

County vs. state timber lawsuit shows frustration

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It says something about the state of frustration in rural Oregon that Linn County commissioners would see fit to drag the state of Oregon into court over management of the state's forest trust lands.

But here we are, with the commissioners filing notice Wednesday that they intend to file a class-action lawsuit on behalf of Linn County and 14 other Oregon counties, including Benton, that contain state forest lands.

You can be certain that the legal case will get increasingly convoluted as it works its way through the courts, but at its heart, it's not that complex. Here's the argument Linn County is making, in a nutshell: When these lands were conveyed to the state, mostly in the 1930s, the promise was that the lands would be managed for the "greatest permanent value." Linn County contends that means the lands must be managed for the economic benefit of the counties.

That amounts to a contract between the state and the counties, the legal case contends. And the lawsuit will argue that the state has violated that contract as it has moved away from the idea that the forest lands need to be managed primarily for revenue.

The plaintiffs in the case say that this breach of contract has cost the 15 counties involved some \$35 million each year from 2001 on. The lawsuit will ask for more than \$1.4 billion in damages, enough to ensure a revenue stream that adds up to \$35 million annually.

So, at its heart, this case rests on a simple breach-of-contract claim: The state and the counties entered into a contract to manage the forest lands for the greatest permanent value. That was meant to provide a steady stream of revenue to the counties. The state broke the contract, and the amount of money generated for the counties has declined, harming the counties' ability to provide services. That's the case. It will be fascinating to watch it play out.

One of the fascinating questions that will get answered sooner rather than later is this one: How many of the 15 counties (Josephine County is among the 15) with state forest lands will opt to remain in the lawsuit? A county that gets cold feet can drop out, although Linn County Commissioner Roger Nyquist said he expects most of the counties to remain in the case. And, he said, Linn County is prepared to carry the case into the courts alone if need be.

Although the legal arguments are fascinating, it's important not to lose sight of the essential frustration that prompted the lawsuit in the first case: "I want our rural communities to have a chance to prosper," Nyquist said, and he and others involved in the case believe that state policies have made it impossible for them to do that. (Of course, this applies to federal lands as well, although this legal action is limited to the state.)

However, the long-term solutions for the problems facing rural Oregon aren't likely to come from the courts. But there's a not-so-hidden message here from rural Oregon to state lawmakers: The time for lip service is over.

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