CIRCUIT COURT OF THE STATE OF OREGON
Fifteenth Judicial District

Andrew E. Combs
Judge

Coos County Courthouse
250 N. Baxter
Coquille, Oregon 97423

July 24, 2026

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Re: *Siuslaw School District 97J, et al. v. State of Oregon, et al.*
Case no. 24CV38372

Dear Counsel:

This case came before the court July 7, 2026, for argument on cross-motions for summary. After reviewing the record for each motion in light most favorable to the party opposing it, the court determines that no disputed issues of material fact exist, and that defendants are entitled to judgment as a matter of law on both claims alleged by plaintiffs in their complaint. ORCP 47 C; *Rogers v. Farmers Ins. Co.*, 349 Or app 691, 692 (2026).

A. Background:

For starters, the court will set forth a bit of procedural history leading up to the hearing held earlier this month on the parties' cross-motions for summary judgment. Defendants kicked off the process by filing a motion on May 13, 2026, that asked the court for an order granting summary judgment in defendants' favor on both claims alleged by plaintiffs in their complaint based on seven distinct theories. On May 29, 2026, plaintiffs filed a response to defendants' motion and a cross-motion for partial summary judgment that asked the court to make rulings on four matters. On June 22, 2026, defendants filed a response to plaintiffs' cross-motion and reply to plaintiff's response, as well as a separate motion to strike nearly every exhibit filed by plaintiffs in support of their motion for partial summary judgment. On June 29, 2026, plaintiffs filed their reply to defendants' response to plaintiffs' cross-motion for summary judgment. After the hearing, plaintiffs' filed a supplemental brief on July 10, 2026, which defendants responded to on July 15, 2026.

Having printed and reviewed these motions, responses, and replies described above, what the court typically would do is start with defendants' motion (as it was filed first), list each of the seven theories advanced for complete or partial summary judgment, and then (probably) set out a separate analysis for each. If none of the seven theories provided a basis to completely resolve the case, the court would then turn to plaintiffs' cross-motion

and set out a separate analysis on each issue raised therein. However, because of the manner in which the case progressed through the summary judgment stage, the court will not be analyzing many of the matters raised by defendants in their motion. Instead, the court's analysis herein largely focuses on whether Oregon Admissions Act created a federal trust that imposes continued and ongoing common law trust or fiduciary duties on defendants in the management of those lands granted by the United States to the State of Oregon "for the use of schools." Before ending its analysis, though, the court will also touch on common law trust principles under the Oregon Constitution, as well.

B. Analysis:

Plaintiffs "boil down" defendants' arguments "to two binary choices" set out in their reply as follows:

> "1. Did the direct Congressional grant to schools contained in the Oregon Admission Act manifest Congressional intent to create a bilateral Federal-State Compact, giving rise to a federal constitutional trust?
>
> "2. If so, does that Congressional grant create an enforceable, non-charitable trust at common law?"

Plaintiffs go on to say that: "If the answer to both questions is 'yes,' the Defendants' defenses collapse entirely." Having framed the issues as such, the court will begin its analysis by addressing the first question posed by plaintiffs.

1. The Oregon Admission Act:

Congress passed the Oregon Admissions Act on February 14, 1859, making Oregon the 33rd state of the United States. Section 4 of said Act granted two sections of land in every township to the "State for the use of schools." Both parties cite *Cooper v. Roberts*, 59 US 173, 181 (1855) and *State of Alabama v. Schmidt*, 232 US 168, 173-74 (1914) to support their respective positions and argue that the other is wrong. With this in mind, although the admissions acts at issue in those cases granted the states only one section in every township (rather than two sections) to the state "for the use of schools," the critical language under review by the court in those cases, that is, "for the use of schools," is identical to the language used by Congress when it adopted the Oregon Admissions Act. In neither case did the U.S. Supreme Court find that the phrase "for the use of schools" in the respective state's admissions act showed Congressional intent to create some federal-state compact giving rise to a federal constitutional trust. Instead, in *Cooper v. Roberts*, which arose in Michigan, the U.S. Supreme Court noted that although Congressional consent is sometimes sought by a state as a gesture of "good faith" before selling land granted to it "for the use of schools," such consent is by no means required. The court went on to say that other than perhaps "a sacred obligation imposed on its public faith," states could do what it wished with such lands, "without limitation." *Id.* at 181-82. Relying heavily on its decision in *Cooper v. Roberts*, the court in *State of Alabama v. Schmidt* found similarly, stating that lands granted to the state "for the use of

schools," constituted a "gift to the state [that] is absolute," and that although the state has a "sacred obligation" with respect to such lands, that obligation is nothing more than "honorary." *Id.* at 173-74.

Just to ensure that the court was not missing any significant case law developments that may have occurred in the past 100 years or thereabouts, the court also reviewed *Papasan v. Allain*, 478 US 265 (1986) and found the following statement particularly interesting:

> "The Michigan grant in 1836, on the other hand, was simply 'to the State for the use of schools.' See 5 Stat. 59. After 1845, the type of grant used in Michigan, granting the lands to the State for the use of its schools generally, became the norm. *See, e.g.*, 9 Stat. 58 (1846) (Wisconsin); 11 Stat. 383 (1859) (Oregon)."

As discussed, in *Cooper v. Roberts*, the U.S. Supreme Court examined the phrase "for use of schools" in the context of Michigan's admission act and ruled that "for the use of schools" imposed a "sacred obligation," but no legal obligation requiring the state to obtain the consent of Congress before selling land reserved "for the use of schools." That said, this court cannot help itself from noting that *Cooper v. Roberts* was decided in 1855, which means that Congress was fully aware when it voted on the Oregon Admission Act in 1859 that grants not just one but two sections in every township to the newly formed State of Oregon "for the use of schools," that such language did not impose any legally binding obligation on the State of Oregon to actually use such lands for schools.

Furthermore, for purposes of the case that is presently before the court, the U.S. Supreme Court's decision in *Cooper v. Roberts*, together with the timing of the decision in relation to Congress's passage of the Oregon Admission Act is simply devastating to plaintiffs' argument that the language of the Oregon Admission Act manifests some intent on the part of Congress to create some compact with the State of Oregon, giving rise to a federal constitutional trust. To the extent Congressional intent can be determined from the language used in the Oregon Admission Act, it seems reasonable to infer that after 1855 Congress would have had full knowledge that any admissions act that came before it in which the United States granted land to a newly-admitted state for the use of schools generally, as it did with Michigan's admission act, did not create a binding contract, compact, agreement, trust, and/or other legal obligation that the United States (or those acting by, through, or under it) could enforce against the newly-admitted state in the event the state took the land it was granted "for the use of schools" and sold such land or otherwise used it for some purpose unrelated to schools. Such inference becomes even more reasonable considering that after Oregon was admitted to the union, Congress changed the language it uses in its admission acts. *Papasan v. Allain*, 478 US at 270. Instead of granting land to states such as Arizona and New Mexico as outright gifts, the United States now uses the language of an express trust, with the state specifically designated as trustee. The admission acts contain explicit restrictions on how the state, as trustee, is to manage and dispose of trust property, as well permit the United States the right to retain ongoing oversight responsibilities. *Id.* Thus, Arizona and New Mexico

are prime examples of how Congress manifests an intent to create a federal trust. The Oregon Admission Act shows no such intent.

Accordingly, to answer plaintiffs' first question, the answer is "no." And for the same reasons the court's answer is "no" to plaintiffs' first question, the court concludes that its answer to plaintiffs' second question is also "no."

Having concluded that the Oregon Admission Act does not impose any common law or fiduciary duties on defendants with respect to the management of Common School Lands and/or the Common School Fund, based on the argument of the parties at the hearing, the court is unsure as to how much more it needs to address. It is the court's understanding that plaintiff had distilled the parties' issues to just those two questions. However, before closing, the court will briefly discuss these trust issues under state law.

2. The Oregon Constitution:

Long before this court ever considered whether the Oregon Admission Act created a "federal constitutional trust," this court had been scratching its head about whether Article VIII, section 5 of the Oregon Constitution created some form of a common law trust. Having had the opportunity to revisit the issue now on multiple occasions, the court concludes that the Oregon Constitution does not impose common law trust or fiduciary duties on the State Land Board or any of the other defendants named herein. For what it is worth, reaching this determination was not easy and certainly was not made easier by the phraseology used by the Oregon Supreme Court in *Cascadia Wildlands v. Oregon Dept. of State Lands*, 365 Or 750, 758 (2019), particularly the language about "keeping with the *state's* trust obligation" and "the state's overarching duty as trustee of the common school lands." *Id.* at 767 (emphasis in original). On one hand, this language implies that the common school lands are held in a trust of some sort. On the other hand, it is the "state" that is trustee, not the State Land Board under Article VIII, section 5, which would mean that it is the "state" who owes obligations and duties, not the State Land Board. But who exactly is the "state" in this context? And what exactly is its "obligation" or "duty" and who exactly is owed such "obligation" or "duty"?

After allowing these questions to stew and simmer, this court came to the realization that the rather vague, elusive manner in which the court in *Cascadia Wildlands* discusses the "state" and its "duty" and "obligation" was not done so incidentally but instead with purpose. As the saying goes, "it's not a bug, it's a feature." That purpose is to acknowledge that a trust of some kind does in fact exist, but its terms are neither defined nor legally enforceable. It is the kind of trust that carries with it a "sacred obligation," but, at the end of the day, is nothing more than "honorary."

In conclusion, the Oregon Constitution does not create a common law trust or impose legally enforceable fiduciary duties on any person or entity, including, specifically, defendants named herein.

C. Rulings on the parties' motions for summary judgment:

1. On defendants' first motion, summary judgment is GRANTED. The court expressly finds that:

a. The Oregon Admission Act does not create a common law trust and/or impose common law trust duties on defendants.

b. The Oregon Constitution does not create a common law trust and/or impose common law trust duties on defendants.

c. Defendants are entitled to declarations in accordance with these rulings, and to that end, the court hereby adopts defendants' proposed declarations as set forth on page 17 of defendants' motion for summary judgment.

2. On defendant's second motion, summary judgment is GRANTED. For the court to find that defendants breached a fiduciary duty, the court would first have to find that a duty existed in the first place. However, as set forth above, the court has ruled that neither the Oregon Admission Act nor the Oregon Constitution creates a common law trust and/or imposes common law trust duties on defendants. Accordingly, with no duty, there can be no breach. Defendants are entitled to judgment in their favor on plaintiffs' remaining claims.

3. On defendants' third, fourth, fifth, sixth, and seventh motions, the court finds that its rulings on defendants' first and second motions resolve all claims raised by plaintiffs in their complaint, and therefore, finds it unnecessary to analyze or further discuss such motions at this time.

4. On plaintiffs' claims for partial summary judgment, the court finds as follows:

a. On plaintiffs' first motion, summary judgment is DENIED.

b. On plaintiffs' second motion, summary judgment is DENIED.

c. On plaintiffs' third motion, the court finds that its rulings on defendants' first and second motions above make it unnecessary to analyze and rule on this motion at this time.

d. On plaintiffs' fourth motion, summary judgment is DENIED.

D. Conclusion:

For the reasons set forth above, the court rules that defendants are entitled to summary judgment on their first and second motions. Because these rulings are dispositive, the court does not reach a decision with respect to the remaining motions raised by defendants. Regarding plaintiffs' motions for partial summary judgment, the court denies

plaintiffs' first, second, and fourth motions, and does not reach a decision on plaintiffs' third motion. The court asks that defendants prepare and submit an order and general judgment in accordance with these rulings within the next 28 days. Based on these rulings, the court is canceling the trial scheduled for August 18-28, 2026.

7-24-2026

Andrew E. Combs
Circuit Court Judge