



O & C Land Act of 1937

By

Joan Momsen

Since the founding of the United States, Land Acts have been created. Some lasted a few years and others decades, sometimes a lifetime. If something was established when one was a child, that child growing into adulthood, thinks the Land Act was there forever or at least should be. Since the government established the O & C Lands Act of 1937 (aka Public Law 75-405) many people have been born and grown up thinking the Act was a right given to the public forever. However, nothing lasts forever and it is often a shock when something that was always there ceases to exist or does not provide help where and when needed.

One needs to study the railroad land grants to get a good overview of the situations throughout the western part of the United States. As the United States began to expand westward, especially after the Louisiana Purchase, there were acres and acres of land that needed to be surveyed, mapped and distributed to the people and territories, then States, located in the lands west of the Mississippi River. This whole paragraph could be expanded into many stories of the Westward movement, but to make this short and simple, maybe too simple for some, this is a quick look to what led to the O & C Land Act of 1937.

When the railroads began to build in the west, the government granted the railroad companies land to help finance the tracks. Generally, they were give a section, a square mile, on alternate sides of the proposed railroad route (A township consists of 36 square miles and a square mile is 640 acres.) If you look at forest service maps and other survey maps, you will see the checker-board division of the land. The idea was that the railroads would put the land to the best use to get funding for the building of a nation-wide network of railroad tracks. Many railroads were Land Grant Railroads.

The railroad that concerns the 18 Counties and the O & C Lands Act of 1937 is the Oregon and California Railroad. That is what the O & C stands for. (I once saw it in print as the ONC. So there has been confusion about the O & C for years.) It was rooted in the original Pacific Railway Act of 1862 and other Acts that followed. In 1866 Congress established a land grant to promote a railroad between Portland and San Francisco. The 1866 Land Grant is probably the best starting point to try and understand the O & C Act of 1937. In 1916, Congress took back about 2.9 million acres of land that had been given to the O & C Railroad. The successor to O & C violated the original 1866 agreement.

The 1866 Act gave 3.7 million acres from the public domain to the founders of the O & C Railroad to build the rail line from Portland to San Francisco. The Oregon legislature, under the jurisdiction of the U.S. Congress, picked Benjamin Holladay of the O&C RR to build the railroad following, and not changing, the federal rules and stipulations, which said they could only sell land in 160 acre parcels to accumulate construction capital to “actual settlers.” Any other way of doing business could result in the revoking of the grant. However, there was not much federal government oversight on the railroad grant projects and timber was not much of a consideration in granting the land because it was to be sold to farmers who would cut down the timber and start farming. It seems complicated and simple at the same time, depending on which side of the issue one stands.

The railroad moved south through the Willamette Valley and reached Roseburg in the fall of 1872. Then the Panic of 1873 struck the nation. Panics are now called depressions or recessions, depending on how severely they affect financial institutions and businesses. The O & C was in debt and the majority of the bondholders were German. The company defaulted to the bondholders and Henry Villard, the agent for the bondholders, took over the rail line. They were unable to raise additional funds to continue further south until 1881. The O & C resumed the southward railway building, getting as far as Grants Pass by late 1883. The first “official” train arrived in Grants Pass on December 24, 1883. The rail line, within a few months, was continued on to a new town formed to receive the new railroad, Medford. By that time Henry Villard had over extended the assets of the railroad and the O & C became part of the Southern Pacific Railroad. The SPRR continued the line over the Siskiyou and into California in 1887 connecting with the SP line into Sacramento. The Southern Pacific was at that point the longest railroad in the United States from Portland, Oregon to New Orleans, Louisiana.

The 1866 Land Grant was still in force even though the railroad was under different ownership. SP waited for several years before it began to sell the land to timber investors instead of “actual settlers.” Maybe they thought no one would notice after over thirty years and three different owners.

Eventually, Oregon embarked on the Oregon land fraud trials in 1904 up to 1908, resulting in many speculators, including those in and out of public office, being convicted of fraud. Oregon also sued Southern Pacific for violation of the original agreement by selling more than 160 acres to timber concerns and not “actual settlers” as specified in the original act. The case went through Oregon courts and on to the Supreme Court, which ruled in 1913 that the remaining unsold lands should go back to federal control. Therefore, in 1916, Congress took back the title on about 2.9 million acres of land. The O & C lands just sat there for over thirty years while the United States entered and ended World War I and then segued into the Great Depression.

Toward the end of the Great Depression, western Oregon’s timber counties asked Congress to help establish a sustained source of timber. The result was the Oregon and California Sustained Yield Act of 1937, which promised a “permanent source of timber supply, protecting watersheds, regulating

stream flow, and contributing to the economic stability of local communities and industries and providing recreational facilities.”

Among other revenue, the O & C Lands Act provided 50% of revenue from the timber harvests to O & C counties to fund their governments thereby keeping taxes low. For years the jobs created and sustained by timber harvest allowed for very low property taxes. The taxes were being paid but not by the occupants of the property. The O & C counties, for the most part, did not increase local property taxes, hoping a solution would be found. The citizens of the counties got used to the low taxes. Problems in earning timber money began to arise for several reasons, among them the restrictions on timber sales to protect the environment and excess timber harvesting causing landslides, erosion and poor water quality. Population grew and jobs were not there in the timber industry. Mills began to close for lack of timber or the right size trees. Mills had to re-tool for different sized trees, an expensive change and some mills just folded because they could not afford all new equipment. Others used up their own private forest lands and could not get more from the public domain.

Starting in 1979 and lasting over half the next decade, Oregon had a recession with mill closures and unemployment. Working in the various areas dealing with timber subsided quickly. The jobs disappeared and rules and regulations became harder and harder to work with. Due to some of the ways the timber land had been managed and harvested, salmon runs declined and the spotted owl began to disappear. In 1991 timber sales were blocked on federal land and by shutting off much of the supply of timber, revenue declined rapidly. To help continue payments to the O & C counties, Congress added appropriation language in 1991, 1992 and 1993 to provide some funding. In 1994, the Northwest Forest Plan was enacted to provide a stable supply of timber and at the same time protect fish and wildlife in Washington, Oregon and northern California.

The saga continued in 2000 when payments to the 18 counties were legislated under the Secure Rural Schools and Community Self-Determination Act (Public Law 06-393). The 18 Counties continued to receive money, but less and less each year. Recent commentary on the situation are all over the internet, newspapers, social media, etc., with each article slanted with the beliefs of the authors. This article was written to clarify the history of the situation and makes no attempt to provide suggestions for a solution.

The first photo shows a O & C RR train with the name on the tender. This drawing shows the Grave Creek Tessel with a train loaded with logs. The last photo shows a log train in Northern Josephine County or southern Douglas County loaded with logs.



