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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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RELEASED

Interview

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Dear Senator Proxmire:

In your letter of October 10, 1969, you requested that we furnish you certain information pertaining to the Oregon and California Railroad grant lands and the Coos Bay Wagon Road grant lands and an analysis of Senate bill 2943 introduced in the Ninety-first Congress first session. In October and December 1969 we met with representatives of your staff and they agreed to certain modifications in the nature and scope of the work to be performed. With the exception of our comments on Senate bill 2943 previously furnished to you by letter dated February 4, 1970, B-105156, the matters considered in our review are discussed in detail in the enclosure to this letter. Our comments on the items that appeared to be of the most interest to you are summarized below.

Federal payments to each of the 18 counties in Oregon in which the Oregon and California Railroad lands are located were made from 1913 through 1937 on a tax equivalency basis, and beginning in 1938 payments were made on a revenue-sharing basis. The revenues distributed to the counties from 1938 through 1969 totaled \$298,839,852. In 1969 the payments amounted to \$32,116,506.

During the first few years after the payment basis was changed, the revenue-sharing payments were less than the average tax equivalency payments for 1913 through 1937. The payments gradually increased, however, and beginning in 1943 the counties were generally paid amounts that exceeded the average tax equivalency payments for 1913 through 1937.

We estimated the amounts that would have been paid to Coos, Douglas, Josephine, and Lane Counties during 1938 through 1952 if the payments had continued to be made on the Oregon and California Railroad lands on the same basis as taxes on comparable private lands. A comparison of the estimated tax equivalency for that period with the revenue-sharing payments showed that for 1938 through 1942 the revenue-sharing payments, in most years, were less than the estimated tax equivalency and that thereafter they generally exceeded tax

equivalency. By the end of 1952, the cumulative revenue-sharing payments exceeded estimated tax equivalency in these four counties by \$6.3 million.

As explained to your staff, we made no estimate of tax equivalency on this basis for years beyond 1952 because the counties had made significant changes in their land valuation practices and the data on which the estimates were made for 1938 through 1952 could not be used as a basis for estimating tax equivalency for later years.

With regard to the current relationship between revenue-sharing payments and tax equivalency, as agreed with your staff, we made an estimate of 1968 tax equivalency for Oregon and California Railroad lands in four counties based on the true cash values of land and standing timber as contained in a report by a tax economist of the Oregon Department of Revenue. A comparison of the revenue-sharing payments and estimated tax equivalency follows.

	<u>Coos</u>	<u>Douglas</u>	<u>Josephine</u>	<u>Lane</u>	<u>Total</u>
	(000 omitted)				
Revenue-sharing payments	\$1,515	\$6,431	\$3,101	\$3,920	\$14,967
Estimated tax equivalency	<u>1,668</u>	<u>3,097</u>	<u>964</u>	<u>2,133</u>	<u>7,862</u>
Payments over (under) tax equivalency	<u>\$ -153</u>	<u>\$3,334</u>	<u>\$2,137</u>	<u>\$1,787</u>	<u>\$ 7,105</u>

Although the value data used is considered to be the best available by the Oregon Department of Revenue official who prepared the report, he advised us that there is no timber value data available on Federal lands that would approach the "accuracy and competency of the tax values for private property."

Concerning the payments made in lieu of taxes to Coos and Douglas counties on the Coos Bay Wagon Road grant lands, the procedures

B-105156

used for appraising, assessing, and taxing these lands are identical to those used for comparable private lands. We noted, however, that the taxable timber volume per acre on the Wagon Road lands is significantly greater than on the intermingled private lands, primarily because of the controlled rate of harvest associated with the concept of sustained yield management practiced by the Bureau of Land Management.

As to whether the Oregon and California Railroad grant lands are in the public domain, the U.S. Court of Appeals for the District of Columbia in an opinion involving Clackamas County stated that the lands are clearly the property of the United States.

As agreed with representatives of your staff, we furnished a draft of this letter report to the Department of the Interior for review and comment. The Assistant Secretary of the Interior (Public Land Management) by letter dated March 6, 1970, made several suggestions which have been considered in this report.

Pursuant to agreements reached with your staff, we are sending copies of this letter report to the Chairman of the Senate Committee on Interior and Insular Affairs and to the Secretary of the Interior.

We plan to make no further distribution of this letter unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the letter.

If we can be of further assistance to you, please do not hesitate to call on us.

Sincerely yours,



Comptroller General
of the United States

Enclosure

The Honorable William Proxmire
United States Senate

GENERAL ACCOUNTING OFFICE

EXAMINATION INTO FEDERAL PAYMENTS TO OREGON COUNTIES

PERTAINING TO OREGON AND CALIFORNIA RAILROAD AND

COOS BAY WAGON ROAD LANDS

The General Accounting Office has examined into Federal revenue-sharing payments and payments in lieu of taxes to certain counties in the State of Oregon, which pertain to the Oregon and California (O&C) Railroad grant lands and the Coos Bay Wagon Road (CBWR) grant lands respectively, and into certain other matters related to those lands. The review was made pursuant to a request from Senator William Proxmire, dated October 10, 1969, as modified by agreements reached with his staff on October 23, 1969, and December 5, 1969.

As agreed upon we were to:

- determine the methods of valuing and taxing private lands in the counties in the State of Oregon in which the O&C lands are located (see p. 3);
- obtain information on the payment of revenues from the O&C lands to the 18 counties in Oregon in which the lands are located for 1938 through 1969, and for Coos, Douglas, Josephine, and Lane Counties, compare the revenue-sharing payments from 1938 through 1952 with the amounts that would have been paid if the O&C lands had been taxed in the same manner as comparable private lands (see p. 5);
- estimate, if possible, the taxes that would have been paid in 1968 on the O&C lands in Coos, Douglas, Josephine, and Lane Counties, if this land had been taxed in the same manner as comparable private lands (see p. 10);
- obtain information on the volume and value of significant timber holdings of private timber companies in Coos, Douglas, Josephine, and Lane Counties, Oregon (see p. 12);

- analyze a report to the Public Land Law Review Commission as it relates to the O&C lands in Lane County, Oregon (see p. 14);
- examine into the basis of assessing taxes in 1968 on private lands in Coos and Douglas Counties and into the basis of determining the Federal payments in lieu of taxes on CBWR lands in those counties to determine whether the bases were comparable and whether the payments in lieu of taxes were determined in accordance with the act of May 24, 1939 (53 Stat. 753) (see p. 16);
- consider whether the O&C lands in the 18 counties in Oregon are being held in trust for the State of Oregon or whether they are, in essence, a part of the public domain (see p. 18); and
- estimate the amount by which revenue-sharing payments on O&C lands would exceed tax equivalency payments during the adjustment period provided for in Senate bill 2943, a bill introduced in the Ninety-first Congress, first session. (See p. 20.)

METHODS OF VALUING AND TAXING PRIVATE LANDS

In Western Oregon the principal system of taxation applicable to forest land and timber under the requirements of Oregon law is the ad valorem tax. This tax is applied to the assessed values of the main commercial species of standing timber which is 12 inches in diameter at breast height or larger, harvested timber, and forest land. Under Oregon law, all property subject to ad valorem taxation was assessed at 25 percent of its true cash value prior to January 1, 1968. Effective January 1, 1968, the law was revised to assess all property at 100 percent of its true cash value.

Oregon law defines true cash value of standing timber as 30 percent of the immediate harvest value--the amount the timber would sell for at a voluntary sale made in the ordinary course of business--except that "old growth" timber (more than 90 years of age) has a true cash value of 25 percent of immediate harvest value if the tract owner's annual rate of harvest is less than 3-1/3 percent. Standing timber less than 12 inches in diameter at breast height is exempt from taxation unless it is harvested.

The true cash value of harvested timber is the difference between its value as standing timber and its immediate harvest value and is computed only for the year in which the timber is harvested. Forest lands are assessed separately at market value.

The responsibility for determining the values of forest land and timber was transferred in 1961 from the counties to the Oregon Department of Revenue (formerly the State Tax Commission). The Department makes appraisals and provides the county assessors with the true cash values of timber and the market values of forest land, as determined in accordance with Oregon law. On the basis of the values provided by the Department, the county assessors assess the forest land and timber along with all other property that is subject to ad valorem taxation and levy the taxes against the assessed valuation of the property.

In making its appraisals, the Oregon Department of Revenue determines taxable timber volumes and maintains inventory records which show decreases in timber volume that result from such factors as cutting and fires and increases in timber

volumes that result from new growth as determined by new appraisals. In addition, each year the Department develops immediate harvest values for various grades of timber for each commercial specie within specific geographical market areas. The Department applies these values to the total taxable timber volumes to determine true cash value.

With regard to forest land, the Oregon Department of Revenue classifies the land according to its ability to grow timber. Each year, the Department develops unit values for the various classes of forest land and applies these values to the acres of private forest land according to the productive capacity of the land.

DISTRIBUTION OF REVENUE-SHARING PAYMENTS
ON O&C LANDS FOR 1938 THROUGH 1969 AND
ESTIMATES OF TAX EQUIVALENCY FOR 1938 THROUGH 1952

From 1913 through 1937, the Federal payments to each of the 18 counties were determined in the same manner as taxes were determined on comparable privately owned land (tax equivalency). In 1937, however, the basis for the Federal payments was revised by the act of August 28, 1937 (43 U.S.C. 1181f), to enable the counties to receive 50 percent of the revenues produced--primarily from the sale of timber--from the O&C lands (revenue-sharing payments).

The revenue-sharing payments to the 18 Oregon counties for 1938 through 1969 totaled \$298,839,852. The annual distribution of revenues to the counties increased from \$110,291 in fiscal year 1938 to \$32,116,506 in fiscal year 1969.

During the first few years after the payments were changed from a tax equivalency basis to a revenue-sharing basis, the revenue-sharing payments were less than the average tax equivalency payments from 1913 through 1937. For example, in fiscal year 1939 the revenue-sharing payments to two counties--Curry and Lincoln--were less than \$1,000, although the average annual tax equivalency payments to Curry and Lincoln Counties from 1913 through 1937 were \$2,615 and \$3,534, respectively. The revenue-sharing payments gradually increased, however, and by 1944 each of the 18 counties was paid an amount that exceeded the average tax equivalency payments made from 1913 through 1937.

During fiscal years 1938 through 1943, additional Federal payments totaling \$1,074,062 were made to the counties for tax equivalency payments applicable to periods prior to fiscal year 1938. These payments together with the revenue-sharing payments during fiscal years 1938 through 1969 are presented in the table on page 7.

Our comparison of the revenue-sharing payments to Coos, Douglas, Josephine, and Lane Counties for 1938 through 1952, with our estimates of the amounts that would have been paid if the O&C lands had been taxed in the same manner as comparable private lands, is shown in the tables on pages 8 and 9. From these tables, it can be seen that, for 1938 through

1942, the revenue-sharing payments in most years were less than estimated tax equivalency. However, beginning in 1943, the revenue-sharing payments generally exceeded estimated tax equivalency. By the end of 1952, the cumulative revenue-sharing payments to the four counties exceeded estimated tax equivalency by \$6.3 million.

Our estimates of tax equivalency for 1938 through 1952 for the tax districts within the counties were based on (1) the 1937 assessed values for the O&C lands, except for Coos County where they were based on the recorded assessed values¹ for the lands for each year through 1946, and thereafter they were based on the assessed value for that year and (2) annual tax rates as adjusted for the effect on those rates of the assessed value of the O&C lands and the anticipated revenue-sharing payments.

We made no estimates of tax equivalency for years beyond 1952 because the counties' assessment summaries indicated that significant changes had been made in the classification and valuation of timber and forest lands. In our opinion therefore the earlier assessed values for the O&C lands could not be used as a basis for estimating tax equivalency beyond 1952.

¹Assessed values on O&C lands were maintained by Coos County through the 1946 tax year. In the other three counties, changes in assessed values of O&C lands were not recorded after the 1937 tax year.

Coos County, Oregon

<u>Year</u>	<u>Estimated tax equivalency</u>	<u>Revenue- sharing payment</u>	<u>Revenue-sharing payment over (under) estimated tax equivalency</u>	
			<u>Annual</u>	<u>Cumulative</u>
1938 ^a	\$ 45,806	\$ 12,982	\$ -32,824	\$ -32,824
1939 ^a	47,157	17,650	-29,507	-62,331
1940 ^a	41,164	25,126	-16,038	-78,369
1941 ^a	39,882	28,404	-11,478	-89,847
1942 ^b	31,543	14,730	-16,813	-106,660
1943	35,210	41,842	6,632	-100,028
1944	34,827	54,217	19,390	-80,638
1945	35,404	52,667	17,263	-63,375
1946	59,024	40,540	-18,484	-81,859
1947	73,072	88,691	15,619	-66,240
1948	58,581	135,952	77,371	11,131
1949	79,197	108,349	29,152	40,283
1950	84,231	111,466	27,235	67,518
1951	84,625	195,089	110,464	177,982
1952	<u>104,917</u>	<u>372,288</u>	<u>267,371</u>	445,353
Total	\$ <u>854,640</u>	\$ <u>1,299,993</u>	\$ <u>445,353</u>	

Douglas County, Oregon

<u>Year</u>	<u>Estimated tax equivalency</u>	<u>Revenue- sharing payment</u>	<u>Revenue-sharing payment over (under) estimated tax equivalency</u>	
			<u>Annual</u>	<u>Cumulative</u>
1938 ^a	\$ 107,925	\$ 57,522	\$ -50,403	\$ -50,403
1939 ^a	109,997	78,208	-31,789	-82,192
1940 ^a	100,286	111,330	11,044	-71,148
1941 ^a	105,244	125,855	20,611	-50,537
1942 ^b	87,700	65,265	-22,435	-72,972
1943	94,948	185,399	90,451	17,479
1944	78,226	240,230	162,004	179,483
1945	100,701	233,362	132,661	312,144
1946	124,930	179,630	54,700	366,844
1947	139,205	392,978	253,773	620,617
1948	149,365	602,389	453,024	1,073,641
1949	206,790	480,081	273,291	1,346,932
1950	258,290	493,894	235,604	1,582,536
1951	223,456	864,418	640,962	2,223,498
1952	<u>233,222</u>	<u>1,649,567</u>	<u>1,416,345</u>	3,639,843
Total	\$ <u>2,120,285</u>	\$ <u>5,760,128</u>	\$ <u>3,639,843</u>	

Josephine County, Oregon

<u>Year</u>	<u>Estimated tax equivalency</u>	<u>Revenue- sharing payment</u>	<u>Revenue-sharing payment over (under) estimated tax equivalency</u>	
			<u>Annual</u>	<u>Cumulative</u>
1938 ^a	\$ 43,027	\$ 15,515	\$ -27,512	\$ -27,512
1939 ^a	41,456	21,095	-20,361	-47,873
1940 ^a	42,888	30,028	-12,860	-60,733
1941 ^a	44,460	33,946	-10,514	-71,247
1942 ^b	27,629	17,604	-10,025	-81,272
1943	31,855	50,007	18,152	-62,120
1944	35,564	64,769	29,232	-38,888
1945	35,105	62,944	27,839	-6,049
1946	57,024	48,451	-8,573	-14,622
1947	75,008	105,996	30,988	16,366
1948	72,073	162,479	90,406	106,772
1949	81,129	129,490	48,361	155,133
1950	80,824	133,216	52,392	207,525
1951	93,503	233,155	139,652	347,177
1952	<u>91,169</u>	<u>444,929</u>	<u>353,760</u>	<u>700,937</u>
Total	\$ <u>852,714</u>	\$ <u>1,553,651</u>	\$ <u>700,937</u>	

Lane County, Oregon

<u>Year</u>	<u>Estimated tax equivalency</u>	<u>Revenue- sharing payment</u>	<u>Revenue-sharing payment over (under) estimated tax equivalency</u>	
			<u>Annual</u>	<u>Cumulative</u>
1938 ^a	\$ 90,522	\$ 32,043	\$ -58,479	\$ -58,479
1939 ^a	102,287	43,567	-58,720	-117,199
1940 ^a	83,688	62,019	-21,669	-138,868
1941 ^a	70,847	70,109	-738	-139,606
1942 ^b	68,470	36,357	-32,113	-171,719
1943	83,005	103,279	20,274	-151,445
1944	71,230	133,824	62,594	-88,851
1945	90,023	129,998	39,975	-48,876
1946	103,901	100,066	-3,835	-52,711
1947	131,652	218,914	87,262	34,551
1948	120,989	335,569	214,580	249,131
1949	138,004	267,436	129,432	378,563
1950	180,381	275,131	94,750	473,313
1951	158,844	481,536	322,692	796,005
1952	<u>166,158</u>	<u>918,915</u>	<u>752,757</u>	<u>1,548,762</u>
Total	\$ <u>1,660,001</u>	\$ <u>3,208,763</u>	\$ <u>1,548,762</u>	

^aFrom 1938 through 1941 taxes were levied on a calendar-year basis and the revenue-sharing payments were adjusted from a fiscal-year to a calendar-year basis.

^bBeginning in 1942 taxes were levied on a fiscal-year basis. The data shown for 1942 covers the period January 1 through June 30, 1942.

ESTIMATE OF 1968 TAX EQUIVALENCY ON O&C LANDS

We found that available data on O&C lands was not comprehensive enough to permit us to make a reasonably accurate estimate of the current true cash value of timber and the market value of forest land based on Oregon tax laws. Such values are essential in estimating taxes.

The Bureau of Land Management's inventory data on O&C lands is not comparable to the inventory data maintained by the Oregon Department of Revenue on private forest land and timber. For example, the Bureau of Land Management (BLM) inventory data is recorded in terms of acres of O&C lands by predominate specie and approximate age of the timber. The BLM inventory data shows neither the timber volume nor the productive capacity of the soil which must be known before the true cash value of O&C timber and the market value of the forest land can be determined with any degree of accuracy.

As pointed out on page 6, the assessed values of the O&C lands could not be used as a basis for estimating tax equivalency for the lands beyond 1952. We have, however, made an estimate of the tax equivalency for 1968 in Coos, Douglas, Josephine and Lane counties based on the true cash value of land and standing timber of the O&C lands in the four counties as contained in a 1965 report by a tax economist of the Oregon Department of Revenue, and which was subsequently updated to show 1968 values. The tax economist, in transmitting his report to the Department of Revenue, stated that the true cash values of the lands as shown in the report were the best estimates available. The tax economist told us, however, that the estimated values of the lands could be significantly higher or lower than their actual values and that the true cash value data available for Federal lands does not approach the accuracy and competency of the values for private property on the assessment rolls.

The table on page 11 shows the differences between our computation of estimated tax equivalency for the O&C lands in the four counties and the revenue-sharing payments to these counties. In three of the counties, the revenue-sharing payments exceed estimated tax equivalency.

	<u>Coos</u>	<u>Douglas</u>	<u>Josephine</u>	<u>Lane</u>
True cash value of land and standing timber	<u>\$79,593,000</u>	<u>\$222,270,000</u>	<u>\$54,015,000</u>	<u>\$107,670,000</u>
Assessed value of land and standing timber (note a)	<u>\$19,898,250</u>	<u>\$ 55,567,500</u>	<u>\$13,503,750</u>	<u>\$ 26,917,500</u>
Composite tax rate (per \$1,000) (note b)	\$ <u>80.26</u>	\$ <u>52.81</u>	\$ <u>68.37</u>	\$ <u>73.87</u>
Estimated tax equivalency on land and standing timber	\$ 1,597,034	\$ 2,934,520	\$ 923,251	\$ 1,988,396
Additional tax--timber cut	<u>70,564</u>	<u>162,706</u>	<u>41,127</u>	<u>144,214</u>
Total estimated tax equivalency	1,667,598	3,097,226	964,378	2,132,610
Revenue-sharing payments	<u>1,514,788</u>	<u>6,431,432</u>	<u>3,101,465</u>	<u>3,920,478</u>
Payments over (under) tax equivalency	\$ <u>-152,810</u>	\$ <u>3,334,206</u>	\$ <u>2,137,087</u>	\$ <u>1,787,868</u>

^aFor 1968, in accordance with Oregon law, the assessed value is 25 percent of true cash value; and 1968 taxes are based on assessments made as of January 1, 1967.

^bThe composite tax rate for each county represents a weighted average of the tax rates of tax areas within the county containing O&C lands. In computing the composite tax rate, no adjustment was made for the assessed value of O&C lands because true cash value data was not available by taxing districts. In addition, no adjustment was made for anticipated revenue-sharing payments because we were unable to determine the extent to which tax rates of the individual taxing districts would be affected under a tax equivalency system.

In our opinion an accurate estimate of the amount by which the revenue-sharing payments to the counties currently exceed tax equivalency cannot be made until such time as there is an appraisal of the value of O&C Railroad lands and timber in accordance with the Oregon Department of Revenue's appraisal procedures for taxation purposes.

TAXES ON PRIVATE TIMBER HOLDINGS

Information on significant timber holdings of private timber companies in Coos, Douglas, Josephine, and Lane Counties, including assessed values and 1968 taxes is shown in the table presented below.

From the table it can be seen that there are significant differences in the amount of taxes per acre paid by the private timber companies. These differences result from (1) differences in the tax rates levied by the various taxing districts, such as school districts within each county, and (2) wide ranges in the volume of taxable timber on the lands.

The difference in tax rates levied by the various taxing districts involved is illustrated by the tax rates levied by the individual school districts within Douglas County which, in tax year 1968, varied from \$9.94 to \$53.53 per \$1,000 of assessed value.

The wide ranges in timber volume are illustrated by Companies E and F which owned about the same amount of land in Lane County. Company F had 856,749 thousand board feet (MBF) of taxable timber on 30,087 acres of land, or an average of 28.5 MBF per acre, as compared with Company E which had only 148,305 MBF of taxable timber on 30,897 acres of land, or an average of 4.8 MBF per acre. The taxes per acre of Company F, therefore, were significantly greater than those of Company E as a result of the substantial differences in timber volume on their lands.

	<u>Acres</u>	<u>Timber volumes (MBF)</u>	<u>Land (assessed value)</u>	<u>Timber (assessed value)</u>	<u>Total assessed value</u>	<u>1968 taxes</u>	<u>Tax per acre</u>
Coos County:							
Company A	105,430	798,432	Not provided	Not provided	\$ 2,733,880	\$262,969	\$2.49
" B	83,875	2,281,303	\$376,875	\$ 7,219,975	7,596,850	738,270	8.80
" C	11,619	Not provided	61,494	25,166	86,660	6,739	.58
Douglas County:							
Company A	165,983	4,699,913	520,165	15,958,070	16,478,235	849,842	5.12
" B	117,799	Not provided	416,990	3,911,070	4,328,060	252,721	2.15
" C	66,918	581,340	736,087	884,243	1,620,330	134,245	2.01
Josephine County:							
Company A	9,967	12,371	32,490	27,770	60,260	5,945	.60
" B	5,937	770	21,230	2,050	23,280	2,582	.43
" C	4,287	580	13,850	1,130	14,980	1,000	.23
Lane County:							
Company A	119,459	2,326,327	730,385	9,495,810	10,226,195	738,375	6.18
" B	92,899	737,604	Not provided	Not provided	3,526,320	282,302	3.04
" C	63,913	Not provided	384,685	1,663,745	2,048,430	165,701	2.59
" D	21,107	do.	94,930	1,596,950	1,691,880	94,363	4.47
" E	30,897	148,305	130,890	482,350	613,240	105,968	3.43
" F	30,087	856,749	147,960	2,794,450	2,942,410	206,303	6.86

Because of differences in timber volumes, we believe that the taxes per acre on private lands would not necessarily be representative of the taxes per acre which would be paid on other private lands, or on O&C lands. In addition, because of differing timber management practices which affect timber volumes, we believe that the taxes per acre do not provide an adequate basis for comparison.

The data on taxes paid on private timber company holdings showed that the companies in Josephine County paid the lowest overall average tax per acre in the four counties included in our review. A 1968 study on Josephine County, prepared by the University of Oregon, states that the private forest lands in this county were rapidly cut over during the 1950's and that by 1965 less than 9 percent of the total log production for the county came from private lands. Further, as of January 1, 1967, the Oregon Department of Revenue records show that (1) there were about 17,000 acres of private lands in Josephine County containing taxable timber, and (2) these lands contained 117,750 MBF or an average of 6.9 MBF per acre of taxable timber.

In contrast, the University of Oregon study showed that (1) there were 222,831 acres of O&C lands in Josephine County containing taxable timber, and (2) these lands contained an estimated 5,802,233 MBF, or an average of 26.0 MBF per acre of taxable timber. The O&C lands have been managed on a sustained yield basis which regulates the amount of timber harvested annually. Thus, it seems that private timber lands and O&C timber lands in Josephine County are not comparable due to the differences in timber volumes which result from differing management practices and that the taxes on O&C lands would be significantly higher than taxes on private lands in Josephine County.

ANALYSIS OF LANE COUNTY STUDY AS
IT RELATES TO THE O&C LANDS

The Lane County study is one of 50 county studies included in a report entitled "Revenue Sharing and Payments in Lieu of Taxes on the Public Land," submitted to the Public Land Law Review Commission by a management consulting firm in July 1968. The report is concerned with the laws, practices, and effects of payments in lieu of taxes and revenue sharing on public lands. The county studies emphasize the influence of major public land ownership and use on the financial structure of State and local government units.

The Lane County study considers the impact of various Federal revenue-sharing arrangements and payments in lieu of taxes in the county from 1957 to 1966. According to the study, most of the Federal payments to Lane County were made from revenues arising from O&C and national forest timber lands. For example, of \$7,931,600 of such Federal payments to Lane County in fiscal year 1966, \$7,929,900 was derived from those two sources--\$4,777,600 from national forest lands, and \$3,152,300 from O&C lands.

The report to the Commission on the Lane County study does not contain any conclusions which relate solely to O&C lands. It does conclude, however, that the impact of Federal revenue-sharing arrangements and payments in lieu of taxes upon county and other units of local government is extremely favorable and provides revenues which substantially exceed those which would be available to the county under its existing taxing policies if the lands were in private ownership.

To examine into the results of the study as they pertain to O&C lands, we obtained the data supporting the report. The data indicates that the revenue-sharing payments related to the O&C lands in Lane County were about the same as the estimated taxes that would have been payable had the lands been taxed. The revenue-sharing payments in fiscal year 1966 were about \$3,150,000 while the total estimated taxes were about \$3,110,000.

The estimated taxes on O&C lands for 1966 were based on a BLM estimate of the assessed value of the O&C timber lands which had been prepared by BLM. We believe that the BLM estimate of the assessed value of the O&C lands was not reliable for the purpose of estimating the taxes that would have been payable on the lands.

The BLM District Manager told us that no records were available to support the estimated assessed values, but he believed that it represented 25 percent of market value and that it was determined on the basis of market transaction data for land sales involving standing timber. He expressed the opinion that the estimated assessed value did not conform with ad valorem taxation procedures.

The Department of Revenue does not use market transaction data for land sales involving standing timber in developing assessed values for forest land and timber. The Department develops separate values for land and timber. While forest land values are based on market transaction data for lands, the timber is valued on the basis of its immediate harvest value as indicated by timber sales rather than by sales of land containing standing timber. In addition, information presented in the BLM estimate indicates that the estimated assessed values included standing timber with a diameter of less than 12 inches at breast height. Such timber should not be considered in preparing tax estimates because, under Oregon law, it is classified as reforestation and is exempt from ad valorem taxation.

PAYMENTS IN LIEU OF TAXES ON
COOS BAY WAGON ROAD LANDS IN
COOS AND DOUGLAS COUNTIES

Our review showed that the payments in lieu of taxes on CBWR lands are determined in the same manner as taxes on private lands and, in our opinion, are determined in accordance with the act of May 24, 1939 (53 Stat. 753). The appraised timber values for both CBWR and private lands are determined by the Oregon Department of Revenue and the tax rates for both CBWR and private lands are determined by county assessors.

The same timber value classifications were used by the Oregon Department of Revenue to determine appraised values for both CBWR and private timber. Also, the county assessors used the same procedures to determine the assessed values for CBWR and private timber and applied the same tax rates to the assessed values of CBWR and private timber and forest lands. We noted, however, that although CBWR and private timber lands are intermingled the taxes per acre on CBWR lands are generally higher than those on private lands because there is significantly more taxable timber on the CBWR lands than there is on private lands.

Timber volumes on CBWR and private lands are determined on the basis of a timber cruise. For CBWR lands, the timber cruise is performed under the direction of a three-member committee established pursuant to the act of May 24, 1939. For private lands, the timber cruise is made by the Oregon Department of Revenue. The Chairman of the committee advised us that the CBWR timber in Coos County was cruised in 1962 because privately owned timber was being recruised at that time. He advised us also that CBWR timber in Douglas County was cruised during the period 1947 to 1952 to place the CBWR assessed timber volumes on a comparable basis with privately owned timber. These were the latest cruises of CBWR timber in these counties. However, the CBWR and privately owned timber in Douglas County are presently being recruised.

Our review of the records of the Oregon Department of Revenue pertaining to 47,000 of the 73,900 acres of CBWR lands and to 57,800 acres of private land intermingled with CBWR

lands in Coos and Douglas Counties showed substantial differences in the volume of taxable timber on these lands. The taxable timber on CBWR lands averaged 23.5 MBF an acre as compared with an average of only 5.25 MBF an acre of taxable timber on the private lands. Such differences in timber volume per acre in turn result in significant differences in the taxes per acre on the lands. Accordingly, we believe that the taxes per acre on CBWR lands would be significantly higher than the taxes per acre on the private lands.

In Douglas County, the Forest Service prepared an estimate of timber volumes on private lands. Although the estimate may have been adequate to meet the needs of the Forest Service, information furnished to us by an official of the Oregon Department of Revenue shows that the Forest Service estimates of timber volume on private lands in Douglas County are not appropriate for use in estimating taxable timber volumes. For example, he stated that (1) the Forest Service estimates include timber volumes which are not taxable; and (2) the timber measurement system used for tax purposes on both private and CBWR lands results in a volume that is 15 percent less than the volume that would be obtained under the system of the Forest Service.

CONSIDERATION OF WHETHER O&C LANDS
ARE PART OF THE PUBLIC DOMAIN OR ARE HELD
IN TRUST FOR THE STATE OF OREGON

We believe that the question as to whether the O&C lands are part of the public domain was considered by the U.S. Court of Appeals for the District of Columbia Circuit in the case of Clackamas County, Oregon v. Douglas McKay, Secretary of the Interior, et al., decided July 28, 1955, (226 F. 2d 343 cert denied 350 U.S. 904, 76 S. Ct. 183, 100 L. Ed. 794). In that case, Clackamas County, Oregon, brought an action against the Secretary of the Interior attacking certain provisions of the act of June 24, 1954 (Public Law 426, 68 Stat. 270). It is stated in the opinion that:

"Clackamas County strenuously objects to the transfer of the lands from the Department of the Interior to the Department of Agriculture. It claims a vested right, derived from what it says were the retained sovereign rights of Oregon at the time of its admission into the Union as a State. It reasons that before admission Oregon was sovereign over all the lands within its borders; that when the United States granted the lands to the railroad they were thereby returned to the sovereign overrule of the State of Oregon; and that when the Supreme Court declared against the forfeiture it solidified that sovereign authority. It says the Department of the Interior holds the lands in trust or in receivership for Oregon. It says the 1916 and 1937 Acts of Congress were 'compacts' with Oregon, upon which that State relied in her plans for development. It says the transfer of lands to the Department of Agriculture threatens a reduction in income to take it from the lands. It says, therefore, the Act of 1954 is a taking without compensation or due process.

"The basic difficulty with the argument is that it confuses sovereign authority over lands within the borders of a sovereignty with the ownership of such lands. Our problem deals with ownership. These lands are clearly property of the United States. At all times since the admission of Oregon to the Union

they have been either property of the United States or property of the railroad. The interest of Oregon was in the attraction of settlers to the lands and the placement of the lands on the tax rolls. When the lands reverted in the United States Congress provided for the payments from the revenues as a means of meeting the tremendous disappointment and loss suffered by Oregon, but the provision was by way of meeting a moral or ethical obligation rather than a legal one.

"When the United States acquires, by eminent domain or otherwise, a tract of land in a State, it becomes the owner, and thereafter disposition is within the unfettered discretion of the Congress. No overriding sovereign governmental authority of the State impinges upon that discretion or gives rise to power on the part of courts to interfere with that disposition. Such is the case at bar.

"In ultimate analysis the County complains of a threat of damage which it fears, rather than an actual injury. But in any event the public domain in Oregon passed to the United States when Oregon was admitted. Such a provision was implicit in the Act of admission. The 1916 and 1937 Acts of the Congress were in no sense compacts but were statutes relating to disposition of federal public property. No taking is involved in the 1954 Act. And of course the courts cannot interfere with the administration of public property as arranged by the Congress and the Executive, so long as constitutional boundaries are not transgressed by either branch or statutory ones by the latter."

While that decision dealt primarily with the reverted O&C grant lands within the boundaries of a national forest or within 2 miles of such boundaries, the statements of the court with respect to those lands would appear to be equally applicable to all of the O&C lands.

PAYMENTS TO COUNTIES DURING ADJUSTMENT
PERIOD PROVIDED FOR IN S. 2943

As previously stated, there is no timber volume or value data on Federal lands which would approach the accuracy of that available on private lands and which would permit an accurate estimate of the true cash value and assessed value of O&C lands for tax purposes. In addition, we found no reasonable basis to estimate the budget requirements of the counties and local tax areas during the adjustment period provided for in Senate bill 2943, a bill introduced in the first session of the Ninety-first Congress. Consequently, we were unable to realistically estimate the amount by which revenue-sharing payments to the counties on the O&C lands would exceed tax equivalency during the adjustment period.

DISTRIBUTION OF REVENUES FROM THE OREGON AND CALIFORNIA RAILROAD LANDS

1938 to 1969

Fiscal year	Revenue sharing payments (note a)	Payments for taxes accrued prior to 1938	Payments for taxes accrued prior to 1938							
			Benton	Clackamas	Columbia	Coos	Curry	Douglas	Jackson	Josephine
1938	\$ 110,291		\$ 4,114	\$ 5,768	\$ 2,283	\$ 6,783	\$ 541	\$ 30,054	\$ 20,393	\$ 8,106
1938		\$ 43,701	1,650	2,530	564	2,853	176	11,203	7,594	4,018
1939	201,600		7,520	10,544	4,173	12,398	988	54,936	37,276	14,818
1939		112,245	4,297	6,596	1,358	7,788	572	28,236	18,056	11,361
1940	372,404		13,891	19,477	7,709	22,903	1,825	101,480	68,857	27,372
1940		186,202	7,128	10,942	2,253	12,919	948	46,841	29,954	18,848
1941	444,701		16,587	23,258	9,205	27,349	2,179	121,181	82,225	32,685
1941		222,351	8,512	13,067	2,690	15,427	1,133	55,934	35,769	22,506
1942	479,006		17,867	25,052	9,915	29,459	2,347	130,529	88,568	35,207
1942		239,503	8,385	14,039	2,300	18,215	1,103	60,581	38,359	25,222
1943	680,363		25,378	35,583	14,084	41,842	3,334	185,399	125,799	50,007
1943		270,060	9,455	15,830	2,594	20,539	1,244	68,310	43,253	28,440
1944	881,580		32,883	46,107	18,249	54,217	4,320	240,230	163,004	64,796
1945	856,376		31,943	44,788	17,727	52,667	4,196	233,362	158,344	62,944
1946	659,193		24,588	34,476	13,645	40,540	3,230	179,630	121,886	48,451
1947	1,442,121		53,791	75,423	29,852	88,691	7,066	392,978	266,648	105,996
1948	2,210,601		82,455	115,614	45,759	135,952	10,832	602,389	408,740	162,479
1949	1,761,766		65,714	92,140	36,469	108,349	8,633	480,081	325,751	129,490
1950	1,812,457		67,605	94,791	37,518	111,466	8,881	493,894	335,123	133,216
1951	3,172,177		118,322	165,905	65,664	195,089	15,544	864,418	586,535	233,155
1952	6,053,458		225,794	316,596	125,307	372,288	29,662	1,649,567	1,119,284	444,929
1953	6,463,951 ^b		241,105	338,065	133,804	397,533	31,673	1,761,427	1,195,184	475,100
1954	6,584,543		204,121	389,805	113,254	400,340	156,054	1,705,397	1,066,037	636,067
1955	14,172,004 ^c		383,290	793,318	212,624	820,145	470,794	3,506,572	2,188,589	1,858,870
1956	11,909,395		337,036	678,835	186,977	700,272	359,664	2,990,449	1,867,393	1,431,509
1957	9,805,664		277,500	558,923	153,949	576,573	296,131	2,462,202	1,537,528	1,178,641
1958	11,275,514		317,717	659,804	176,245	661,260	342,020	2,824,022	1,763,411	1,360,567
1959	14,761,926		417,762	841,430	231,762	868,001	445,810	3,706,720	2,314,670	1,774,384
1960	16,258,579		460,118	926,739	255,260	956,004	491,009	4,082,529	2,549,345	1,954,281
1961	14,454,673		409,067	823,916	226,938	849,935	436,531	3,629,568	2,266,493	1,737,452
1962	15,400,136		435,824	877,808	241,782	905,528	465,084	3,866,974	2,414,741	1,851,096
1963	15,031,270		425,385	856,782	235,991	883,839	453,944	3,774,352	2,356,903	1,806,759
1964	21,136,029		567,932	1,108,073	614,565	1,273,016	999,491	5,216,603	3,299,020	2,631,205
1965	20,037,859		554,026	982,148	668,145	1,163,257	1,057,220	4,938,914	3,089,532	2,381,720
1966	20,965,264		580,086	1,163,572	603,386	1,217,974	984,335	5,171,229	3,234,857	2,493,750
1967	21,761,278		614,505	1,207,751	453,406	1,290,241	801,910	5,478,057	3,426,792	2,641,714
1968	25,567,167		721,450	1,418,978	531,807	1,514,788	940,825	6,431,432	4,023,175	3,101,465
1969	32,116,506		905,487	1,782,466	666,724	1,901,199	1,179,876	8,072,041	5,049,457	3,892,625
TOTAL	\$298,839,852	\$1,074,062	\$8,680,290	\$16,576,939	\$6,155,937	\$17,757,639	\$10,021,125	\$75,649,721	\$47,724,545	\$34,871,251
AVERAGE TAX EQUIVALENT PAYMENT DUE AND PAYABLE TO THE COUNTIES FOR 1913-37.			\$ 22,730	\$ 38,063	\$ 10,603	\$ 45,139	\$ 2,615	\$ 140,135	\$ 95,141	\$ 48,492

^a Payments shown began March 1, 1938, pursuant to 50 U.S.C. 874, and represent the counties' share of revenues deposited in the "Oregon and California land-grant fund."

^b Includes \$41,924 due and payable in fiscal year 1951.

^c Includes revenue payments of \$5,171,624 applicable to prior years on certain O&C lands located within national forests, control over which was settled by 50 U.S.C. 874. All revenue sharing payments pertaining to these lands have been made annually since 1955.

<u>Klamath</u>	<u>Lane</u>	<u>Lincoln</u>	<u>Linn</u>	<u>Marion</u>	<u>Multnomah</u>	<u>Polk</u>	<u>Tillamook</u>	<u>Wash- ington</u>	<u>Yamhill</u>
\$ 2,129	\$ 16,742	\$ 529	\$ 3,794	\$ 2,063	\$ 1,059	\$ 3,143	\$ 838	\$ 904	\$ 1,048
654	7,746	267	1,460	529	197	1,169	513	180	398
3,891	30,603	968	6,935	3,770	1,935	5,745	1,532	1,653	1,915
1,702	19,931	643	3,669	1,385	490	3,531	1,278	437	915
7,187	56,531	1,787	12,811	6,964	3,575	10,613	2,830	3,054	3,538
2,824	33,063	1,067	6,086	2,297	813	5,857	2,119	726	1,517
8,583	67,506	2,135	15,298	8,316	4,269	12,674	3,380	3,646	4,225
3,372	39,482	1,274	7,268	2,743	971	6,994	2,531	866	1,812
9,245	72,713	2,299	16,478	8,957	4,598	13,652	3,641	3,928	4,551
3,805	41,375	1,331	8,227	2,902	898	7,276	2,764	798	1,923
13,131	103,279	3,266	23,404	12,723	6,531	19,390	5,171	5,579	6,463
4,291	46,654	1,500	9,277	3,272	1,012	8,204	3,117	900	2,168
17,014	133,824	4,232	30,326	16,486	8,463	25,125	6,700	8,375	7,229
16,528	129,998	4,111	29,459	16,014	8,221	24,407	6,509	7,022	8,136
12,722	100,066	3,164	22,676	12,327	6,328	18,787	5,010	5,405	6,262
27,833	218,914	6,922	49,609	26,968	13,844	41,101	10,960	11,825	13,700
42,665	335,569	10,611	76,045	41,338	21,222	63,002	16,801	18,127	21,001
34,002	267,436	8,456	60,605	32,945	16,913	50,210	13,389	14,446	16,737
34,980	275,131	8,700	62,349	33,893	17,400	51,655	13,775	14,862	17,218
61,223	481,536	15,226	109,123	59,320	30,453	90,407	24,109	26,012	30,136
116,832	918,915	29,057	208,239	113,200	58,113	172,523	46,006	49,638	57,508
124,754	981,228	31,027	222,360	120,876	62,054	184,223	49,126	53,004	61,408
158,029	1,092,376	26,338	189,635	102,060	52,018	156,054	40,824	44,775	51,359
338,052	2,110,359	48,385	362,489	205,137	311,222	296,439	77,488	90,143	98,088
284,635	1,837,620	42,874	316,790	176,259	208,414	259,625	67,884	77,411	85,748
234,355	1,513,014	35,300	260,831	145,124	171,599	213,764	55,892	63,737	70,601
269,005	1,733,212	40,382	298,729	166,368	200,051	244,786	64,000	73,081	80,854
352,810	2,277,765	53,143	392,667	218,476	258,334	321,810	84,143	95,953	106,286
388,580	2,508,699	58,531	432,478	240,627	284,525	354,437	92,674	105,681	117,062
345,467	2,230,356	52,037	384,494	213,929	252,957	315,112	82,392	93,955	104,074
368,063	2,376,241	55,441	409,644	227,922	269,502	335,723	87,781	100,101	110,881
359,247	2,319,325	54,113	399,832	222,463	263,047	327,682	85,678	97,703	108,225
472,924	3,019,546	76,090	532,000	282,595	230,383	447,875	105,366	107,166	152,179
418,042	3,010,667	70,978	520,508	287,857	107,695	408,543	110,411	126,239	141,957
483,061	3,152,282	74,317	544,992	301,397	117,804	445,903	115,604	132,081	148,634
511,723	3,339,318	78,727	577,328	319,280	131,155	472,359	122,463	137,096	157,453
600,780	3,920,478	92,428	677,804	374,846	172,639	554,567	143,777	161,073	184,855
754,035	4,920,562	116,005	850,706	470,466	244,027	696,032	180,453	202,334	232,011

\$6,888,175 \$45,740,062 \$1,113,661 \$8,136,425 \$4,484,094 \$3,544,731 \$6,670,399 \$1,738,929 \$1,939,916 \$2,220,075

\$ 9,893 \$ 103,138 \$ 3,534 \$ 19,178 \$ 9,800 \$ 3,533 \$ 18,070 \$ 4,552 \$ 4,672 \$ 5,122