

Engaging in Forest Advocacy (inside the system)

The National Environmental Policy Act (NEPA) provides our main tools for mutual information sharing with federal agencies. To stay up-to-date on Forest Service plans, call the office of the National Forest(s) you are interested in and ask to be added to their mailing list for their "Schedule of Proposed Actions (SOPA)". The SOPAs are also posted online on each National Forest's website.

Scoping letter

- For each proposed project the agency must send a letter to interested parties that provides an overview of the project, including the "purpose and need" for the project, a map of the general area, and a general description of the project.
- After the scoping letter is released, the public has a 30-day period in which to submit comments (i.e., concerns, opinions, suggestions, etc.) about the project.

Environmental Assessment (EA) or Environmental Impact Statement (EIS)

- Next, the FS prepares an EA or EIS. An EA is used to analyze projects that the FS finds will not "significantly impact" the environment (which is now most projects).
- FS must analyze direct impacts (such as removal of trees), indirect (such as erosion due to removal of trees), and cumulative (the project, in combination with other actions and projects, add up to having a large impact over time).
- The public has 30 days to comment on an EA, and 45 days for an EIS.

Pre-decisional objection

- Under new regulations the FS must release a draft decision, to which the public can object, focusing on violations of law, regulation and policy.
- The pre-decisional objection can be followed by negotiations with the agency, but they don't have to change their project.
- The agency makes a final decision, which may then be challenged in court.



U.S. Public Lands in Oregon: Story, Law & Policy



**For more information, visit
www.bark-out.org or call us at
503-331-0374**

*Bark's Radicle Guide to
understanding the legal and
political history that shapes
Federal Forest management*



LEGAL ALPHABET SOUP

United States Code (USC): Where federal laws/statutes live.

Code of Federal Regulations (CFR) Where federal regulations, providing details on how to implement statutes, live.

Northwest Forest Plan (NFP): Adopted in 1994, this is the overarching planning document for forests in the range of the Northern Spotted Owl. The main components are different land designations, the Aquatic Conservation Strategy, and the Survey and Manage requirements for sensitive plants and wildlife.

National Environmental Policy Act (NEPA): 42 USC §4332. Procedural statute that directs federal agencies undertaking “major federal actions” to analyze the impacts of these actions, and make them available for public review & comment.

National Forest Management Act (NFMA): 16 USC §1600; 36 CFR §219. This is the governing substantive statute for Forest Service land. It requires every national forest to have a management plan, called a Land and Resource Management Plan (LRMP).

Federal Land Protection and Management Act (FLPMA): 43 USC §1701; 43 CFR §3809. This is the governing substantive statute for managing for BLM land. It also requires a management plan, called a Resource Management Plan (RMP) for all BLM Districts.

Freedom of Information Act (FOIA): CFR differ for each agency: Forest Service: 36 CFR Sec. 215; BLM: 43 CFR Sub. A, Sec. 2. This law is great! It gets you more information out of the agencies than they provide in their public documents. This is a good way to get specialists reports, maps, aerial photos, internal email, etc.

Clean Water Act (CWA): 33 USC §1251. Protects water quality from point source pollution, which unfortunately doesn't apply to logging roads. Sets standards for temperature, sediment, etc., for all rivers.

Endangered Species Act (ESA): 16 USC §1531. The government must not “take” a threatened or endangered species (primarily spotted owls and salmon in these forests) without consulting with the U.S. Fish & Wildlife Service and/or National Marine Fisheries Service.

...to exploitation.

Soon after the USFS was created, Oregon Senator Charles Fulton introduced legislation that would eliminate the President's authority to establish national forests in Washington, Oregon, Idaho, Montana, Wyoming, and Colorado. Only Congress could establish forest reserves in those states. The bill also changed the Forest Reserves into National Forests to make clear that forests were to be used, not preserved.



After the transfer of federal forests to the U.S. Forest Service in 1905 the Bull Run Forest Reserve became the Bull Run National Forest. On July 1, 1908, it was combined with part of Cascade National Forest to establish the Oregon National Forest, and on January 21, 1924 the Oregon Forest was renamed Mount Hood National Forest.

In 1946, the General Land Office merged with the Taylor Grazing Service to become the Bureau of Land Management (BLM). All land the GLO had not transferred to private ownership became managed by the BLM.

In 1960, Congress passed the Multiple Use Sustained Yield Act, directing the National Forests to manage the land for a sustained yield of timber, range, water, recreation and wildlife. In 1994, the Northwest Forest Plan brought the BLM and the Forest Service under the same guidelines.

53% of Oregon is federally managed public land:

- BLM: 15.7 million acres
- Forest Service: 15.6 million acres

Of Oregon's 28 million acres of forest, 60% is on federally managed land

The first attempt to use the law in Oregon was by the City of Portland. In the early 1890s, Henry Failing, chair of the Portland Water Commission, asked that a forest reserve be created around the new municipal watershed. The Bull Run Forest Reserve, covering 142,080 acres, was established by presidential proclamation on June 17, 1892. It was the first forest reserve in Oregon.



The Cascade Range Forest Reserve was created on September 28, 1893, and was managed by the General Land Office. Encompassing 4,492,800 acres and running 235 miles down the Cascade Crest, the Cascade Range Forest Reserve was the nation's largest forest reserve.

With this conservation movement came petitions to dismantle the reserve in 1895-1896. The protests came from sheep owners in north-central Oregon, a few homesteaders in or near the reserve, and miners in the Bohemia Mining District. The entire Oregon congressional delegation was ready to eliminate or severely reduce the Cascade Range Forest Reserve but buckled to pressure from the fledgling conservation movement to keep the reserve intact.

Congress transferred all forest reserves and their management to the Department of Agriculture on February 1, 1905, where they were managed by Gifford Pinchot, head of the newly created U.S. Forest Service. The United States Forest Service (USFS) was created on July 1 1905 by changing the name from the Bureau of Forestry.

<http://www.hcn.org/articles/fairy-tales-about-the-west-are-fueling-public-lands-conflict> addresses history's effect on current public lands politics

This land is your land, this land is my land . . .

At Bark, we often claim Mt. Hood National Forest as “*our* public land,” a term used to indicate our connection to the forest and our feeling of responsibility for how it is managed. However, implicit in this statement is an assertion that lands managed by the federal government are “ours” – with the majority of “us” being people of European descent, the literal and figurative children of the Oregon pioneers.

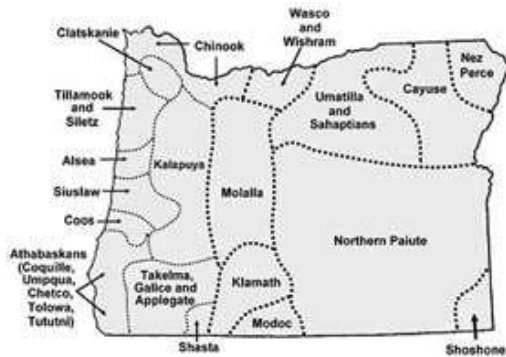
There is another framing that acknowledges that “our” National Forests are made possible because of an intentional government policy of forced removal and genocide of the people native to this region.

To help shift the narrative around land, ownership, and colonization, here is a brief history of the land Bark now calls Mt. Hood National Forest.

From theft and genocide . . .

To encourage European settlement in Oregon, the U.S. Congress passed the Oregon Donation Lands Act in 1850, granting 320 acres free of charge to every unmarried male citizen of European descent eighteen or older, and 640 acres to every married couple, arriving in the Oregon Territory before December 1, 1850.

However, Oregon was already densely inhabited by indigenous peoples, so Congress acted to extinguish indigenous title to the land, as the “first prerequisite step” to giving Oregon land away. *Before* Congress voted for the Donation Lands Act in 1850, it passed legislation authorizing commissioners to negotiate treaties to extinguish Indian title and to remove tribes “and leave the whole of the most desirable portion open to white settlers.”



For Native peoples in Oregon's three major western valleys (Willamette, Umpqua and Rogue), the Donation Lands Act was a massive disruption, resulting in their relocation to the Siletz and Grand Ronde reservations.

These two reservations were established by the executive order of the U.S. President and were not subject to treaty stipulations. The architect of the coastal reservations was Oregon Superintendent of Indian Affairs, Joel Palmer. He justified the reserves by arguing that they were isolated and away from the Willamette Valley, inaccessible by sea, and lacked agricultural potential.

Acting on his orders to clear tribes from their lands, in 1855, Joel Palmer also negotiated a treaty that established the Warm Springs Reservation. Under the treaty, the Wasco, Walla Walla and Paiute tribes (who lived north and east of Wy'East, now known as Mt. Hood), relinquished approximately ten million acres of land, but reserved the Warm Springs Reservation for their exclusive use. This reservation now borders much of southeastern Mt. Hood National Forest.

. . . to privatization

After Indian title was extinguished, and the lands were surveyed, the U.S government could issue a final certificate that authorized issuance of a land patent to a settler of European descent. **7,437** land patents were issued under the Donation Land Claims Act, primarily for the desirable lower elevation agricultural land.

The General Land Office (GLO), which became part of the new Department of the Interior in 1849, administered this land giveaway.

Oregon and Washington Land Offices began with the Oregon City Land Office, which operated from 1855 to 1905.



. . . to protection

Beginning in the late nineteenth century, federal public land policy began to shift from disposal to retention of the lands still in federal ownership. The President, Secretary of the Interior, and Congress all used their authority to withdraw and reserve lands for public and national security purposes and for the protection of natural resources.



Riding the wave of a growing "conservation" awareness, on February 1, 1886, Pres. Grover Cleveland, suspended homesteading in ten townships around Crater Lake and north to the Diamond Lake area. It was the first withdrawal of public land in Oregon for scenic or forestry purposes. Congress would establish Crater Lake National Park in 1902.

In early 1891, Congress reconsidered provisions in the nation's land laws, with legislation that allowed the president to establish forest reserves. The act, signed on March 3, 1891, was later referred to as the Creative Act or the Forest Reserve Act.