



MEETING AGENDA

CLALLAM COUNTY REVENUE ADVISORY COMMITTEE

**223 East 4th Street, Room 160
Port Angeles, Washington
November 18, 2024 – 2 p.m.**

Revenue Advisory Committee meetings will be available virtually at:

If you would like to participate in the meeting via Zoom audio only, call 253-215-8782 and use meeting ID: 875 561 7844 and passcode: 12345

If you would like to participate in the meeting via Zoom video conference, visit <https://zoom.us/j/8755617844> and use meeting ID: 875 561 7844 and passcode: 12345

This meeting can be viewed on a live stream at this link: <https://clallamcountywa.gov/meetings>

Public comment and questions can be directed to the Clerk of the Board at 360-417-2256 or loni.gores@clallamcountywa.gov

- I. CALL TO ORDER, ROLL CALL**
- II. REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA**
- III. APPROVAL OF MINUTES FOR THE MEETINGS ON: October 30, 2024**
- IV. PUBLIC COMMENT (total of 20 minutes)**
- V. BUSINESS ITEMS**
 - a. DNR quarterly report follow-up discussion
 - b. Arrearage discussion - DNR
 - c. Letter to the BNR regarding December timber sales – Connie Beauvais
 - d. Secure Rural Schools Title III Funding – Diane Harvey, Clallam County
 - e. Encumbered lands – Connie Beauvais and Commissioner Johnson
 - f. Legal discussion regarding trust lands – Connie Beauvais
- VI. OLD BUSINESS**
- VII. NEW BUSINESS**
- VIII. FUTURES AGENDA ITEMS**
- IX. PUBLIC COMMENT (total of 20 minutes)**
- X. NEXT MEETING DATE**
- XI. ADJOURNMENT**

Revenue Advisory Committee

Draft Minutes October 30, 2024



CLALLAM COUNTY REVENUE ADVISORY COMMITTEE MINUTES OF OCTOBER 30, 2024

MEETING OF THE REVENUE ADVISORY COMMITTEE (RAC)

Chair Connie Beauvais called the meeting to order at 1 p.m., October 30, 2024. Also present were Commissioner Johnson, Marty Brewer, Noah Glaude, Michael Mingee, Ben Pacheco, Gregory Bellamy, John Nutter, Ryan Amiot, David Bingham, Sandra Lyons, Scott Horton, Dan Huff, Diana Reaume, Regan Nickels, and Drew Rosanbalm. Steve Burke, Janine Ledford, and Davis Gedlund were absent.

APPROVAL OF AGENDA

Beauvais requested to move agenda item e to the top of the agenda.

ACTION TAKEN: Johnson moved to adopt the agenda as modified, Brewer seconded, mc

APPROVAL OF MINUTES

- August 19, 2024

ACTION TAKEN: Pacheco moved to approve, Mingee seconded, mc

PUBLIC COMMENT

- Ed Bowen, Clallam Bay, commented on Cape Flattery School District, Department of Natural Resources correspondences
- John Worthington, Sequim, commented on the Comprehensive Plan, North Olympic Development Council, grants, Tribes

BUSINESS ITEMS

e. Forestlands in Clallam County – Connie Beauvais

Beauvais provided a report on forestlands in Clallam County. RAC Members held discussion.

a. Presentation – Duane Emmons, Department of Natural Resources

Duane Emmons, Department of Natural Resources provided report. RAC Members held discussion.

b. Timber Sales – Department of Natural Resources

David Hurn, Department of Natural Resources provided an update regarding timber sales. RAC Members held discussion.

Beauvais read a draft letter to Board of Natural Resources regarding Clallam County trust lands timber sales – Parched, Tree Well, and Alley Cat into the record (see attached).

ACTION TAKEN: Huff moved to approve the letter to DNR, Reaume seconded, mc

c. Legality of the County Forest Board Land Trusts – Jim Buck

Jim Buck provided a presentation on legality of the County forest board land trusts. RAC Members held discussion.

d. PILT Funds Discussion

Commissioner Johnson provided a report on PILT Funds. RAC Members held discussion.

FUTURE AGENDA ITEMS

- DNR Report
- Arrearage discussion
- Letter to Board of Natural Resources regarding December timber sales
- Secure Rural Schools Title III funding

CLALLAM COUNTY REVENUE ADVISORY BOARD
MINUTES of October 30, 2024
Page 2

- Encumbered lands
- Legal discussion regarding trust lands

PUBLIC COMMENT

- Ed Bowen, Clallam Bay, commented on Mary Clark Road park, opposed to unified trust
- John Worthington, Sequim, commented on forest, products, tax,

NEXT MEETING

- Monday, November 18, 2024 at 2 p.m.

ADJOURNMENT - The meeting concluded at 3:45 p.m.

DRAFT



Clallam County Revenue Advisory Committee

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015
360.417.2256 Fax: 360.417.2493
Email: loni.gores@clallamcountywa.gov

October 30, 2024

WA Board of Natural Resources

RE: Clallam County Trust Land Timber Sales - Parched, Tree Well, Alley Cat

Dear Board Members:

On behalf of the Clallam County Revenue Advisory Committee, composed of county-wide and junior taxing district representatives and non-voting DNR staff, this letter is sent **in support** of the above-named timber sales before you for approval at the November 2024 Board of Natural Resources meeting. These three sales had been paused by DNR.

Based on DNR estimates, these three sales are expected to bring the following revenue to the listed taxing districts:

Clallam County Roads	\$ 334,392
Port Angeles School District	1,207,618
Port of Port Angeles	47,479
Conservation Futures	7,660
Clallam County	331,228
Fire District #2	359,622
North Olympic Library System	126,148
Hospital District #2	136,493
William Shore Memorial Pool	138,397

These dollars are vitally important to each of these taxing districts, and each of them have a story to tell about how the dollars will be used.

As a reminder, 88,000+ Clallam County acres were conveyed by deed to the State during the 1930's, 40's and 50's, to be managed for forest management and logging by the State Forest Board (now the Board of Natural Resources). After set asides for old growth, the spotted owl, the marbled murrelet, steep and unstable slopes, riparian dependent species, and habitat for future endangered species, the beneficiaries were given surety that no further acres would be set aside for the duration of the habitat conservation plan. Over fifty percent of Clallam County trust lands have been set aside. Of the remaining acres, the 491 acres comprising these three timber sales equals approximately 1% of the total timberland acres available for harvest.

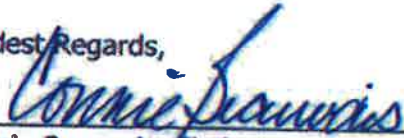
j:\public\22 committees and organizations\revenue advisory committee rac\correspondences\2024\rac timber sales parched tree well alley cat 10-30-24.docx

These stands are second or third growth and they are now prime timber acres to be harvested for the beneficiaries. This is exactly what was planned for timberland management under a sustained harvest regime.

DNR staff are to be complimented for their diligence in setting up these sales. They marked large trees not to be cut, set side groups of trees through the units, and are certain that water quality in the Elwha River will not be adversely affected by the harvests.

We ask that these sales be approved as presented and without further delay.

Kindest Regards,



Connie Beauvais, Chair
Clallam County Revenue Advisory Committee (RAC)

cc: Representative Mike Chapman
Representative Steve Tharinger

**REVENUE ADVISORY COMMITTEE PUBLIC COMMENT SIGN-UP SHEET
(1ST SESSION)**

General Public Comment – October 30, 2024 – 1st Session

I declare under penalty of perjury under the laws of the State of Washington that any testimony that I give is true and accurate. Please print name and address clearly.

Nº	PRINTED NAME	SIGNATURE	ADDRESS
1	Ed Bowen		POB 111 CB
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**REVENUE ADVISORY COMMITTEE PUBLIC COMMENT SIGN-UP SHEET
(1ST SESSION)**

General Public Comment – October 30, 2024 – 2nd Session

I declare under penalty of perjury under the laws of the State of Washington that any testimony that I give is true and accurate. Please print name and address clearly.

No	PRINTED NAME	SIGNATURE	ADDRESS
1	Ed Bowen	Ed Bowen	POB 111 CB
2	John Buck		
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Correspondence

CLALLAM 2 FIRE-RESCUE

P.O. Box 1391, Port Angeles, WA 98362 • 360-457-2550 • www.clallamfire2.org

Jake Patterson
Fire Chief

Keith Cortner
Commissioner

Steve Hopf
Commissioner

Dan Huff
Commissioner

October 30th, 2024

Chair Connie Beauvais
Clallam County Revenue Advisory Committee
223 East 4th Street
Port Angeles, WA 98362

RE: Proposal for PILT revenue sharing

Chair Beauvais,

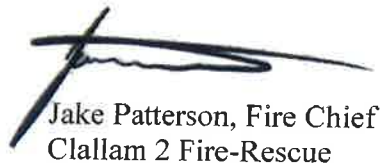
On behalf of the Clallam 2 Fire-Rescue Fire Commissioners, we would like to present a proposal to the Revenue Advisory Committee to consider the distribution of funding received by Clallam County from the Department of Interior in the form of Payment in Lieu of Taxes (PILT). This funding is meant to offset the loss of taxable property mainly due to the boundaries of Olympic National Park. In turn, the PILT funding is designed to assist local agencies in providing vital government services either directly, or indirectly to Olympic National Park.

Clallam 2 Fire-Rescue provides fire and emergency medical services to several areas within Olympic National Park, but does not receive any of the PILT funding allocated each year to Clallam County. The attached proposal provides a brief overview of the services provided and impact of providing those services has on the fire district.

We believe that PILT funding should be proportionately distributed to local agencies, including junior taxing districts, who provide vital services to Olympic National Park and the millions of visitors who come through Clallam County each year.

This proposal is intended to generate discussion and become a starting point for establishing a framework where Department of Interior PILT payments reach all of the impacted agencies and jurisdictions.

Thank you,



Jake Patterson, Fire Chief
Clallam 2 Fire-Rescue

Executive Summary

Clallam County is home to a large portion of Olympic National Park which generates millions of visitors each year. This has a tremendous positive impact on the local economy, while at the same time it does generate a strain on local government entities to provide essential government services. In an effort to offset some of those impacts, the Department of Interior, which manages the National Park system, provides funding in the form of Payment in Lieu of Taxes (PILT).

Over the last several decades, Clallam County has received millions of dollars in PILT funding, however some of the cost of vital government services that this funding is intended to offset, are not being provided by Clallam County. Clallam 2 Fire-Rescue provides fire and emergency medical services to several, highly visited areas of Olympic National Park but does not received any of the PILT funding dedicated to Clallam County. These areas are located at Deer Park, Hurricane Ridge, Elwha, Lake Crescent, and Sol Duc.

As one of the agencies providing government services to several areas of Olympic National Park, Clallam 2 Fire-Rescue is requesting the Clallam County Revenue Advisor Committee and Clallam County Board of Commissioners consider a revenue sharing agreement for PILT funding. The purpose of this revenue sharing agreement would be to ensure there is an equitable distribution of funding to support all agencies who are impacted by providing services directly, or indirectly to Olympic National Park.

Background

Clallam 2 Fire-Rescue (Fire District) provides fire suppression, technical rescue, and emergency medical services to several areas within Olympic National Park (ONP). This includes the Deer Park, Hurricane Ridge, Elwha, Lake Crescent, and Sol Duc regions of the Park. This is due primarily to the proximity of the Fire District to these areas, and a response agreement which is in place between ONP and Clallam 2 Fire-Rescue to provide those services as the closest emergency response agency.

The services provided by Clallam 2 Fire-Rescue include;

Structural Fire Suppression

ONP does not have any structural fire suppression program and the Fire District provides structural fire response and suppression to the previously designated areas within ONP. This includes not only response to actual fires, but also other emergency responses such as fire alarms, power lines down, vehicle fires, smoke investigations, and other various types of fire emergencies.

Wildland Fire Suppression

While ONP does have a wildland fire program, typically the Fire District is called as the first response agency to provide initial attack on fires within ONP that are accessible by roads. Often Fire District crews spend several hours on a wildland fire before operations are transferred over to ONP personnel.

Technical Rescues

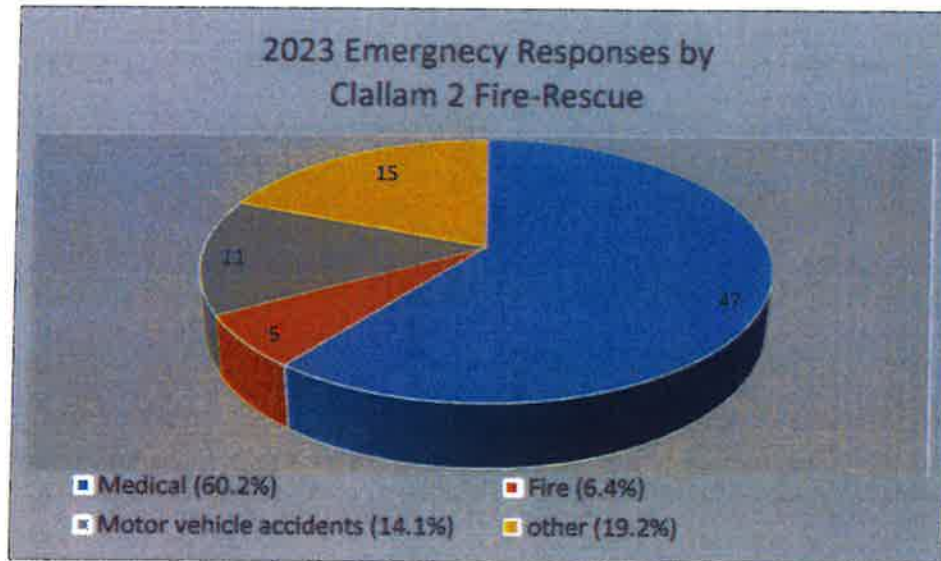
A few times a year, crews from the Fire District are called either to perform, or assist with technical rescues within ONP. The most frequent types of technical rescues involve high-angle/rope rescue operations. Fire District crews have performed these types of rescues along the Hurricane Ridge roadway, usually after a motor vehicle accident. The Fire District's technical rescue team has also been involved in several successful rescues of persons who have fallen over Sol Duc falls. The Fire District also has performed "pack-outs" from various trails and roadways in ONP.

Emergency Medical Services

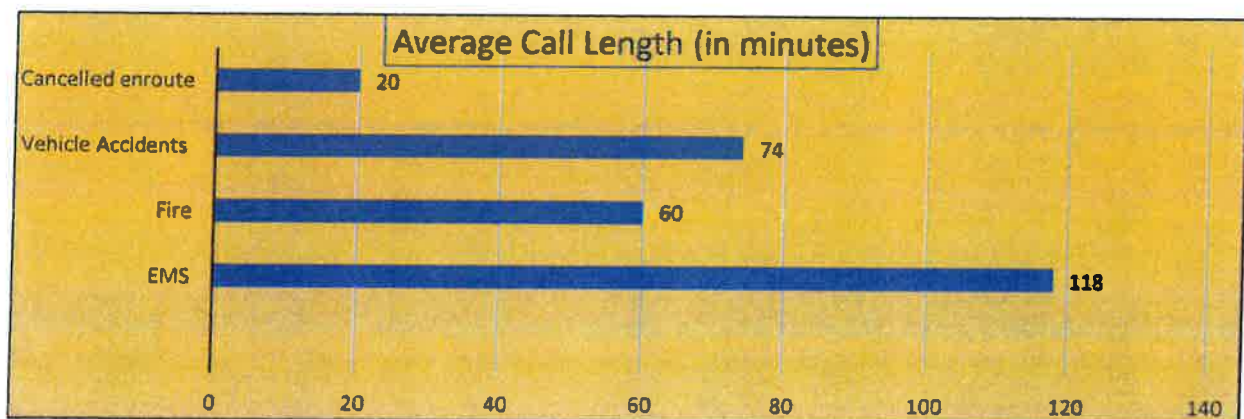
The Fire District provides both basic and advanced life support EMS response and transport for the designated areas within ONP. This includes responses to all types of medical emergencies, both near roadways and sometimes several miles up a trail. The Fire District and ONP crews work together to deliver the best patient care possible and transport either ground or air to the appropriate receiving hospital. This also includes motor vehicle accidents along several miles of roadways within ONP.

Emergency Response Statistics

In 2023 the Fire District responded to a total of 78 emergency call for assistance within Olympic National Park. This represents all EMS, fire, and rescue responses. Over 60% of the responses were for emergency medical services and rescues.



The 78 emergency responses represent 3.9% of the total annual call volume for the fire district in 2023, however these calls often have a disproportionate impact because of the remote nature of the incidents and length of time dedicated to the incident. The response, on-scene, and transport times often are over 2 hours in length. The average EMS call into ONP is 1 hour and 58 minutes. Vehicle accidents average 1 hour and 14 minutes and fire calls are typically 1 hour long. Even calls that are cancelled while units are still responding are 20 minutes in length. This takes Fire District units out of position and often leave the Fire District with limited resources while crews respond to emergency within ONP.



In 2022 the Fire District had 51 emergency responses into ONP and as of September 30th, 2024 the Fire District has responded to 47 emergencies within ONP. The summer months tend to be the busiest months with June, July, August, and September accounting for over 65% of the annual emergency responses into ONP. This is also the busiest time for regular Fire District responses which compounds the impact of providing services to ONP.

Payment in Lieu of Taxes

Clallam County receives Payments in Lieu of Taxes (PILT) funds which are Federal payments that help local governments offset losses in property taxes due to the existence of nontaxable Federal lands within their boundaries. The law recognizes the financial impact of the inability of local governments to collect property taxes on federally owned land.

PILT payments are made annually for tax-exempt Federal lands administered by Department of the Interior agencies, including the National Park Service. PILT payments are one of the ways the Federal Government can fulfill its role of being a good neighbor to local communities.

The following describes the purpose for these PILT payments;

The Department of Interior website describes the purpose of PILT payments as a way to "...help local governments carry out such vital services as **firefighting** and police protection, construction of public schools and roads, and **search-and-rescue operations**."

The National Association of Counties states that "PILT payments are necessary to support essential local government services such as education, **emergency services**, transportation infrastructure, law enforcement and **health care** in over 1,900 counties in 49 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands."

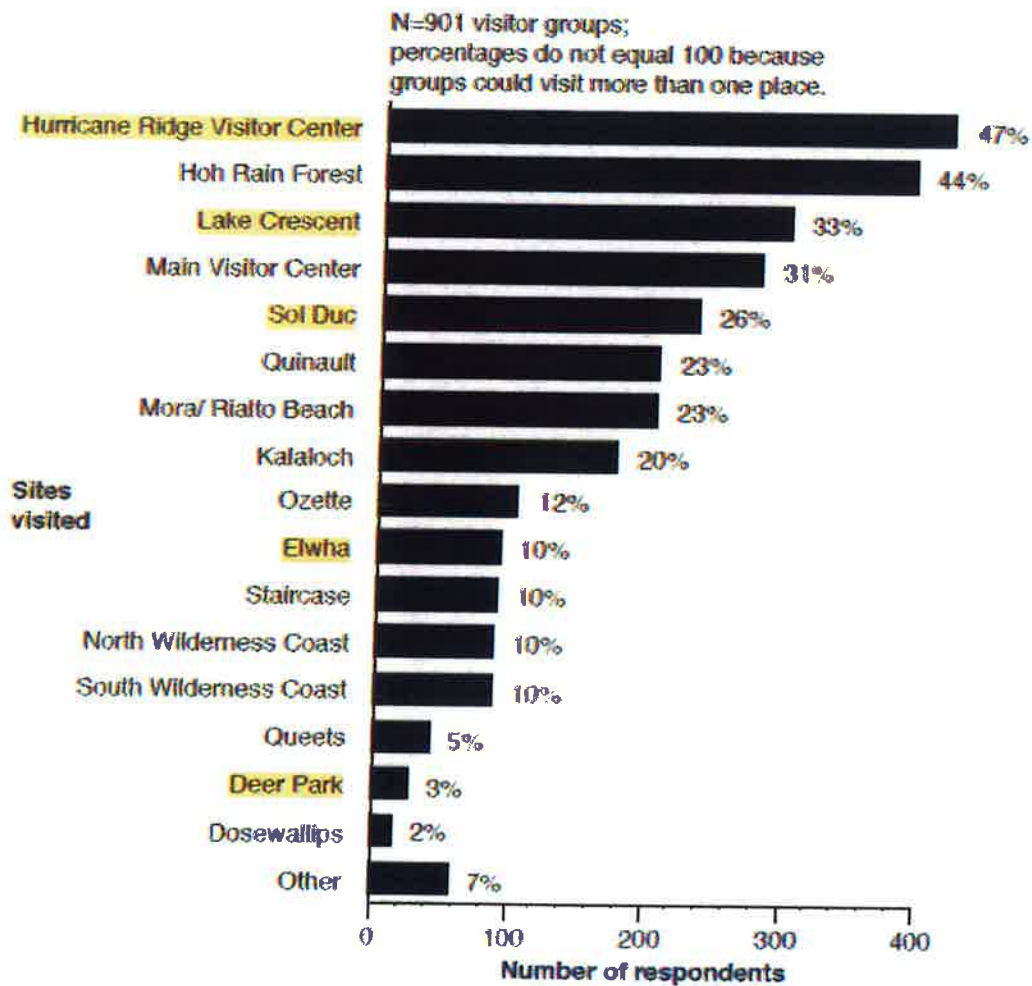
In a press release issued by Congressman Derek Kilmer on June 25, 2021 he states "The Payments in Lieu of Taxes program supports critical local services in rural communities across our region – including essential community **public health programs**, job-creating infrastructure, and **firefighting**,"

Clallam County has been the recipient of PILT funds from the Department of Interior for decades. Over the past 10 years Clallam County has received the following annual PILT payments;

2024	\$1,346,072.00
2023	\$1,236,499.00
2022	\$1,225,189.00
2021	\$1,155,238.00
2020	\$1,101,485.00
2019	\$1,043,662.00
2018	\$1,368,211.00
2017	\$978,411.00
2016	\$969,665.00
2015	\$913,951.00

10-Year total \$11,338,383.00

A study conducted by Olympic National Park in 2020 shows Hurricane Ridge, Lake Crescent and Sol Duc as some of the most visited areas of the park.



The Fire District provides emergency services to these highly visited areas of ONP. As noted, the purpose of PILT funding is to offset or address the impacts that areas such as ONP have on local agencies which provide essential government services.

Proposal

Clallam 2 Fire-Rescue would like to propose to the Revenue Advisor Committee and Clallam County Board of Commissioners, the development a revenue sharing agreement to offset some of the impact of providing services to ONP. To date, the Fire District has not received any portion of the PILT funding which is designed to reduce the burden on smaller, local agencies that are providing services either directly, or indirectly to ONP.

The Fire District understands that PILT funding must be appropriated each year by the Federal government and is not a guarantee. However, history shows that this has been a reliable and consistent source of revenue to Clallam County. Keeping this in mind, the Fire District recognizes that if no PILT funding is received from the Department of Interior, any revenue sharing agreement would not be implemented for the impacted year(s).

As part of a revenue sharing agreement, the amount would be negotiated between the Fire District and Clallam County using data that shows the impact of providing these services to ONP has on Fire District operations.

Conclusion

The Fire District believes that the purpose and intent of the PILT money received from the Department of Interior should benefit the agencies tasked with providing vital services. It is understood that Clallam County does provide many of those services and would receive the bulk of the annual PILT payments. Other other agencies that are not part of County government, who are impacted by ONP and also provide services, should receive an appropriate amount to offset those impacts.

The fire service will always continue to strive and ensure that the local communities and region are a safe place to live and visit. This includes both our permanent residents, and those who choose to visit our area. As one of the premier destinations within the National Park Service, Olympic National Park contributes to millions of visitors each year to the region. A National Park Service report shows that 2,947,503 visitors came to Olympic National Park in 2023. A large portion of those to areas receive emergency services from Clallam 2 Fire-Rescue. This revenue sharing proposal is intended to offset the impact of providing those services to Olympic National Park that are currently being funded primarily by local taxpayers.

Revenue Advisory Committee

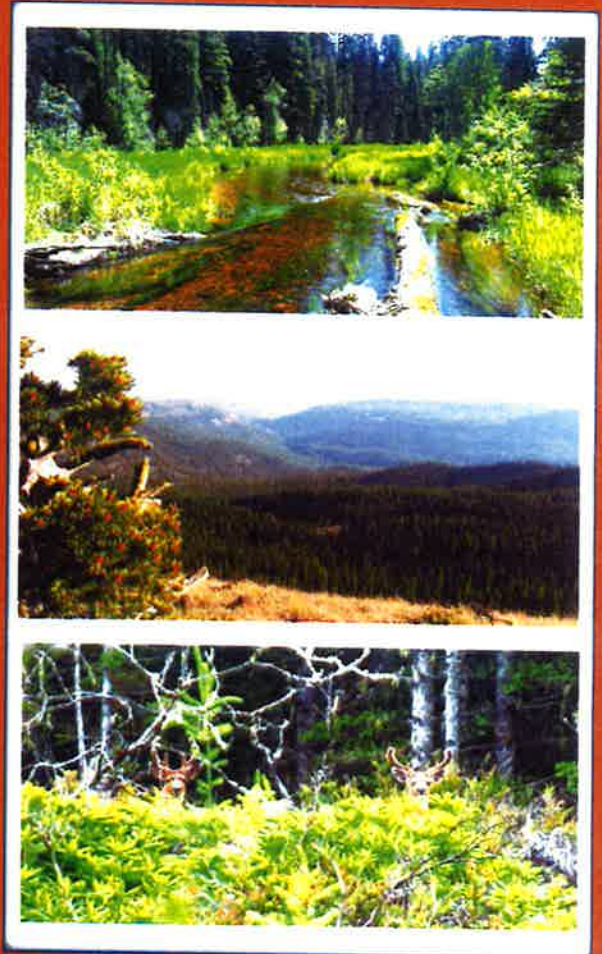
Business Items

b. Arrearage discussion



Overview

1. Statutory Authority for Arrearage
2. 2019 BNR Policy on Arrearage
3. Westside Arrearage
4. Resolution 1643



WASHINGTON STATE DEPARTMENT OF
NATURAL RESOURCES

Board of Natural Resources, October 1, 2024

dnr.wa.gov

Statutory Authority

RCW 79.10.300(1): "Arrearage" means the summation of the annual sustainable harvest timber volume since July 1, 1979, less the sum of state timber sales contract default volume and the state timber sales volume deficit since July 1, 1979.



Statutory Authority

RCW 79.10.330: If an arrearage exists at the end of any planning decade, the department shall conduct an analysis of alternatives to determine the course of action regarding the arrearage which provides the greatest return to the trusts based upon economic conditions then existing and forecast, as well as impacts on the environment of harvesting the additional timber. The department shall offer for sale the arrearage in addition to the sustainable harvest level adopted by the board of natural resources for the next planning decade if the analysis determined doing so will provide the greatest return to the trusts.



2019 BNR Policy on Arrearage

"Before the Board of Natural Resources approves a decadal sustainable harvest level, the department will determine whether an arrearage exists for the prior decade. A decadal arrearage exists if the actual timber volume sold and not defaulted for the decade is less than the sustainable harvest level for that decade.



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5
Board of Natural Resources, October 1, 2024

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2019 BNR Policy on Arrearage

If a decadal arrearage exists, the department will conduct an analysis. The analysis should:

- **Determine how much of the shortfall in volume is actually available for sale.**
- **Identify the shortfall volume available for sale by the sustainable harvest units used in the sustainable harvest calculation.**
- **Consider the economic and environmental impacts of alternative courses of action to address sale of the additional timber in the following decade.**



2019 BNR Policy on Arrearage

The Board of Natural Resources will consider the analysis and adopt a course of action to address the decadal arrearage that is in the best interest of the trusts."



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NATURAL RESOURCES

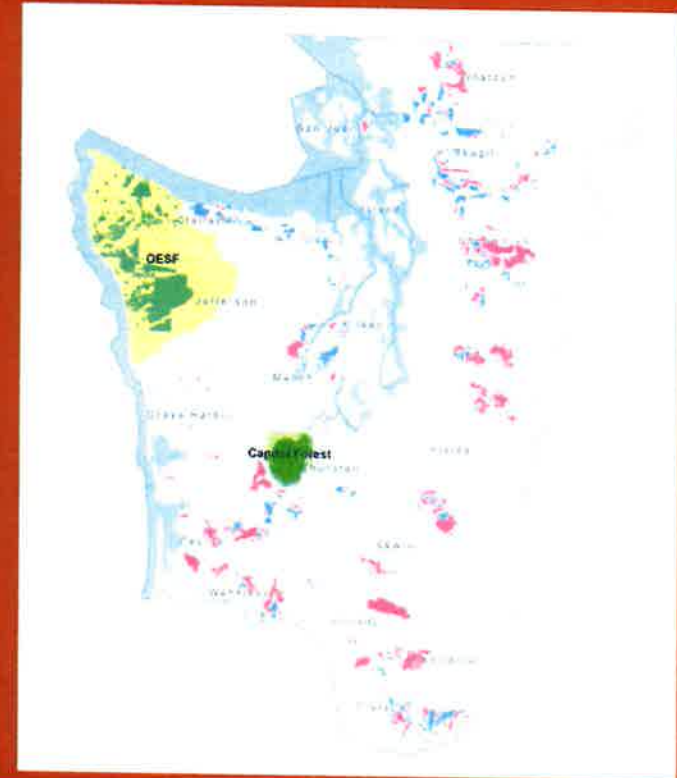
Board of Natural Resources, October 1, 2024

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Westside Arrearage

In western Washington, the Policy for Sustainable Forests defines 20 sustainable harvest units:

- OESF
- Capitol Forest
- 17 Counties
- Federal Trusts & State Forest Purchase

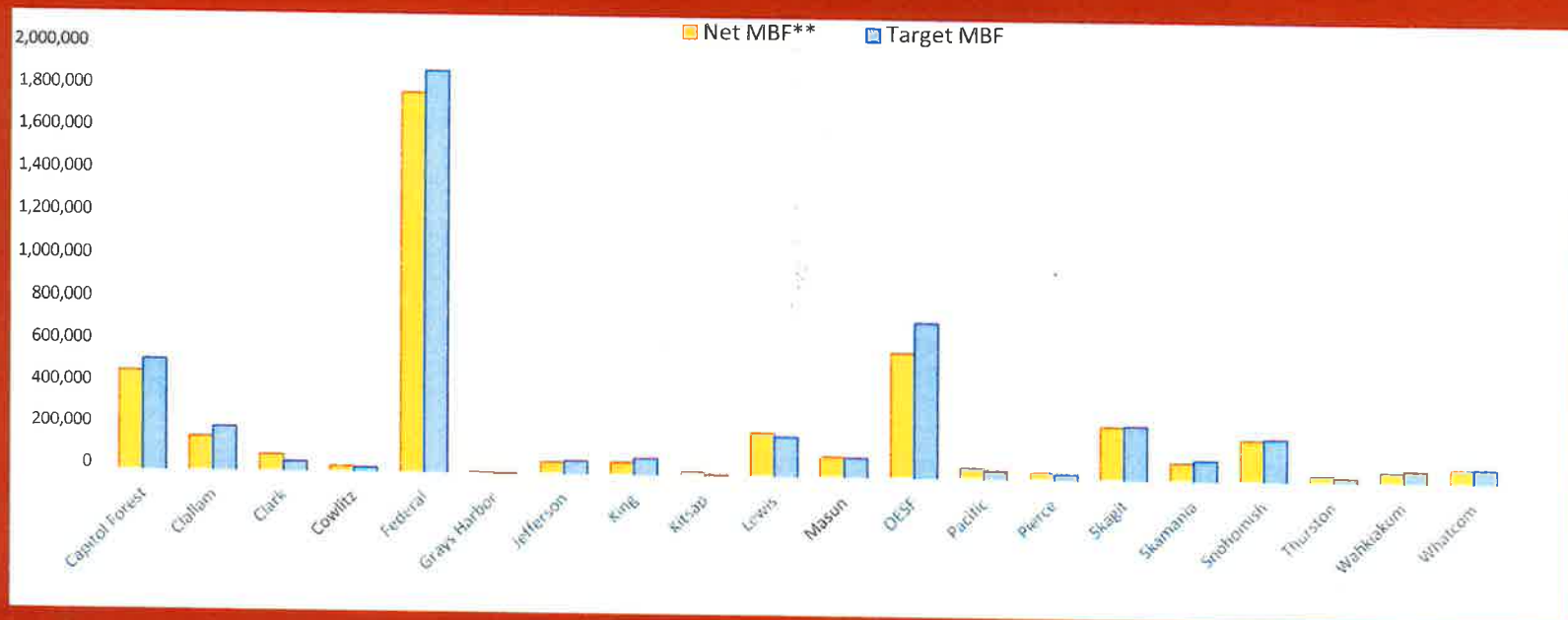


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Board of Natural Resources, October 1, 2024

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Westside Sustainable Harvest Unit Performance



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Board of Natural Resources, October 1, 2024

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Sustainable Harvest Unit	MBF*	Riparian MBF	Net MBF**	Target MBF	Delta MBF	Arrearage
Capitol Forest	472,552	1,427	471,125	529,249	-58,124	-58,124
Clallam	162,496	1,204	161,292	209,659	-48,367	-48,367
Clark	78,454	364	78,090	47,879	30,211	
Cowlitz	25,418	25	25,393	23,321	2,072	
Federal	1,798,033	27,964	1,770,069	1,876,138	-106,069	-106,069
Grays Harbor	5,169	0	5,169	4,679	490	
Jefferson	54,894	423	54,471	65,220	-10,749	-10,749
King	57,666	1,817	55,849	79,981	-24,132	-24,132
Kitsap	16,983	0	16,983	11,935	5,048	
Lewis	203,080	1,128	201,953	191,136	10,817	
Mason	95,414	267	95,148	95,046	102	
OESF	602,042	12,144	589,898	738,686	-148,788	-148,788
Pacific	48,622	116	48,506	40,812	7,694	
Pierce	31,876	1,188	30,688	28,823	1,865	
Skagit	253,933	4,506	249,427	258,680	-9,253	-9,253
Skamania	83,570	42	83,528	100,777	-17,249	-17,249
Snohomish	198,746	3,803	194,943	202,653	-7,710	-7,710
Thurston	30,226	0	30,226	23,349	6,877	
Wahkiakum	47,692	106	47,586	58,996	-11,410	-11,410
Whatcom	64,691	1,480	63,211	66,666	-3,455	-3,455
Total MBF	4,331,557	58,004	4,273,553	4,653,685	-380,132	-445,306

Sustainable Harvest
Volume

subtract

~~Defaulted Contract
Volume~~

subtract

Sold Sale
Volume

IF < 0 THEN

Arrearage



WASHINGTON STATE DEPARTMENT OF
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10
Board of Natural Resources, October 1, 2024

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The Why Behind Arrearage

- **OESF (-149 MMBF): 1-1 rule from 2006 SHC settlement agreement; staffing in Coast District**
- **Capital Forest (-58 MMBF); Clallam, Jefferson, King, Snohomish, Whatcom (-93 MMBF): litigation, older forests, 2,000 acre project, carbon project**
- **Skamania, Wahkiakum (-28 MMBF): 2019 final decision on the Marbled Murrelet**





Revenue Advisory Committee

Business Items

c. Letter to the BNR



Clallam County Revenue Advisory Committee

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015
360.417.2256 Fax: 360.417.2493
Email: loni.gores@clallamcountywa.gov

November 14, 2024

WA Board of Natural Resources

RE: Clallam County Trust Land Timber Sales – Dungeness and Dragons, Bread and Butter

Dear Board Members:

On behalf of the Clallam County Revenue Advisory Committee, composed of county-wide and junior taxing district representatives and non-voting DNR staff, this letter is sent **in support** of the above-named timber sales before you for approval at the December 2024 Board of Natural Resources meeting.

Based on DNR estimates, these two sales are expected to bring the following revenue to the listed taxing districts:

Bread and Butter

Clallam County General Fund	\$ 108,536
Clallam County Roads	113,963
Development Disabilities	2,852
Veterans Relief	1,283
Land Assessment	214
121 School District	216,769
Crescent School District	69,819
Port of Port Angeles	16,181
Conservation Futures	2610
Fire District #2	83,524
Fire District #4	62,274
William Shore Memorial Pool	24,842
Hospital District #2	46,518

Estimated total revenue for the County's taxing districts is \$792,380

These dollars are vitally important to each of these taxing districts.

262 acres were evaluated in composing this sale. 190 acres will be harvested; 72 acres are set aside for riparian management zones, wetlands and wetland management, and right of ways.

Dungeness and Dragons

Clallam County General Fund	\$ 21,405
Clallam County Roads	22,580
Development Disabilities	565
Veterans Relief	254
Land Assessment	42
School District	37,756
Port of Port Angeles	3,206
Conservation Futures	517
Fire District #3	42,768
North Olympic Library System	8,518
Hospital District #2	9,217

Estimated total revenue for the County's taxing districts is \$144,939.61

These dollars are vitally important to each of these taxing districts, and each of them have a story to tell about how the dollars will be used.

Of the 250 acres evaluated for this project only 69 acres will be harvested. 35.5 acres will be set aside for riparian management zones, and right of ways. **139 acres of newly-designated old growth will also be set aside.**

As a reminder, 88,000+ Clallam County acres were conveyed by deed to the State during the 1930's, 40's and 50's, to be managed for forest management and logging by the State Forest Board (now the Board of Natural Resources). After set asides for old growth, the spotted owl, the marbled murrelet, steep and unstable slopes, riparian dependent species, and habitat for future endangered species, the beneficiaries were given surety that no further acres would be set aside for the duration of the habitat conservation plan. Over fifty percent of Clallam County trust lands have been set aside. These stands are second or third growth and they are now prime timber acres to be harvested for the beneficiaries. This is exactly what was planned for timberland management under a sustained harvest regime.

It is disappointing that 139 acres in the Dungeness and Dragons acres will be set aside as old growth. Clallam County Lands were conveyed by deed to the State for forest management to benefit the taxing districts. We cannot afford to lose these lands for production. Inasmuch as the Committee believes these lands should have been harvested before they reached old growth state, we ask that the County and taxing districts be compensated for the value of the standing timber and that discussions commence on how our lands will be replaced for forest management.

DNR staff are to be complimented for their diligence in setting up these sales. They marked large trees not to be cut, set side groups of trees through the units, and are certain that water quality in the Elwha River will not be adversely affected by the harvests.

We ask that these sales be approved as presented and without further delay.

Kindest Regards,

Connie Beauvais, Chair
Clallam County Revenue Advisory Committee (RAC)

cc: Representative Mike Chapman
Representative Steve Tharinger

DRAFT

Revenue Advisory Committee

Business Items

d. Secure Rural Schools Title

III Funding – Diane Harvey

DISCUSSION CONCERNING TITLE III OF SECURE RURAL
SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT

Revenue Advisory Committee Meeting
November 18, 2024

SECURE RURAL SCHOOLS ACT

- Use and activities of federal forest lands creates demands upon local governments for services such as fire protection, police cooperation and road maintenance and repair. Under federal law, local governments have historically been compensated for the presence of such federal lands within their borders through a revenue-sharing mechanism.
- In the 1990's, timber sales declined substantially leading to substantially reduced payments to those counties adjacent to federal forest lands. In November 2000, President Clinton signed into law the Secure Rural Schools and Community Self-Determination Act (the SRS Act) which established an optional payment stream to local governments to supplant U.S. Forest Service (FS) and U.S. Bureau of Land Management (BLM) revenue-sharing programs.

WHAT THE SRS ACT COVERS?

Under the SRS Act, payments to local governments are made based on three of the titles in the authorizing law:

- Title I payments are to be used in the same manner as the revenue-sharing payment (for roads and school purposes for the FS, or, for the BLM payment, for any governmental purpose);
- Title II payments are not made to the county but are retained by FS or BLM to be used for projects on the relevant federal lands within the county;
- Title III payments are made to the county, and the funds are to be used for only certain specified purposes.

WHAT CAN TITLE III FUNDS BE USED FOR?

Under Section 7142 of the SRS Act, Title III funds can be used for the following purposes:

- Carry out activities under the Firewise Communities program to provide homeowners in fire-sensitive ecosystems, education on, and assistance with implementing, techniques in home siting, home construction and home landscaping that can increase the protection of people and property from wildfires;
- Reimburse the County/Fire Districts for search and rescue and other emergency services, including firefighting and law enforcement patrols that are (a) performed on Federal land after the date on which the use was approved under [a proposal] and (b) paid for by the county/fire districts;
- Cover training costs and equipment purchases directly related to emergency services;
- Develop and carry out community wildfire protection plans; and
- Provide or expand access to broadband telecommunications service at local schools or the technology and connectivity necessary for students to use a digital learning tool at or outside of a local school campus.

ADMINISTRATIVE PROCESS TO AWARD TITLE III FUNDS

- “A participating county shall use county funds for a use described [under the SRS Act] only after a 45-day public comment period, at the beginning of which the participating county shall (1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and (2) submit the proposal to any [federal] resource advisory committee established under [Title II funding requirements under the SRS Act] for the participating county.”
- SRS Act does not require the County to base its Title III allocations upon a federal Resource Advisory Committee (RAC) recommendation and it does not require the County constitute a local advisory committee to make recommendation to the BOCC concerning Title III project applications. It leaves the allocation decision to the discretion of the Board of County Commissioners to choose which proposals to fund and then requires that notice be made of that selection to the public and any constituted RAC for the duration of the 45-day public comment period. A constituted federal RAC for the Olympic Peninsula exists since September 2022.

ADMINISTRATIVE PROCESS TO AWARD TITLE III FUNDS

- The process by which the BOCC selects the Title III proposals to fund needs to be a similar mechanism by which other federal funds disbursed to the County are allocated. This process involves:
 - (1) Notice to the public that proposals are being sought,
 - (2) BOCC Working Session to tentatively select proposals,
 - (3) Call for hearing scheduling a BOCC public hearing after a 45-day public comment period,
 - (4) Notice of Hearing published in local newspaper and copy submitted to the Olympic Peninsula RAC, and
 - (5) Public Hearing to approve Title III proposals.

CONSIDERATIONS

What would a 2025 schedule look like for awarding Title III Funds?
Assuming local RAC performs initial application review:

- Public Notice of Application Process – Jan 2025
- Applications Accepted – March 2025
- Local RAC Meets to Make Recommendations – April 2025
- BOCC Working Session – May 2025
- Notice of Call for Public Hearing setting 45-day public comment period and notice to federal RAC – late May 2025
- BOCC Public Hearing to determine Title III Awards – August 2025

Revenue Advisory Committee

Business Items

f. legal discussion regarding trust lands

LAWFUL ESTABLISHMENT OF THE CLALLAM COUNTY FOREST BOARD LAND TRUST

In accordance with the provisions of 1935 Session Laws, Chapter 126, amending section 3-b of chapter 288 of the Laws of 1927 and Section 1 of Chapter 117 of the Laws of 1933, Clallam County deeded approximately 88,000 acres of county fee-simple owned land, in trust, to the state to be held in trust.

- Clallam County is the settlor and grantor of the LAND.
- The Legislature is the grantee and trustee of the LAND.
- The State Forest Board (now DNR) is the state designated trust administrator of the TRUST.

LEGISLATIVE INTENT FOR COUNTY FOREST BOARD TRUST LANDS

- Legislature intended county to convey lands “acquired, or which may hereafter be acquired” by a county for any reason “*which by reason of their location, topography or geological formation, are chiefly valuable for purpose of developing and growing timber*” to the SFB.
- Legislature intended that “No forest lands shall be designated, purchased, or acquired by said board unless the area so designated or the area to be acquired shall, in the judgment of the board be of sufficient acreage and so located that it can be economically administered for forest development purposes.”
- Legislature intended that “lands acquired by the state under the provisions of chapter 154, Laws of 1923, or any amendments thereto, shall be logged, protected and cared for in such manner as to insure natural reforestation of such lands,”
- Legislature intended that county lands deeded to the state be “held in trust and administered and protected by the said board under the provisions of chapter 154, Laws of 1923.” The law went into effect on July 1, 1935.
- Legislature intended the timber and other products be sold or leased in the same manner and for the same purposes as is authorized for the federal granted lands.
- Legislature intended the proceeds go to Clallam County to be distributed to the county and junior taxing districts.

TERMS OF THE CLALLAM COUNTY FOREST BOARD TRUST LANDS

The terms of the Clallam County trust ARE the provisions of 1935 Session Laws, Chapter 126, amending section 3-b of chapter 288 of the Laws of 1927 and Section 1 of Chapter 117 of the Laws of 1933.

They are:

- State determines which county forest lands can be used as *"state forest lands."*
- State **DEMANDS** county deed lands to SFB
- Clallam County deeds acceptable forest land to the state to be held in trust.
- Clallam County lands *"shall lands shall become a part of the state forest lands."*

NOTE: BY LAW, "STATE FOREST LAND" MUST BE FEE SIMPLE STATE OWNED LAND PURCHASED BY THE STATE OR GIFTED TO THE STATE. CLALLAM LAND IS HELD IN TRUST.

- State may sell *"timber and other products thereon may be sold in the same manner and for the same purposes as is authorized for the **FEDERAL** granted lands."*
- State to send proceeds to Clallam Count for county and junior taxing districts.
- State forest board administers and protects the lands under the provisions of chapter 154, Laws of 1923.

NOTE: PROVISIONS OF CHAPTER 154, LAWS OF 1923 ARE LIMITED TO *"Said board shall have power to seed, plant and develop forests on any lands, purchased, acquired or designated by it as State Forest Lands, and shall furnish such care and fire protection for such lands as it shall deem advisable."*

SUPREME COURT VIEW OF THE TRUST

Franz v CNW decision says: Because “the interest transferred to the state depends on the state laws that transferred that interest,” we must examine this state’s laws to determine whether it created a trust. “If the state law provided for the transfer of an absolute fee interest, the lands are owned outright by the State. On the other hand, if the state law created a trust with the State as a trustee, the State is bound to comply with the terms of **THAT TRUST.**”

NOTE: THE TERMS OF THAT CLALLAM COUNTY TRUST ARE THE PROVISIONS OF 1935 SESSION LAWS, CHAPTER 126, AMENDING SECTION 3-B OF CHAPTER 288 OF THE LAWS OF 1927 AND SECTION 1 OF CHAPTER 117 OF THE LAWS OF 1933.

Franz v CNW says, “... express trusts may be created by an “act of the parties” where one party accepts “property with the express or implied understanding that he is not to hold it as his own absolute property, but to hold and apply it for certain specified purposes.”

NOTE: THE CLALLAM COUNTY EXPRESS TRUST IS NOT STATE PROPERTY.

Chuckanut Conservancy says 30 - ... Forest board transfer lands also are “held in trust,” administered and protected in the same manner as other “*state forest lands.*”

NOTE: “ADMINISTERED AND PROTECTED IN THE SAME MANNER AS OTHER STATE FOREST LANDS” IS NOT IN THE 1935 TRUST TERMS. THIS CONFLICTS WITH PROVISIONS OF CHAPTER !54, LAWS OF 1923. THE WORDING DOES NOT APPEAR IN LAW UNTIL 1951.

DUTIES OF THE TRUSTEE LEGISLATURE

CHUCKANUT says: *"DNR's duties as to trust lands are unambiguous and unavoidable. In Skamania County v. State, the Washington Supreme Court confirmed that DNR must act prudently and with undivided loyalty to the trust beneficiaries, to the exclusion of all other interests no matter how laudable."*

LEGISLATURE'S DIVIDED LOYALTY

The state trustee legislature legislated a divided loyalty to the Clallam County trust in 1935 when it required the trust administrator to *"Administer, treat and protect ..."* Clallam County trust land as other *"state forest lands."* The 1935 law never envisioned a conflict between the best interests of the state and the best interests of a donating county when the law was enacted.

The trustee legislature created RCW 79 to govern public lands and tasked DNR to administer and protect those lands . DNR is an executive branch of state government. It is bound by law to carry out the trustee legislature's enacted legislation even if that legislation violates common law trust doctrine.

The trustee legislature via RCW 79 violates common law trust doctrine. The trustee legislature routinely amends RCW and alters the trust agreement under the guise of acting prudently at the whim of the majority in power in Olympia. It treats all DNR administered trust lands as state lands and public lands. That means DNR is bound by law to act prudently and with an undivided loyalty to the state trust beneficiaries while it ignores the best interests of the Clallam County beneficiary, its junior taxing districts and taxpayers.

CLALLAM COUNTY DUTY TO TAXPAYERS

Clallam County, its junior taxing districts and taxpayers must consider legal action against the State of Washington trustee, for legislative actions taken post the 1935 creation of the trust that breach of the State's common law fiduciary duties.

- State acts with a divided loyalty when it legislates state interests ahead of county interest in RDW 79. This harms the beneficiary, i.e. County trust land is not state land.
- State acts with a divided loyalty when fails to differentiate the requirements of the 1889 Federal grant land trusts from the legislated 1935 Clallam County Trust. This harms the beneficiary.
- State acts with a divided loyalty when it sets aside land and resources exceeding federal/HCP/forest practices requirements, i.e. arrearage. This harms the beneficiary.
- State fails to act prudently to defend the Clallam County trust from vandalism, frivolous lawsuits and demands for land use changes. This harms the beneficiary.

STATE ACTIONS HARMED THE COUNTY. CLALLAM COUNTY, OMC, SCHOOL AND MULTIPLE FIRE DISTRICTS FACE HUGE BUDGET ISSUES. THE TAXPAYERS FACE INCESSANT LEVIES TO RAISE TAXES OR FACE CUTS IN ESSENTIAL SERVICES.

ELECTED COUNTY AND JUNIOR TAXING DISTRICT OFFICIALS ARE SWORN TO UPHOLD THE LAWS OF THE STATE. THEY HAVE A LEGAL RESPONSIBILITY TO DEFEND THE CLALLAM COUNTY TRUST FOR THE COUNTY, THE JUNIOR TAXING DISTRICTS AND THE TAXPAYERS.