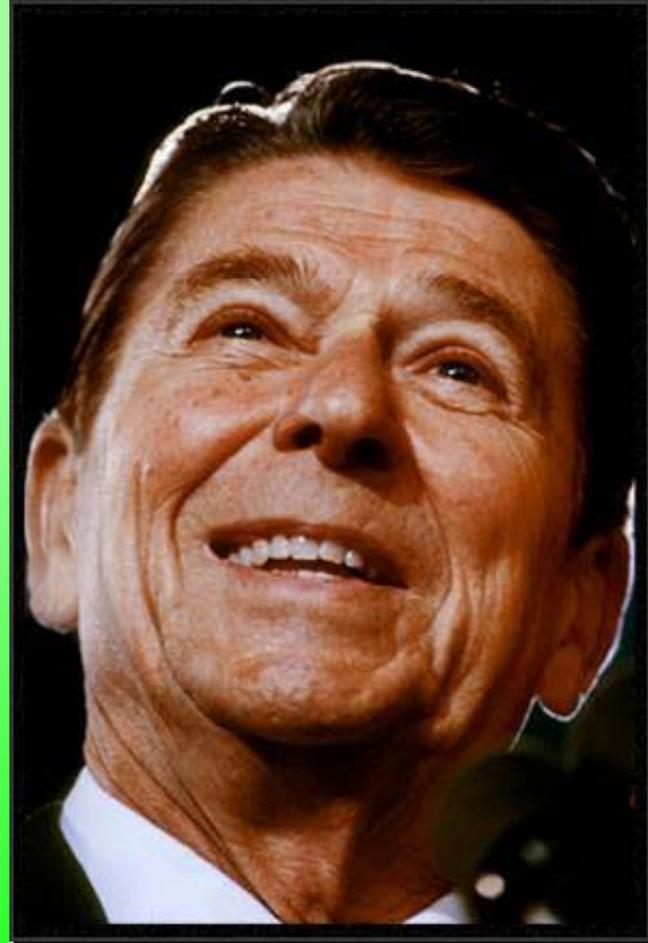
1977 Planning underway
in western Oregon



President Ronald Reagan

1979-1983 Western
Oregon plans completed

1982 - BLM's Policy
Statement on Managing
O&C lands



BLM Policy Statement for Management of O&C Lands

May 1982 Director of the BLM Burford requests through the Secretary of Interior an opinion from Office of Solicitor regarding legal adequacy of policy statement regarding multiple use management on O&C lands

Land Use Planning for 13 Sustained Yield Units and EIS's were in progress

Needed to respond to public comments questioning interpretation of O&C Act in light of Clean Water Act, Endangered Species Act, Clean Air Act and National Environmental Policy Act

O&C Policy Statement encompassed six objectives:
Timber production, water quality, wetlands, T&E species, habitat diversity, recreation

“Primary objectives of the management program on the O&C lands are to manage for a high-level and sustained yield output of wood products needed to contribute to economic stability of local communities and industries, and to provide for other land uses as established in the O&C Act and other legislation.”

Solicitor reviewed language of O&C Act, its legislative history and subsequent legislation

September 1982 Solicitor's Office 10 page opinion of legal adequacy of BLM policy statement for multiple use management of O&C Lands

Forest production in dominant role

Does not mandate exclusive use

Bureau must meld dominant use of forest production with those aspects of multiple use envisioned by the O&C Act in addition to requirements of subsequent legislation

O&C Act limits Bureau's management options on O&C lands but provides to a certain degree significant discretion how competing objectives are met

BLM policy on management of O&C Act struck appropriate balance



Late 1980's-early 1990's

Litigation regarding spotted owl management
dropped harvest levels significantly



Portland Audubon Society v BLM

- On May 18, 1988, the Ninth Circuit Court of Appeals stopped the BLM's entire timber sales program, not just the timber sales in spotted owl habitat. The “temporary” injunction was later reduced, but kept in place for the remainder of the year while the Circuit considered its opinion. Except for FY 1990, when a legislative rider (Sec. 318) exempted BLM timber sales from the injunction and with a few other exceptions, the BLM's timber sales were curtailed from 1988 until January 5, 1995 — a little over 7 years after the case was brought.

Headwaters v. BLM

Ninth Circuit ruling on O&C
Wilcox Peak – 1990

Plaintiff argued BLM misinterpreted O&C Act

Plaintiff argued O&C Act requires BLM to manage these lands for multiple use including wildlife conservation rather than for dominant use of timber production

“We have previously observed that “the provisions of 43 U.S.C. 1181a make it clear that the primary use of the [O&C Act] lands is for timber production to be managed in conformity with sustained yield.”

(9th Cir. 1990)

Plaintiff argued that the phrase “forest production” in section 1181a encompasses not merely timber production, but also conservation values such as preserving habitat for the northern spotted owl.

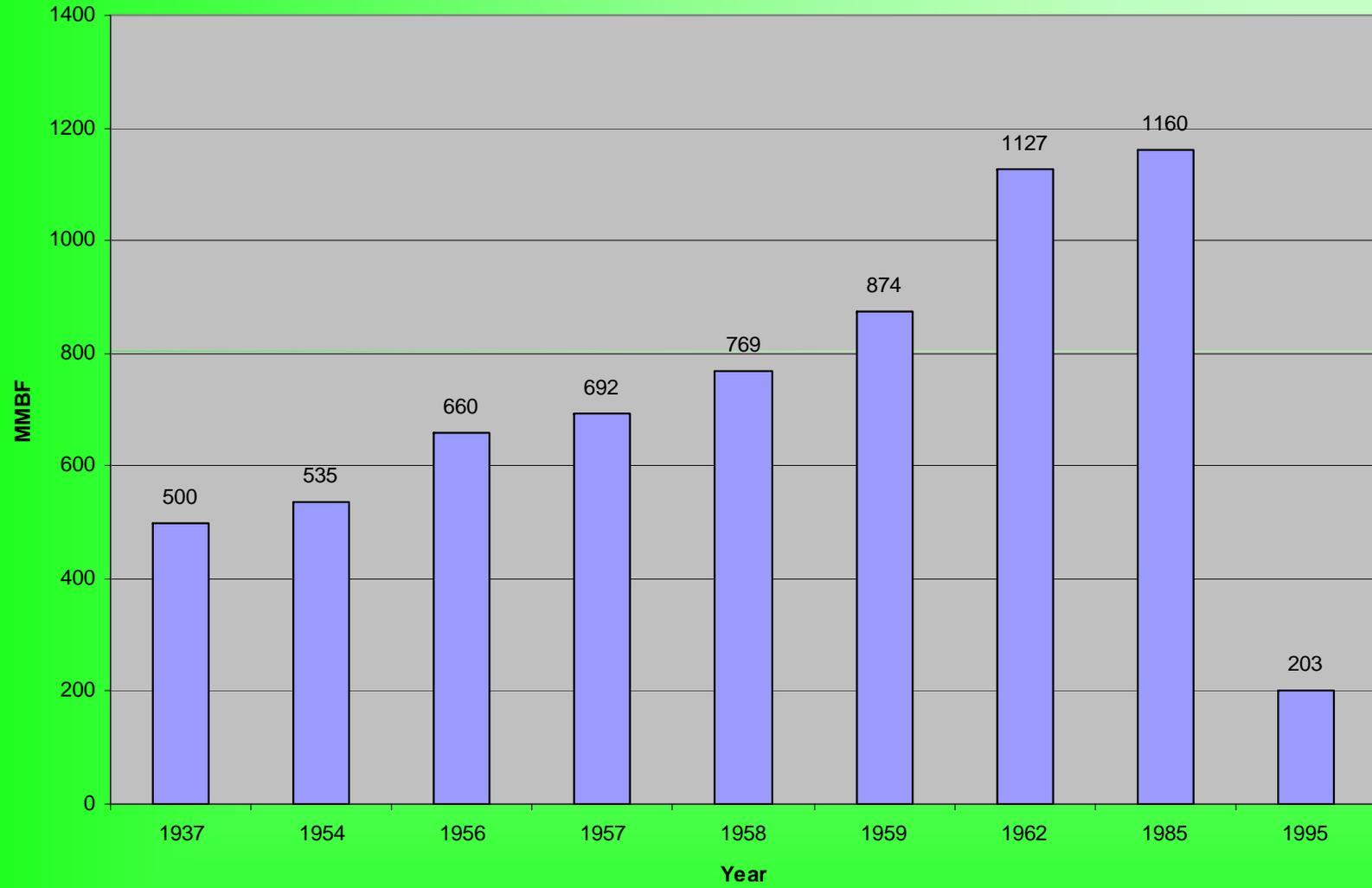
9th Circuit:

“inconsistent with the principle of sustained yield”

“statute clearly envisions sustained yield harvesting of O&C lands”

“There is no indication that Congress intended “forest” to mean anything beyond an aggregation of timber resources.”

Declarations of Sustained Yield Capacity



1986 -2007
O&C Interests

Courts

Railroad

Counties

**Timberland
Owners**

Congress

General Public

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Branch**

**1986 -2007
O&C Interests**

Courts

Counties

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1986 -2007
O&C Interests

Courts

Fish Interests

Counties

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1989 Hatfield-Adams Amendment (Northwest Compromise)

Environmental groups obtained injunction prohibiting sale
of old growth timber on BLM lands near spotted owl
sites

Rider to 1990 Interior appropriations bill
(Section 318)

Sufficiency language for timber sales

To stabilize O&C county revenues, appropriation language for 1991, 1992 and 1993 included a provision for floor payment of 1986 to 1990 annual average

Omnibus Budget Reconciliation Act of 1993
(Safety Net)

O&C counties with “Special Payment Amount” based on annually decreasing percentage of the five year average (1986-1990)

1994-2003 \$79 million decreasing to \$54 million

President Bill Clinton

- April 2003 holds Forest Conference in Portland to bring all interests to a common purpose
- Appoints Jack Ward Thomas to head a committee of scientists to come up with a plan to get out of the legal gridlock



Northwest Forest Plan

- A year later BLM and Forest Service begin managing under a common plan, that reduced timber harvest to only 20% of historic levels, set aside in reserves about 85% of federal forest lands, and applied process-rich, highly constricted guidelines for implementing actions.

Northwest Forest Plan

- Litigation increased ten-fold, eventually resulting in harvest levels at only about 40-70% of the reduced levels, depending on the District.

1994 – Northwest Forest Plan ROD signed by Secretaries of the Departments of Interior and Agriculture

1994 – Lawsuits challenging the NW Forest Plan filed in Western District of Washington by environmental interest groups and in the District of Columbia by the Association of O&C Counties, timber industry, and other economic interest groups and individuals

1994 – District of Columbia court transfers case against Forest Service to W. Wash., but refuses to transfer BLM case

1994 – Judge Dwyer asserts jurisdiction over BLM case anyway and joins issues in cases against Forest Service, then rules in favor of NW Forest Plan

1995 – BLM incorporates NW Forest Plan in new Resource Management Plans

1998 – Judge Dwyer rules against government interpretation of the survey & manage provision of the NW Forest Plan

1999 – Hanson v USFS – Court rules demographic study information did not require supplementation of EISs for NWFP

1999 – In the first of a series of three cases Judge Rothstein rules that the Biological opinions for NWFP projects are arbitrary and capricious

2000 to present – Numerous lawsuits challenging the Plan or its implementation result in rulings finding invalid the treatment of Port Orford cedar in RMPs, changes to S&M species through annual species reviews as part of the 2001 plan amendment that fixed problems from Dwyer opinion, agency's interpretation of guidelines for doing salvage, clarification of language describing how to comply with the Aquatic Conservation Strategy, and biological opinions on the effects of timber sales on the spotted owl.

Northwest Forest Plan

- The 2004 evaluations of the BLM RMPs found that the economic objectives of the Plans were not being met, and a plan revision was justified.

Secure Rural Schools and Community Self-Determination Act of 2000

Average of highest payments 1986-1999 + 50%
of consumer price index for rural areas

Terminated September 30, 2007

Settlement Agreement

- American Forest Resource Council (AFRC) and others filed suit alleging that O&C Act was violated when the Northwest Forest Plan established reserves where no timber harvest was planned on O&C lands.
- BLM signed a “settlement agreement” with the Association of O&C Counties in 1997, which then withdrew from the lawsuit.

Settlement Agreement

- American Forest Resource Council (AFRC) and others continued the litigation that languished in the District of Columbia federal court system for years.
- In 2003, while the case was pending appeal, AFRC and the rest of the plaintiffs agreed to a “settlement agreement” with terms similar to those previously accepted by the Association of O&C Counties.

Settlement Agreement

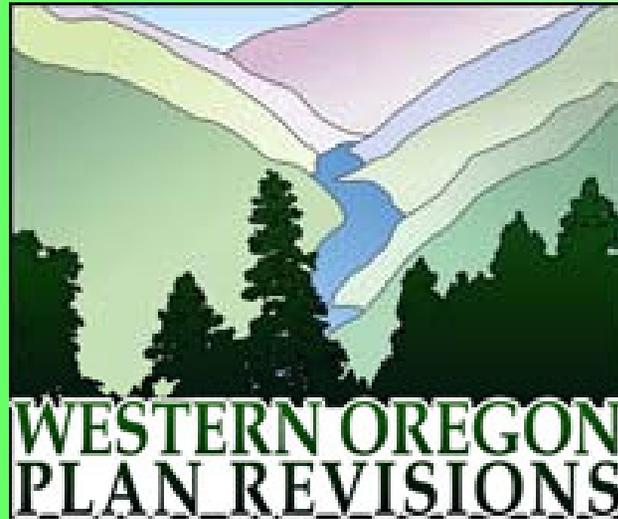
- The Association of O&C Counties joined the 2003 agreement, which amended and partially superseded their previous agreement.
- In the 1997 agreement, there was a provision to toll the statute of limitations for a set period of time (effectively extending the time for re-filing the suit by about 4 years.), and a requirement for BLM to consider an alternative that emphasized sustained yield timber production in any major revision of the RMPs.
- Both of these provisions were superseded in the 2003 agreement.

Settlement Agreement

- Because of the Association of O&C Counties agreement, the BLM was expecting to commence a major plan revision by 2008 anyway.
- The 2003 agreement thus was an inexpensive way to end the AFRC lawsuit, and the possible threat of another suit by the Association.

What does the Settlement Agreement Require?

- To revise BLM's western Oregon plans and consider in each revision at least one alternative which will not create any reserves on O&C lands except as required to avoid jeopardy under the Endangered Species Act.
- The revisions are to be completed by the end of 2008.



Purpose and Need

- Address the shortfall in the timber that is actually harvested from the BLM lands as compared to the capacity of these lands; and
- Follow the laws in accordance with the statutory requirements of the O&C Act and other applicable laws

Purpose and Need – Cont.

The BLM will consider the following deciding factors.

- Environmental consequences, particularly, but not limited to:
 - the extent of the contribution to the recovery of listed species
 - the maintenance or improvement in water quality (including the protections of watersheds and the regulation of stream flow)
 - the reduction in fire hazard risks
 - the extent of recreational opportunities

Purpose and Need – Cont.

Deciding factors – Cont..

- Contribution toward the economic stability of communities, including the economic return to the O&C counties, through the economic opportunities provided by the management of the BLM's lands in western Oregon
- Cost of implementation

Estimated Annual Amounts for 1st Decade under WOPR Alternatives

Harvests, Revenues, and Payments	No Action	Alt. 1	Alt. 2	Alt. 3
Harvest (short log mmbf)	355	537	767	473
Adjusted stumpage (\$ per mbf)	234	254	280	217
Total revenue (\$million)	83.9	137.2	215.8	103.3
Total O&C county payments (\$million)	42	68.7	108	51.7

See Table 134, Draft EIS for Western Oregon Plan Revision, August 2007, p. 537

A scenic landscape photograph showing a river flowing through a dense forest. In the background, two prominent, rocky peaks rise above the trees. The sky is overcast with grey clouds. The text "Questions?" is overlaid in the center of the image.

Questions?