



PACIFIC  
FOREST  
TRUST

ESRF Feedback  
775 Summer St. NE, Suite 100  
Salem, Oregon 97301

Re: Comments on the Elliott State Research Forest Proposal

Thank you for the opportunity to comment on the proposed use and management of the Elliott State Forest (ESF) for research purposes by the College of Forestry of Oregon State University (OSU).

While the Pacific Forest Trust supports this approach overall, and the specific focus on identifying effective management to promote climate resilience and adaptation, the proposal must have a clear, enforceable, lasting, and transparent mechanism to protect the public benefits of the ESF. A permanent working forest conservation easement, identified as such a tool in the legislation authorizing the \$100M bond to protect the ESF, is the necessary mechanism that must be added to to this proposal.

Despite acknowledging that such permanent protection is an essential piece of the transfer of management and “decoupling” from obligations to the Common Schools Fund, the current proposal fails to be specific as to how this protection will be achieved and maintained. While good intentions and words are stated about protecting the public benefits, as OSU’s Katy Kavanaugh has said in public session, “people and circumstances change”. Thus, more than words are necessary if we are not to repeat past mistakes that have irreparably damaged public benefits of forests. The one option mentioned for this purpose, and specified in the legislation authorizing the public bond issuance, to protect the ESF which achieves the necessary protection for the ESF’s irreplaceable public benefits is a conservation easement. A conservation easement to protect these benefits, while enabling and support climate change research, must be put in place prior to transferring the ESF responsibilities to OSU.

New approaches to forest management, such as outlined by OSU, can provide solutions to some of our most pressing social, ecological, and economic concerns. PFT’s experience with working forest conservation easements as well as managing forests to provide ecological and economic benefits leads it to support OSU’s proposal to hold the Elliott as a conserved, working forest. A working forest can provide habitat where vulnerable and endangered native species can thrive, both in reserves and in areas managed for multiple benefits. A working forest also provides jobs, timber, and fiber. OSU has stated that it wants to achieve these multiple outcomes. In order to provide clarity and enforceability to that commitment, OSU needs to be held accountable through a conservation easement. Conservation easements provide third party enforcement as compared with deed restrictions; and it is permanent as compared to a

Habitat Conservation Plan, which it will complement. This will ensure that the terms of OSU's proposal endure over time. Further, this easement will ensure that this protection and purpose will hold in place even if OSU decides to transfer management back to the state in the future.

Additional specific comments are as follows:

1. Being a public forest means more than just access: it means managing the forest for benefits Oregonians value, including fish and wildlife habitats and protection of intact older forest.

This was made clear in the 2017 legislation and public bond funding to raise the \$100 million directed toward the Elliott. That funding *requires* lasting protection of environmental and public trust values of the forest. The public benefits also include economic and community benefits such as those connected with recreation and management for older forests and the values they provide. Conservation easements allow such uses. Indeed, conservation easements enhance the economic return from some of the options, such as a carbon project and other forward-looking economic opportunities.

Without such a clear, enforceable mechanism, it is all too likely over time that we will see a situation where changes are made to forest management in the Elliott similar to situations in our public forests and other forests managed by OSU that damage the public values. That results in spending hundreds of millions of taxpayer dollars to place the forest in such a situation no better than the one at present. The forest could end up being managed to provide financial return for OSU and fund a cumbersome administrative overlay or even another entity's management. Common sense, as well as promises to the public made in raising \$100 million dollars, call for accountability and clear, ongoing management rules that working forest conservation easements provide.

2. The proposed "Guiding Principles and Commitments" need to be backed up by specific, enforceable criteria and guidelines for forest management.

In this regard, the Draft Proposal for Land Board Review speaks of "principles" and OSU "commitments." The Draft Proposal for Land Board Review (of 11/10/20) says that "OSU will rely on an external ESRF Advisory Committee to remain in alignment with its primary goals...." Governance by committee is most effective when paired with clear, enforceable goals and criteria, not general principles and commitments. Again, a conservation easement can provide this mechanism on which both OSU and the Advisory Committee can rely.

Additionally, the Third Party Right of Action Language Draft of 11/20/2020 focuses on litigation as a mechanism for enforcement. While litigation can be effective, it is

often after the fact of damage, expensive, and inherently divisive. It is a tool of last resort. Working Forest Conservation Easements avert this by regular communication on implementing the terms of the easement, reviewing actions in advance, and annual monitoring and public reporting. A Conservation Easement provides the ongoing third-party monitoring for compliance with management objectives that can identify and cure, at an early stage, practices that could otherwise lead to litigation. A forest management plan, as referenced in the Third Party Right of Action proposal, is typically integrated into a conservation easement as a requirement to be produced.

An enforcement mechanism is not simply a "plan". A plan must be guided by specific forest management goals and mandates. For example, the Draft Proposal refers to "longer rotations" without definition. "Longer" is a relative term, and while 60-year rotations have been spoken of in public input sessions, clarity is needed. Further, time alone does not provide for the public benefits and functions of older forests, although it is a key element. An easement will add definition and specific guidance.

Under such an enforceable conservation easement, management objectives for different parts of the ESF can be identified, with permitted management specified. For instance, it has been stated that there will be no harvest in reserves except for thinning on prior plantation acreage intended to enhance late-seral forest structure. Thinning should have a performance objective of restoring old, native forest structure and composition, not simply older, more widely-spaced, single species plantation.

### 3. A Conservation Easement Is the Most Suitable Enforcement Mechanism.

The governance structure outlined in the Draft Proposal (and the Governance Master Draft of 11.20.20) provides for much public input and consideration but little in the way of decision-making criteria. The restrictions listed on page 21 of the Proposal are appropriate and of the kind that can be made enforceable via conservation easement (though as noted above, forest management activities per se should also be addressed). A deed restriction, however, which is also mentioned in the bond legislation protecting the ESF, is not effective for these purposes because it does not engage a third party to monitor, report, and enforce the restriction whereas a conservation easement does.

Thank you for your consideration of these comments.

Yours Sincerely,



Laurie A. Wayburn  
President