

Elliott State Research Forest Update

BACKGROUND

The OSU Board of Trustees was last briefed about the state of Oregon's efforts to establish the Elliott State Research Forest (ESRF) during its January 2023 meeting. After that meeting, OSU staff continued working with the Department of State Lands (DSL) and the prospective ESRF Authority Board (ESRFA) to help realize the state's target date of January 1, 2024 – the date on which the ESRFA would take management responsibility for the ESRF from DSL as stipulated by Senate Bill 1546. Senate Bill 1546 calls out six actions that must be completed on or before July 1, 2023 for the law to become operational. Among them are that the OSU Board of Trustees authorizes the university to participate in the management of the ESRF.

Senate Bill 161 is under consideration in the current legislative session. It would extend the operative date for completion of the six actions to December 31, 2023 and also adjusts the language regarding submission of the Habitat Conservation Plan. Attachment 1 gives the status of key provisions of Senate Bill 1546 and the amendments proposed in Senate Bill 161.

No action is required by the board of trustees at this time. University staff is providing this update for discussion and to offer information to the board as it continues to consider whether to authorize the university to participate in management of the ESRF. Throughout this process, OSU's goal has been to collaborate productively in this state effort, lay the groundwork for a successful long-term relationship with the Elliott State Research Forest Authority, and provide a framework to enable world-class research within the Elliott.

HABITAT CONSERVATION PLAN

The Department of State Lands is leading the creation of the Habitat Conservation Plan (HCP) and application for an Incidental Take Permit (ITP), with OSU staff providing technical assistance on both the development of the HCP and additional needs identified in consultation with the Services — National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS). Public drafts of the HCP and Environmental Impact Statement were released in November 2022 as part of a public comment period that closed on January 10, 2023. In January, the USFWS identified that adjustments may need to be made to the HCP to reduce impacts on marbled murrelet birds, based on current information available. OSU staff have been attending consultation meetings as well as providing technical assistance and analysis towards developing the analytic framework for the marbled murrelet under the research design and forest operations outlined in the HCP. This analysis will contribute to USFWS review of the HCP and determination of whether additional protections are needed on the forest. Ongoing consultations with NMFS are providing additional details on protections and management for aquatic and riparian systems. OSU is coordinating with DSL to assess and address additional adjustments requested by prospective ESRFA Board members while maintaining a strong research design as outlined in the research proposal and supporting financial viability. DSL anticipates that adjustments to the HCP will be determined by June 15, 2023. Completion of the Forest Management Plan to meet the December 31, 2023 date in Senate Bill 161 is dependent on these adjustments being completed by June 15, 2023.

FOREST MANAGEMENT PLAN

Progress on the Forest Management Plan (FMP) continues, including edits to sections presented in a November 2022 ESRF FMP Working Draft and development of new chapters identified in the document outline. Research teams are completing analysis of biodiversity and

disturbance history data collected during the 2022 field season, and compiling draft reports that will be incorporated into the FMP as part of the research management guidance and supporting materials. OSU staff are working with researchers, forestry consultants, DSL, members of the prospective ESRFA Board of Directors, and others on adjustments to both the HCP and the FMP. Once the list of changes to the HCP is finalized in June, edits to relevant areas of the FMP can be incorporated in addition to edits coming from continued work on other sections of the document. A public comment period is planned for fall 2023 before development of the final draft, with other opportunities for engagement during the summer.

FINANCIAL VIABILITY

The ESRF, under the management of the ESRFA Board of Directors, is intended to be financially self-sufficient, beyond startup funding requirements, based on revenue from the forest. The university with DSL continues to assist the ESRFA in the development of its overall budget for operations and revenue projections as well as OSU's research requirements. Funding from the University is not under consideration.

Startup Funding. As articulated in the OSU Elliott State Forest research proposal, the financial viability of the forest depends on the state's ability to provide start-up funding estimated at \$40M. The start-up funds will provide for needed infrastructure and equipment as well as cover annual costs until timber revenue begins in year four of operations. OSU has committed to supporting and encouraging the state's efforts to secure such funds through various sources, as the Board of Trustees will require assurance of such funding before it can authorize the university's participation in the management of the forest.

OSU's College of Forestry will receive a \$3.5M federal earmark in FY23 through the U.S. Forest Service State and Private Forest Program for research equipment and installation on the ESRF, which will contribute to start-up needs and help launch the monitoring program outlined in the ESRF Research Proposal and draft FMP. OSU also submitted an FY24 Congressional directed funding request for carbon measurement equipment and contributed to a funding request to support research on marbled murrelet management and barred owl management. DSL put in additional requests for federal funds to redevelop Shutter Creek Correctional Institution as a site for the ESRFA and other partners, as well as development of educational and recreational plans for the research forest. The state is pursuing funds along several additional avenues.

Operating Budget. Updated budget scenarios are being developed and refined that cover research forest program operations, agency expenses (ESRFA), and commitments in the HCP. OSU and DSL are coordinating on these scenarios, with DSL leading the agency budget and OSU leading on the research management budget. These scenarios will be adjusted to account for input from the prospective ESRFA board, updated revenue projections, consultations with Tribal partners, and continued vetting with research and forestry experts.

Revenue. OSU is continuing to work with forestry consultants Mason, Bruce & Girard and Farm Unlimited to refine a bracketed range of revenue projections based on current data, assumptions in the draft HCP and FMP, and input from members of the ESRFA prospective board. Updates to the HCP and further vetting will help determine adjustments to current financial modeling.

MANAGEMENT AGREEMENT

Staff continues to work with DSL and the State Department of Justice on a draft management agreement/contract to be established between the ESRFA and OSU for operation of the ESRF. While the agreement cannot be executed until after the ESRFA establishment date of January

1, 2024, the terms need to be agreed in principle to support the Board of Trustees' consideration of whether to authorize the university's participation in the management of the forest.

TIMELINE

If all elements of the sunset clause are met by December 31, 2023, the ESRF and ESRFA Board of Directors will become officially operational on January 1, 2024.

Based on the December 31, 2023 timeline proposed in Senate Bill 161, the final ESRF FMP and supporting materials will be presented to the State Land Board at its December 2023 meeting. Development of the FMP is continuing concurrently with adjustments in the HCP, with anticipated preparation of a final FMP document in November 2023 following a public comment period. Final HCP and Environmental Impact Statement (EIS) documents will be submitted to the Services by this deadline, with publication in the Federal Register and a Record of Decision (ROD) anticipated in Spring 2024. The forest would operate under a take avoidance strategy from January 1, 2024 until the Record of Decision on the HCP is published by the Services.

The OSU Board of Trustees will need to decide whether to authorize participation by the university no later than Dec. 31, 2023. While OSU's decision is not tied sequentially to the other items, staff anticipate the board's decision will be based on acceptable management agreement terms, the financial viability analysis, an HCP and forest management plan that meet the needs of the research forest, and the provision of necessary start-up funds.

NEXT STEPS

Staff will update the board again at its October 2023 meeting in anticipation of its consideration of a decision no later than Dec. 31, 2023. At present, given timelines for all necessary information and commitments, staff is anticipating a target date for a special meeting of the board to consider authorization to take place in early to mid-December.

SENATE BILL 1546 KEY PROVISIONS

(ENACTED ON APRIL 12, 2022)

The Act takes land formerly constituting the Elliott State Forest and establishes the Elliott State Research Forest (“ESRF”) to be a publicly owned research forest that advances and supports forest health, climate resilience, carbon sequestration, biodiversity, recovery of imperiled species, water quality and quantity, recreational opportunities and local economies. The Act further establishes the Elliott State Research Forest Authority (“ESRFA”) as a new state agency that is tasked with operating and overseeing the forest as a financially self-supporting entity. Management policies of the forest are anticipated to include supporting scientific inquiry by OSU and advancing long-term, operational-scale research, in partnership with the university, on issues including forest management practices, ecosystem function, biodiversity, habitat conservation, water quality and quantity, carbon sequestration, rural livelihoods and the resilience of forests to the impacts of climate change.

Key provisions of the Act include:

- 1) The ESRFA is established as a state agency that is independent of the Department of State Lands (DSL) and will be governed by a Board of Directors appointed by the State Land Board. This board will include the OSU College of Forestry dean as a non-voting member.
- 2) The Board of Directors shall contract with OSU for management of forest operations.
- 3) The Board of Directors selects an executive director of the authority. The Board of Directors and the university are to work collaboratively to recruit and nominate candidates in a selection process led by the university.
- 4) The Board of Directors oversees the operational and fiscal integrity of the ESRFA so that it is a financially self-sufficient forest management entity capable of operating and overseeing the forest and necessary infrastructure.
- 5) Creates the Elliott State Research Forest Account, which is established in the State Treasury separate and distinct from the state’s general fund, with the intent that any revenue from the forest will stay within the forest.
- 5) Decouples the forest from the Common School Fund.
- 6) Sunset provisions. Before the Act is fully operative, the following tasks must be completed on or before July 1, 2023 (***SB 161 adjusts this date to December 31, 2023***):
 - a) The State Land Board ensures that financial obligations to the Common School Fund (CSF) related to the Elliott State Forest are satisfied.

Status: Completed. The Act included \$121M to fulfill the CSF obligation based on a \$221M valuation of the forest.
 - b) The State Land Board votes to decouple the Elliott State Forest from the Common School Fund.

Status: Completed. State Land Board action completed in December 2022.

- c) The National Marine Fisheries Service and the United States Fish and Wildlife Service jointly publish a notice of the availability of a final habitat conservation plan for the Elliott State Research Forest pursuant to the Endangered Species Act of 1973 and a final environmental impact statement for the forest pursuant to the National Environmental Policy Act. **(SB 161 adjusts this to: The Department of State Lands submits a habitat conservation plan for the Elliott State Forest to the National Marine Fisheries Service and the United States Fish and Wildlife Service pursuant to the National Environmental Policy Act).**

Status: In progress. HCP adjustments to be completed by June 15, 2023.

- d) The Department of State Lands (DSL) contracts for third-party expertise to provide input informing the department's review of a plan submitted by OSU addressing the financial viability of forest operations and management and concludes that the plan demonstrates financial viability.

Status: DSL final review decision anticipated by December 2023.

- e) The State Land Board approves a forest management plan for the ESRF.

Status: State Land Board action is anticipated in December 2023.

- f) OSU's Board of Trustees authorizes the university to participate in management of the ESRF.

Status: OSU Board of Trustees decision anticipated in December 2023.