

Summary of Public Comments

Trust Land Transfer Revitalization

July, 2022

As part of the Trust Land Transfer (TLT) revitalization project, the Washington Department of Natural Resources (DNR) held a public webinar on July 7, 2022 followed by a one-week public comment period (July 7-14, 2022). DNR used Survey Monkey to facilitate gathering public comments. This report contains the questions and comments submitted during the public webinar, a summary of the comments submitted via Survey Monkey, and a summary of comments from one letter submitted to DNR during the public comment period.

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Comments/Questions from the public webinar

Why has this "process" to change the TLT not evaluated the transfers that have taken place and if they have met the intended goal for the purpose of the transfer, along with considering how to transfer back in to their original trust purpose if they didn't make live up to the intent? Can there be restrictions on deeds that such purpose be listed to insure the intent is adhered to and returned back if not achieved? I know your group looks at "underperforming" but my question is in regards to what transfers that have already taken place that didn't perform in any sense for any of the intended purpose.

DNR Response:

Answered verbally in webinar: Looking back at past performance is outside of the scope of work that the legislature asked for in Phase 1 and now, in Phase 2, DNR is continuing to look at how to improve the TLT tool. Deeds, however, do often contain restrictions on how the land can be managed after a transfer. For example, the deed may restrict the land to park-use only, meaning the land cannot later be developed; however, there is no recourse to look back and take action if the land just sits as is.

If you are replacing lands with the money generated by appraisal and have replaced less than half of the lands you have transferred out, how can you state you are replacing value for value?

DNR Response:

In the previous TLT program, roughly 80% of the value of the exchange was often the timber value, and that money was distributed to the trust beneficiary. That left only the bare land value available to acquire replacement land. Going forward, the intent is to change that legislative direction and allow the department to retain 100% of the appraised value to allow full replacement.

I listen over a significant amount of time to the group that is tasked with this TLT idea, and the tool used is Zoom. But without CHAT, how does anyone in their right mind believe they have any engagement in this process when it is just LISTEN and tonight the agency has chosen again to disable CHAT. Wow, I thought this was our "we the people" night to have something to say. I guess there's a form of sense in the Q&A function.

DNR Response:

If you're interested in commenting to the work group or the Board of Natural Resources, you're welcome to use the survey to submit comments.

Explain how the tribal consultation is going to be made public, how am I going to know what went on in those likely closed door sessions?

DNR Response:

Answered verbally in webinar: DNR's initial work with the tribes is early outreach and engagement as parcels are submitted from within DNR or by external parties. The purpose of the outreach is to understand if there are cultural resources concerns, or other specific concerns. These meetings are not subject to the open public meetings rules and are internal only. Some of the information shared in these meetings is not appropriate for the public, e.g.

traditional use sites or burial sites, so DNR holds consultations as the work group/committee evaluate parcels. Tribal engagement is one element that is looked at, but it won't be made public because it is sensitive information.

What is/are the metrics that are used to determine if in the best interest of the trust beneficiaries?

DNR Response:

Answered verbally in webinar: DNR is working on this now with the work group. This includes looking at how each parcel has performed in the past in terms of revenue, whether it is underperforming, what revenue can be expected in the future, and whether existing policy or other constraints could affect future revenue. This information is used to make a determination of whether the parcel can generate revenue and whether it is in the best interest of the trusts to continue to manage the parcel or go through the TLT process and get the value of both valuable products and the land for the trust beneficiaries. DNR does not only consider the financial component but also other components such as neighbor issues and development potential of the parcel.

How can a member of the general public nominate a parcel?

DNR Response:

Answered verbally in webinar: DNR is currently launching the pilot program, but in the future the process will be open to the public, with a web page and a call for nominations. There will be more outreach to the public regarding nominations. For the pilot project, DNR had to use parcels that had already been identified because of the time constraints imposed by the legislature.

Have any of the 55,546 ac that have been purchased with this program since 1989 been set aside for purposes other than timber management? Spotted owl habitat? Marbled murrelet habitat? Other?

DNR Response:

Answered verbally in webinar: The responder does not know if any of the previously purchased acres have encumbrances on them. A question for phase 2 is whether there is a look back at lands DNR thought it would acquire, to see if it is performing as well as expected. The intent going forward is to track the investment and whether lands perform as expected or have unforeseen encumbrances. DNR does still have to follow its policy so there may be encumbrances, but these should be minimized.

While the trust beneficiaries receive an immediate cash payment, how does that payment reflect the obligation DNR has to consider intergenerational equity in its trust management undertakings?

DNR Response:

Answered verbally in webinar: Under the current model, if there is a parcel that has a timber value and it is transferred through TLT, the timber value is paid to the beneficiaries, so they get the one-time revenue. The bare land replacement value is then available to purchase replacement land. The goal is to purchase more and better replacement land that will perform in the long-term. If DNR has a property that is not performing it is better to trade it for a

property that will perform long term. The idea is to change the current model where the beneficiary gets a one-time payment and there is only enough revenue from the bare land value to acquire a smaller holding to instead change to a model where DNR receives the full value of the parcel to use to purchase replacement lands.

What is the definition or metric of an underperforming asset/acres?

DNR Response:

The agency has defined underperforming as lands that aren't reaching the level of revenue generation that they are capable of.

As a School Board Director and member of WSSDA TLAC I feel that there has been a tremendous amount of outreach to the junior Taxing districts and the Trust Beneficiaries; thank you for your work.

DNR Response:

You're welcome.

So, you can take this as a follow-up, you and the agency will need to fully explain so as to defend my citizen's treaty rights: Cultural resources but that is not all you are going to engage the tribes on...just cultural resources? Maybe you need to be clear on what you mean by cultural resources; is it in line with the provisions and definitions of Federal Section 106 consultation or does it get defined broadly like the Makah's tried to do with the land exchange in my community in their need to hunt and fish so to say; will those discussions be public or if not what authority not to make it public will you cite to do that other than just "internal"? Think along the lines of the constitution that speaks to the authority of the government is by the consent of the governed.

DNR Response:

Answered verbally in webinar: There won't just be discussions about cultural resources. There are also tribal treaty rights and open and unclaimed land considerations that would be discussed. These would not be open public meetings. DNR would reach out to the tribes that may be affected by a TLT and solicit input. If DNR receives a response in writing, it is not something that is not subject to public disclosure, unless there are specific cultural resource sites which would be screened out. As the committee works through the ranking, this information would be available to them, but DNR would not routinely provide all correspondence with tribes or with an entity that raises a concern about a potential transfer. DNR expects there will be, however, the full range of concerns that a sovereign nation has when dealing with DNR and with the state.

What entities would be able to nominate a parcel for TLT and what criteria would be used to rank them?

DNR Response:

Answered verbally in webinar: Currently, with the pilot project, DNR chose the parcels to consider due to time constraints. The idea is to run these parcels through the selection process and conduct an evaluation, with the Phase 2 work group, of what worked and what didn't and use this feedback to a full process for TLT. The full process will seek applications from the public and those eligible to be applicants and identify parcels for inclusion are anyone who identifies a

willing receiving agency, which must be a public agency. Basically, DNR will open nominations to the public but the public has to identify a willing receiving agency. The criteria for ranking the parcels are listed in the presentation. These criteria were developed with the TLT work group and will also be evaluated as to how well they worked or didn't work. The TLT work group, serving as the advisory committee, will go through the criteria and assign points based on each, and this will be used to rank the parcels on the list.

Will the prioritization criteria and weighting, and then details of each determination, rather than a total rating/score, be made available to public?

DNR Response:

Answered verbally in webinar: This is a good question which hasn't been discussed, but they probably will be. DNR is a state agency so our information is subject to public disclosure. The group hasn't really thought about making a presentation like this, but is in the process of thinking about what information to present to the Board of Natural Resources, so this could be included if people thought it would be useful. DNR is open to ideas.

While the school districts may have received significant outreach, what involvement have you had of the smaller junior taxing districts such as fire districts, library districts, ports, hospitals, etc.?

DNR Response:

Answered verbally in webinar: In the current group of parcels being considered, there are two with State Forest lands and therefore two with junior taxing districts. In this process, DNR has reached out to the taxing districts that could be identified using Department of Revenue data, to give them the opportunity to give feedback on the transfer of the parcels. Future involvement of taxing districts is a topic that will be addressed by a tax district focus group that will be convening in the fall.

Was this second phase of the DNR TLT revitalization effort chartered by the State Legislature or has this been done under the direction of the Commissioner of Public Lands?

DNR Response:

Answered verbally in webinar: Phase 1 was chartered by the Legislature through a proviso and culminated with a report to the legislature at the beginning of this year. The Commissioner of Public Lands and DNR staff decided to pursue Phase 2 because there were questions that the Phase 1 work group did not have time to answer. So, there was a decision to convene this group and start this process to gather work group wisdom and to gather information to inform the pilot project process.

What are the range of numbers for your priority pilot project scoring, and if different scale or set of numbers if they are all added up for a total, between the four groups what justifies that difference in why one gets more credit than the other? If you can't understand what I am saying now you know how hard it is for us to understand what appears to be a big mess of this whole idea and having any fairness and equality.

DNR Response:

Answered verbally in webinar: Our next meeting, Work Group 6.2, will get into the scoring more clearly. We don't have an answer on the numbers right now but are thinking about what characteristics of the prioritization criteria will allow the best TLT parcels to rise to the top, as one work group member stated. So, DNR is using the scoring to facilitate that. The reason there isn't an answer yet is because this topic has required a lot of conversation over three work group meetings, and it continues to receive a lot of input to make sure DNR has the best criteria and ranking possible. This information will be available on the web site when DNR opens the nomination process.

Who controls/owns earnings on the cash account?

DNR Response:

Answered verbally in webinar: If the new Land Bank account is created by the treasury, DNR would control it. The earnings, if it is an interest bearing account, and the money in the account would be put to the trust the revenue came from. If DNR conducts a transfer from the Common School trust, the funds would go into the land bank and be used to purchase more land from Common School. If there were State Forest lands in a county, the funds would go to replace those. Like other land transactions and divestitures, tracking would occur through the state land replacement account. This is a new account that would operate the same way the others do.

Do each of the criteria have equal prioritization value? It appears economic impacts are next to last on the list. Also, why aren't you replacing the rest of the acreage transferred before you do this pilot project, and why aren't you identifying replacement land as part of the transfer?

DNR Response:

Answered verbally in webinar: The list that you see on the slide is one that DNR is currently working on scoring for and will be shared next week. The list is not in order of priority. The next work group meeting will cover the criteria and how they are scored.

To answer the second part of the question, when a parcel of Common School is transferred, DNR is not identifying a property to acquire at the same time, this is not a three-party exchange. The intent is to move the land and retain 100 percent of the revenue from the transaction, and then go buy replacement land. DNR is not planning to use the funds to buy replacement lands for past transfers. The intent is to grow the corpus of the trust for each beneficiary. The idea is to have a database on line and available for all to see that tracks what was acquired and how it performs over time, but we are not intending to go back and look at what was disposed in the past and build that back up. That confuses the issue.

In terms of the database, DNR is still working on the details of tracking and recording with the work group so don't know exactly what that will look like. This will be dependent on what the work group would like to see and what is possible with DNR's current financial systems. This is likely to be a slower process than some would like.

Can legislation be proposed to change the Common School Trust distribution directly to the school district of the specific land instead of the pot/pool for the whole state pulls from it? Like a district needs to build a school, why aren't these local land revenues used to build that school. I expect the answer will

be given this idea is outside the scope; maybe that's the problem I'm hearing because nobody apparently listened to the "what the problem is."

DNR Response:

Answered verbally in webinar: When DNR generates revenue for the Common School trust, through a timber sale for example, the revenue goes into a state-wide Common School account and then a school district in, for example, Medina can tap into the account because they are able to secure bonds, while a school in Wahkiakum County has trouble accessing the account because they have trouble acquiring bonds. There have been discussions about, and Superintendent Reykdal has brought up at Board of Natural Resources meetings, the idea that revenue generated on trust lands stay in the area where they are generated. This would require a statutory change, not a constitutional change. DNR staff have also mentioned this to particular senators in recent weeks and it is something that the Office of Superintendent of Public Instruction could take on if he felt it was a worthwhile objective.

If a school district needs land to build a school on, there are other statutes that give DNR the authority to do a direct transfer to the school district. It is like a right of first refusal for the school district to acquire the land, but they do have to pay fair market value because individual school districts are not direct beneficiaries of the Common School trust. DNR does not have the authority to give them the land. This is outside of the scope of the TLT but has been a topic of discussion.

If the taxing district is negligent in being represented on your advisory group, can an affected citizen of that taxing district then represent the position?

DNR Response:

Answered verbally in webinar: There are counties represented on the advisory committee and there will be taxing districts represented on the focus group. These are largely representatives of the organizations that represent these taxing districts so it is up to the organization to determine if their representative is negligent and they could nominate another representative if needed.

The transfer of over 1,000 acres on Blanchard Mtn in Skagit County was moved to DNR Natural Areas about 4 years ago.

DNR Response:

Answered verbally in webinar: Thank you for your comment.

Under ecological value on the priority list, did you consider including older growth which is holding or sequestering more carbon? This could help Washington meet some climate goals.

DNR Response:

Answered verbally in webinar: Yes, those are good aspects to consider whether a parcel has high ecological value and DNR has been considering them during this process.

Under revitalizing TLT tool, the last bullet point was about expanding the program to other trust land. Are you talking about non-natural resource based lands, like commercial rental property? If not, what exactly is the expansion trying to cover?

DNR Response:

Answered verbally in webinar: Other trust lands include things such as agricultural and grazing land. These are lands that have not typically been considered under the TLT process, which has focused mainly on forest land. Historically, there has been an informal requirement from the legislature called the 80/20 rule, where they would not fund the transfer of a parcel unless 80 percent of its value was in the timber. This was looked at as a way of conserving forest land with high ecological value. There were some transfers funded that sent land to Washington Department of Fish and Wildlife and Washington State Parks, but generally TLT was looked at as a tool to conserve forest land. This new process takes a broader look, to include other lands such as agricultural or grazing land. Another example is a parcel within a city that may have timber but the timber value is only 10 percent of the land value because it has a higher and better value for development, yet there is a strong social component as open space so, if the legislature is willing to pay full market value for it, the parcel could be purchased and replaced with a parcel that would generate revenue for the trusts.

Was Phase 2 requested or authorized by the legislature?

DNR Response:

Phase 1 was directed by the legislature, and culminated with a legislative report located here: https://www.dnr.wa.gov/sites/default/files/publications/lm_tltlp_legrep_final.pdf. The Commissioner and department elected to continue the discussions related to the TLT tool to address a number of remaining issues identified in the report that the Phase 1 Work Group could not resolve in their timeline.

Phase 2 was also directed by the legislature via budget proviso.

What happens if a taxing district, once reached out, objects to the transfer?

DNR Response:

This is a good question, and is one that we are hoping the focus group will contemplate and provide us with recommendations to address it.

Appreciate the difficulty in responding to challenge or worth of tracking performance of past transfers, however that is fundamental to capital investment management.

DNR Response:

Thanks for this comment. We will include it in the summary to the Work Group.

Are you considering generating money from carbon credits?

DNR Response:

The department is exploring carbon markets as an additional tool, but that would be separate from TLT.

So how does "social pressure" equate to prioritizing TLT in the old or the new models?

DNR Response:

Answered verbally in webinar: When going through the best interest of the trusts analysis and looking at whether it is in the best interest of the trusts to transfer a parcel out of trust status, DNR is considering a myriad of factors such as past revenue performance, expected future revenue, underlying land value, and the highest and best use of the property. DNR also considers whether there are features on the property that would cause it to have constraints based on current policy and would, therefore, lead to be underperforming. DNR also considers whether there are social pressures associated with the parcel that would lead it to underperform. It is not the only factor considered and it is not always the factor that would lead DNR to transfer a parcel out of trust status, but it is one factor.

Social pressure is one consideration DNR has to consider, as evidenced by recent Board of Natural Resources meetings.

The 11 parcels total 7,115 acres. I have heard from the beginning no land will be taken from Clallam County. Is this still true?

DNR Response:

There are no parcels in Clallam County with State Forestlands. (The two parcels with state forestlands are Morningstar, in Snohomish County, and West Tiger, in King County).

You did not discuss South Lake Ozette.

DNR Response:

Answered verbally in webinar: The slide appears to contain an older list of parcels. South Lake Ozette was a parcel that was considered at the beginning of this process but it does not fall into a natural area that has an approved boundary which has gone through a public process. This was a factor discussed during the eligibility phase for the parcels when the list was developed. It was determined that eligible parcels should have been through a robust public process to be considered, therefore South Lake Ozette was not included in this round of TLT. Apologies for a summary that includes a parcel that isn't actually going forward into the pilot project.

On the Summary Sheet of transfers, explain South Lake Ozette being on this list.

DNR Response:

Answered verbally in webinar: See previous question

What is the urgency when you have allowed one week for public comment following this presentation?

DNR Response:

Answered verbally in webinar: The group is constrained by the legislative timeline. Going forward, there is a need to:

- Meet with the work group one more time on July 14 to wrap up all the work done since January,
- Kick off the pilot project on July 20 in order to give the work group two weeks to score the parcels per the criteria,
- Culminate that scoring and calculate the ranking of the list,
- Facilitate a discussion with the work group on what worked and what did not work for the pilot project, and
- Develop a decision packet for the Board of Natural Resources to consider on September 6.

Staff is not assuming the Board will approve the packet as-is. There will be discussion and also public comments, so it unknown what the Board will do, but based on what the Board does approve, staff need to provide the information to the Office of Financial Management by mid-September, so about a week after the board meeting. The timeline is dictated by the deadline to get the decision package to the Office of Financial Management.

Comments Collected via Survey Monkey

The following are comments collected through Survey Monkey. Commenters were prompted with three different questions; however, not all commenters responded to all questions.

Question 1: Do you have specific concerns about these transfers that DNR should address? For example, economic or environmental impacts?

- Economic impacts are a huge concern for the beneficiaries.
- Can you allow leave-no-trace dispersed camping in conservation areas? If garbage is a problem can you give us dumpster access so we can clean up garbage ourselves from sites we use?
- Junior Taxing Districts as beneficiaries, if any, should be made whole for losses. That should take the form of a lump sum distribution equivalent to the present value of estimated future streams of income over the next 50-60 years.
- Yes, I strongly approve of the proposed changes in the TLT program, especially that any trust can have lands designated of any size. Like a pilot project.
- Thank you for the webinar. Both the presentation and Q&A were very well done. As you know, there is wide public concern about logging of mature, naturally regenerated forests (stands from the 1930s and older). Please prioritize transfers of these forests, which are increasingly rare, especially at low elevations.
- Need to list better information on the West Tiger Transfer that I submitted when working for DNR.
- Loss of usable lands to sustain income for beneficiaries.
- Yes, it is not public and engaging the public and the affected citizens by such action...but yet even this political limiting system that is a third party agency system is so derogatory to me and my individual freedoms; I can only suspect the government can't do its job and ask me directly. What a mess you the agency and the PLC have created and I am disgusted with your representation for my freedoms. This is a vote of NO CONFIDENCE.
- Yes. I represent the Sultan School District which is also a junior taxing district in regard to revenues generated on DNR trust lands within our school district boundary. If 1,000+ acres is going to be transferred out as revenue generating land, then 1,000 acres should be transferred into revenue generating status. In addition, classify the acres transferred into revenue generating status as "will" generate revenue, not "can" generate revenue.
- TLT has been analyzed repeatedly and shown to be an effective program to assist in consolidating DNR holdings, protecting lands with special values, and maintaining a stream of revenue.

Question 2: Are you aware of any new information that DNR needs to consider regarding the transfer of these parcels?

- How they might be affected by the proposed carbon project.
- The Sauerkraut parcel, recently re-offered for timber auction, was originally withdrawn by DNR due to social pressure, so that in combination with its high ecological value should have qualified it!
- The three step approval process is vital.
- For West Tiger TLT you should add:

1. Contains older forest > 140 years old
2. Identified in the 1986 Tiger Mountain State Forest Plan for conservation of forest since parts are now 140 year + and areas never harvested in the early 1900's
3. Fish streams supporting salmon in Soderman Creek and Raging River
4. Opportunists for environmental education in cooperation with the Mountains to Sound Greenway.

As listed it will rate low because much was missed on the why. Also West Tiger is already identified as within the boundary of West Tiger NRCA by Commissioner Order. I would also add that this parcel was deferred from harvest by the DNR in the Tiger Mountain State Forest Management Plan and is the last parcel not yet transferred to NRCA status in the forest.

- Yes, I've told your staff in the past but the agency continues not to reach out with what the heck is going on, seems you think you can hide all this from us. Stop using survey data mining interest and talk to me directly...so at least it is a process that is subject to our great PDR system that we now have to depend on.
- The Sultan School District relies on DNR trust land revenues to complete many needed projects. Our perception is that for one reason or another, the land available to harvest continues to decrease. Please be mindful of how important it is to bring in revenue producing acreage in place of the land being transferred through the TLT process.
- The time is now to act on the backlog of existing proposed transfers. The shovel ready projects constitute a large number of incredibly valuable projects that have been analyzed sufficiently. Do not delay.
- No, these TLTs clearly represent a win for the environment and satisfy the needs of trust beneficiaries.

Question 3: Do you have comments or concerns about trust land transfer in general?

- How available the information is to the public.
- Can you consider investing the proceeds from the transfers in financial instruments that can produce predictable, perpetual annuity-like revenue for trust beneficiaries? \$35 million at 10% annual return spread equally among beneficiaries might be more appealing to them than a timber harvest payoff that won't be repeated for 80 years ...
- Yes, the TLT program needs to be vigorously funded and fully implemented ASAP.
- On the parcel-specific slides, the "Why this parcel" information was useful though limited, no doubt due to time constraints. So that we can understand how your scoring system works in practice, please provide links to the full applications after an application round is completed. They'll serve as models for future applications. Also, when the full program is in place, will you provide feedback to applicants before the formal scoring round? WWRP programs provide feedback so applicants can fill in information gaps for otherwise good projects.
- I enthusiastically support the revitalization of the Trust Land Transfer program. I appreciate all the work DNR has done. It is clear that TLT can be a useful tool in the DNR tool box. It is very important that you work through ways in which TLT can be used for transfers involving state forest board lands. To me it makes sense to allow Counties to choose which compensation method they prefer--all replacement land or a combination. Please ask for enough money to

cover DNR costs, the 12 projects and add some staffing for regions that want to use expand use of Natural Areas State forest board lands can use TLT.

- So glad to see the enthusiasm in the program. Good show!
- Trading productive lands for lands that are to be preserved is bad business for all peoples of the state.
- Yes, you are complicating and politicizing this even more by relying on special interest and tribal overbearing on my treaty rights. I do not consent as the governed to the authority of this government to such action. Do you even know who I am, are you invading my privacy with this third party data collection tool?
- I am concerned that there appears to be a continued decline in the trust land available to generate revenue for junior taxing districts. At the same time, I want to recognize Commissioner Franz for her balanced approach to many different stakeholder groups.
- The Issaquah Alps Trails Club has always supported the TLT program that conserves underperforming trust lands by moving them to Natural Areas where their high ecological and social values will be protected. We are pleased that this program is being revitalized and will continue to track its progress with the expectation that we will be advocating on its behalf in the next legislative session.
- TLT is an excellent policy. My major concern is that it has been starved for support by the legislature and seems to be given a low emphasis within DNR. This is an innovative and worthy program that serves well the public interest in State lands.
- TLT is excellent public policy. It's a win-win!
- This program is an important tool to conserve underperforming trust lands. The current plan charts a course forward to get this program moving again to protect high ecological and social value lands. The programs will need significant funding and outreach support to be successful.

Other Comments

In addition to comments and questions collected during the public webinar and survey monkey, there were several comments submitted via email. These comments are included in the following section, with longer letters summarized.

Verbatim Comments

- Your system won't allow we the people submit our comments to the TLT before 5 PM today, it says we have already taken the survey. I am not completing a survey. Public engagement has failed.
- No South Ozette, but it sounds like the group just keeps that on the list. Make it official, it should not be on the list as of now.
- I am concerned with Morning Star being moved out of the revenue-producing acreage within the Sultan School District. It has the appearance of a very fast and abrupt move without a guarantee of equal revenue-producing acreage being identified within our school district boundary. I decided to write directly to you as there wasn't anywhere within the survey to leave my name and school district information. We are a junior taxing district and we rely on this funding each year to move our school district forward.

- The DNR, first and foremost, has the Fiduciary responsibility to both the State School Trust and State Forest Land counties, their citizens and their Junior Taxing District, not the public writ large.
- There are numerous projects that the DNR is current addressing that need prioritization. The recent Deloitte study identified numerous internal processes in need of revamping and investment to improve the basic business practices that are critical to fulfilling their fiduciary obligations. Which, in my opinion, far outweigh, the TLT potential benefits.
- Covid has stifled DNR's overall productivity and without re-assessing and addressing the most critical problems; time, talent and taxpayer's dollars will continue to produce less than desirable results. In short, "there are too many irons in the fire."
- So as usual with these processes, the agency treats public comment as a residual necessity in respect to the value it places on involving the public, in this case, when the public in the timeline was engaged to even comment?...then in regards to the public forum versus what was presented at the TLT group yesterday is this whole tribal engagement and scoring aspect; two different stories told. Before I object to the scoring and the criteria that the agency will be using in the pilot project, let me just say: No member of the group except for the tribal representation on the group had a single thing to say about what was presented on the matter and requested to be discussed at the 20:50 timestamp in the recording of the meeting. The agency did not poll the group to determine if this is or is not accepted, let alone a vote of the group to reflect on the representative nature of their purpose on the group. The agency cannot and must not accept the "mums the word" and no discussion as acceptance of this policy.
- I object and do not consent to the authority as a governed to accept this criterion and scoring multipliers in the aspect listed. I get the argument for the Ecological Values and Public Benefit, but in no way has staff described to the group, let alone the public, ANY rational why the tribal support has an equal multiplier value. And then the totally discriminatory nature of hog tying the community support as a lessor multiplier; I don't buy the Economic Benefit as balancing that lessor multiplier out. In fact, the Economic Benefit of a N/A multiplier will be the failure of this entire approach to making a TLT program even more of not paying attention to the bread winner in the equation.
- So let's also begin the open and transparent need for this to be accepted by this member of the public and what difficulty this will put me in my ability to ever consider let alone accept this "NEED" in changing the TLT process: who are the tribal interest that were discussed with on the criteria and scoring aspect to bring this presented approach back in to the picture at this point in time?
- No one can meet your timelines for comments when you keep the cloud over us and not involve us, the citizens of this state that you're by constitution are mandated to serve and protect; not a sovereign nation's interest and desire from a half applied treaty position.

Summarized Letters

Letter 1

- Commenter reminds DNR of their trust obligations and describes why they think the TLT program has not fulfilled this mandate in the past and that the current proposal would make the situation worse. The commenter listed the components of the trust mandate (bold in below) and how they relate to the TLT program:
 - **Generate revenue and other benefits for each trust, in perpetuity:**
 - Since the program began in 1989, 125,968 acres have been moved out of trust status using TLT and only 55,546 replacement acres have been purchased. This is a failure of the program.
 - Before making changes to the program, DNR should disclose:
 - A map of the acres removed from trust status since 1989.
 - The proportion of the replacement acres available for management and the proportion set aside for other reasons such as for wildlife habitat or cultural resource protection.
 - The amount of land transferred out of trust status by trust, and the amount of replacement land obtained for each trust. Commenter notes that it should not be acceptable to move lands out of one trust and then purchase replacement lands that benefit another trust, stating that the courts have ruled that DNR must manage lands for individual trusts.
 - A third-party appraisal of the net present value of the lands removed from trust status and the of the replacement lands.
 - **Preserve the corpus of the trust:**
 - DNR has failed to do this, as evidences by the imbalance of the amount of land transferred out of trust status and the amount of replacement land.
 - The term trust must be applied to individual trusts, not all trusts combined.
 - Only trusts affected by a transfer should have input into which lands should be acquired as replacement.
 - **Exercise reasonable care and skill:**
 - DNR should not consider the difficulty of managing lands as a reason to trade them away. The standard should be whether lands are underperforming. Exercising reasonable care and skill requires effort, not just doing what is easy or simple.
 - **Act prudently to reduce the risk of loss to the trusts:**
 - Any lands that go out of a specific trust management should be replaced with land that is brought into the same trust. This should include how to mitigate any negative impacts to junior taxing districts before any pilot project moves forward.
 - **Maintain undivided loyalty to the beneficiaries:**
 - Only the beneficiaries directly benefitting from land use decisions should be able to propose candidate properties; both out of management status and new replacement properties, and these areas should be identified concurrently to avoid creating a deficit in replacement lands.

- Candidate properties should undergo a third-party appraisal that shows cash flow potential over time, including income from timber, minerals, agriculture, grazing, other types of permits, and potential development values.
- Moving land into a park designation should not be the only option; DNR should also consider sales or exchanges, particularly in areas where there are opportunities for development that may generate revenue for beneficiaries.
- Some parcels currently under consideration for transfer have high value for development and so do not meet the definition of “repositioning underperforming assets.” Trading away from such properties would not maximize the revenue potential of these lands. DNR’s loyalties must be to the trust beneficiaries.
- **Act impartially with respect to the trust; both current and future generations:**
 - The imbalance between lands transferred out of trust status and replacement lands is evidence of DNR not acting impartially toward current and future generations.
 - Before considering any further transfers from trust status, DNR should address the imbalance by acquiring the approximate 70,000-acre deficit.
 - Unwillingness to manage lands that generate negative public feedback is not acting on behalf of the trusts to generate income. The focus of TLT seems to be shifting from repositioning underperforming assets to shifting management from areas where management is unpopular, and asking the public to nominate properties for future consideration will further erode the trusts now and in the future.
- Commenter made specific comments on the TLT Revitalization:
 - The TLT program has not been successful at protecting trust assets in the past and DNR should be accountable for the deficit in replacement acres before moving forward with additional discussion on the program.
 - The new features introduced seem to be justification for removing more land from trust status. The original goal of the program was to replace underperforming assets in order to maximize revenue. DNR has failed in replacing these lands and changing the candidate criteria does not change this trend.
 - Only trust beneficiaries should be involved in determining whether a transfer is in their best interest and 100 percent acceptance by beneficiaries should be required. There should not be an advisory committee.
 - Allowing the public to nominate parcels and receiving agencies will lead to individuals and groups nominating their favorite parcels and land managers to be managed to their liking, setting conditions for a scramble to find and identify receiving agencies and competition for their time and budgets.
 - Nominations could occur without beneficiary input or guidance, allowing outside entities to raid beneficiary trust accounts.
 - A free-for-all nomination process will create problems for beneficiaries by placing encumbrances on lands under consideration, which will take DNR staff time and budget away from other work and bombard potential receiving agencies with requests to be involved in receiving the parcels.

- DNR has acknowledged the difficulty of replacing lands within a taxing district or even the same county and this needs improvement.
- Tracking and reporting are important and the revitalization program should not go forward until a process is established. At a minimum, DNR should collect the following data:
 - Map acres of land transferred out using TLT
 - Map acres of land purchased using TLT dollars
 - Map acres of land purchased with TLT money that is encumbered and show reasons for encumbrance. (Wildlife, riparian, wetlands, slope stability, etc.)
 - Determine how many of the 55,546 acres of acquired land are in active timber/agricultural management
 - Going forward on all parcels going into or out of management through TLT, provide an accounting of manageable acres and unmanageable (riparian, wildlife set aside, access problems, etc.). Explain what the physical features are of candidate parcels or portions of parcels that make them unmanageable (riparian areas, geologic feature, access, etc.)
 - Give an accounting of affected beneficiaries (including junior taxing districts) for all lands both transferred out and purchased into this program. Who are the beneficiaries that are in deficit to this program and who are the beneficiaries who have gained?
 - Provide appraisals of land that went through TLT to other uses. Do the same with future candidate parcels.
 - Provide appraisals of all land that was acquired with TLT money. Do the same with future candidate replacement properties.
- Proposed changes to funding allocation to provide more replacement lands would help to overcome the deficit from the existing program.
- TLT should not be expanded to include all types of state trust lands. It will be difficult if not impossible to replace lands within a taxing district, which is why the legislature did not allow this to occur when the program was initiated in 1989, and it would be even more difficult to accomplish today.
- Commenter provided comments on the pilot project:
 - Until the purpose of the original TLT program is financed and completed (by acquiring the 70,000-acre deficit), the next phase should not be started. Moving forward now would take resources away from accomplishing the current program. Any funding provided by the legislature should be put toward purchasing lands to correct the current deficit.
 - Some parcels currently proposed do meet the original intent of the TLT program and are supported by the commenter, specifically Blakely Island, Chapman Lake, Lake Spokane, Moses Lake Sand Dunes, Rustler's Gulch, and Upper Dry Gulch.
 - Commenter opposes moving forward with Eglon, Chelatchie Prairie, Devils Lake, Morning Star and West Tiger.

Letter 2

- Commenter is concerned with the impact the TLT program has on DNR's ability to sustain a robust timber sale program and meet trust obligations.
- Commenter is not opposed to the framework developed during Phase 1 of the current process, which attempts to address a major concern about erosion of the corpus of the trust and takes steps to create a transparent process that can be monitored over time to address areas of needed improvement to support DNR's trust obligations.
- Positive steps include creation of the replacement funding account in the land bank, elimination of the "80/20" split, improvements to the valuation process, implementing a process to analyze the best interest of the trusts, and a more transparent tracking and reporting process.
- The proposed pilot project does, however, fail to address several key components and the commenter urges DNR not to move forward with the pilot project until the following issues are addressed, defined, and/or agreed to:
 - The creation of the Junior Taxing District Beneficiary sub-committee to develop tools or concepts to mitigate any negative impacts to Junior Taxing Districts or to mitigate those impacts fairly and equitably when another JTD benefits through acquisition of new parcels.
 - Publish for review and comment the metrics used to determine the following:
 - "Under-performing asset"
 - "Best Interest of the Trust"
 - Development of draft language and the plan to secure needed statutory changes to implement the framework as developed in Phase 1, including the concepts around the Land Bank and appraisals.
 - Development and presentation to the TLT Work group on DNR's concepts to identify replacement parcels and to minimize the loss of the corpus of the trust.
 - Development of a plan by DNR on how they plan to communicate and address the new concept of opening nominations of TLT parcels to the public.
 - How will DNR show undivided loyalty to the trust beneficiaries when public pressure to stop operations through TLT nominations ramps up?
 - What processes will DNR publicly put in place to assure nominated parcels that clearly are not in the best interest of the trusts do not wind up on indefinite hold for management?
 - Distinction between selection of a parcel selected for TLT as opposed to inclusion into other projects such as carbon credits, Community Forest trusts, or reconveyance for recreation open space.
- These items above are the minimum issues that need to be resolved before a pilot project moves forward. The timber industry has suffered from policy changes and increased regulatory changes that continues to erode the available supply of timber for vital wood products manufacturing operations that are the engine that drive many rural economies and support the social health of those communities. Expanding use of wood products and active forest management are solutions to climate mitigation strategies. The TLT program must not result in a reduction in timber harvest and net negative impacts on Washington rural communities and beneficiaries.

Letter 3

- Commenter has long-held concerns regarding the TLT program and the ability of DNR to preserve the corpus of the trust, as evidenced by the loss of approximately 64,000 acres of Common School Trust land to date.
- Although claiming to have acquired more lands that it disposed of, in December 2021 DNR submitted a report to the legislature showing a net loss of 70,512 acres through TLT. Using a conservative assumption of 20MBF per acre, this is a loss of approximately 1.4 billion board feet of timber to the market place.
- TLT transfers during the fiscal year 2005-2014 planning decade contributed to an arrearage, which DNR labeled a “virtual harvest” and reduced the overall the arrearage amount for the decade, however this “virtual harvest” did not contribute to overall economic activity or support the direct, indirect, and induces jobs that the volume otherwise would have if harvested. This favors one generation and not future generations. When an inter-trust exchange occurs, the county trusts lose this revenue.
- The commenter does not oppose the framework developed during Phase 1 of the revitalization project, however it does not address all concerns. It attempts to address the issue of loss of corpus of the trust and it attempts to establish accountable and transparent process that can be monitored. It also creates the replacement funding account in the land bank, eliminates the “80/20” split, improves the valuation process, adds an analysis of the best interests of the trusts, and provides tracking and reporting, all of which the commenter supports.
- The proposed pilot project fails to address these key components, however, and therefore the commenter cannot support the pilot project as proposed. There are too many unknowns.
- The commenter strongly encourages the Department not to move forward with a TLT Pilot Project until the following issues are addressed, defined, and/or agreed to
 - The creation of the Junior Taxing District Beneficiary sub-committee to develop tools or concepts to mitigate any negative impacts on Junior Taxing Districts or to mitigate those impacts fairly and equitably when another JTD benefits through the acquisition of new parcels of Publish and present the recommendations of that subcommittee and the plan to implement those recommendations to the work group and interested JTD representatives.
 - Publish for review and comment the metrics used to determine the following: “
 - Under-performing asset”
 - Why is it underperforming?
 - Environmental
 - Social
 - Trust Manager
 - “Best Interest of the Trust”
 - How disposal benefits the affected trusts
 - How acquisition will benefit the affected trusts
 - Economic impacts beyond trust revenue (i.e., jobs)
 - Assurances that transfer out of trust status does not negatively impact remaining trust lands for issues such as access for land management/timber harvest, added encumbrances under the HCP, etc.

- Mapping of operable and non-operable areas of the parcel
- Mapping of site class and hydrological features of the parcel
- Current zoning and zoning of adjacent and contiguous parcels including non-ownership.
- Development of draft language and the plan to secure needed statutory changes to implement the framework as developed in Phase 1, including the concepts around the Land Bank and appraisals. This is to be shared with the TLT work group
- Development and presentation to the TLT work group on DNR's concepts to identify replacement parcels and to minimize the loss of the corpus of the trust.
 - How will the Department address the perception that it struggles to acquire or "sits on funding" to acquire new parcels?
 - How will the Department prioritize forestland replacements over other asset classes?
 - Can the Department pre-identify replacement assets and if not why?
- Development of a plan by DNR on how they plan to communicate and address the new concept of opening nominations of TLT parcels to the public.
 - Describe how this fits with the fiduciary mandates of the Department
 - Expected staff time and costs to manage the program under this concept
 - Means to assure "grid-lock" does not occur due to the potentially significant increase in nominations and staff time to review those.
 - How will DNR show undivided loyalty to the trust beneficiaries when public pressure to stop operations through TLT nominations ramps up?
 - What processes will DNR publicly put in place to assure nominated parcels that clearly are not in the best interest of the trusts do not wind up on indefinite hold for management?
- Why would a parcel be selected for TLT as opposed to inclusion in other projects such as carbon credits, Community Forest trusts, or reconveyance for recreation open space?
- At a minimum, the issues listed above should be resolved before moving forward with a pilot project. Proposing 11 parcels with an estimated value of \$25-\$40 million seems ill advised at this time and it is not clear how a well-funded TLT program is in the best interest of the trusts if TLT becomes a program that regularly assesses parcels for transfer, rather than a tool used to address underperforming assets.