

A
SEPTEMBER 17, 2004

Oregon Department of State Lands

Rangeland Grazing Advisory Committee Meeting

September 17, 2004

The River House

Bend, Oregon

Committee Members Present: John Lilly, DSL; John Tanaka; Joseph Flynn; Martin Andre; Larry Larson; Tom Clemens; George Grier; Dan Nichols. **Absent:** Diana Oberbarnscheidt.

DSL staff present: Ann Hanus, John Lilly, Nancy Pustis and Randy Wiest.

Public Present: Chuck Hibner, Deputy Director, Audits Division, Oregon Secretary of State; Bill Marlett, Executive Director, Oregon Natural Desert Association; and Mike VanMeter, Capitol Press KLCC.

Welcome and Introductions

John Lilly opened the meeting. He advised committee members were selected as representatives of their various interests. He asked each member to introduce himself or herself. First, Nancy Pustis introduced herself. Nancy is the Eastern Region Manager for the Department of State Lands and works in the Bend office.

Committee members:

Tom Clemens, Oregon Department of Revenue Property Tax Division. He is a manager of three field offices in Pendleton, Bend and Eugene. He grew up on a ranch in Burns and currently works in Bend. He looks forward to working together to develop a process to simplify for future uses.

John Tanaka is currently a range economist with the Oregon State University with the Agriculture Research Center in Union. He grew up in Ontario and has worked for OSU since 1985. He also served on the prior Grazing Fee Advisory Committee.

Joe Flynn is part of an old ranching family and is a state lessee. The family has resided in Plush since 1935. They were sheepherders in the area from about 1902 to 1934 and now are in the cattle business.

George Grier lives on a farm outside of Springfield. He was raised on a dairy farm on the east coast and is a fifth generation farmer. He moved to Oregon about 30 years ago. He has farmed in the Willamette Valley for about 15 years. He currently spends most of his time doing

conservation project development and management for a land trust that serves Lane and Douglas County.

Larry Larson is with the Rangeland Resource Department out of Oregon State University. He has been in Oregon since 1984, and is housed in La Grande. He does research primarily on rangeland weeds and water quality issues.

Martin Andre is from Arock, where he has lived for 26 years. He has a cattle ranch there and is a state lessee.

Dan Nichols lives in Diamond, about 55 miles southeast of Burns. He attended Oregon State University, where he met his wife. They leased a family ranch in Diamond and have expanded the operation. They have been there 25 years. He also serves as Harney County Commissioner.

Ann Hanus, DSL Director, introduced herself.

John Lilly had audience members introduce themselves.

- Randy Wiest, Range Manager with DSL's Eastern Region
- Mike VanMeter Capitol Press KLCC
- Chuck Hibner, Deputy Director, Audits Division, Oregon Secretary of State
- Bill Marlett, Executive Director, Oregon Natural Desert Association

John Lilly is the Committee Chair. John is the Assistant Director, Policy and Planning Division, for DSL. He attended Oregon State University and graduated with a B.S. in Forestry. He has worked for the state of Oregon for a little more than 30 years. The last 14 years have been with DSL and involved in issues relating to asset management, grazing fees, land management and other issues.

Overview of Purpose of Committee

Ann distributed a Committee charter to provide clarity and direction (see attachment). The lands primarily involved are Common School Fund rangelands in eastern Oregon. Most of these lands are in Lake, Harney and Malheur Counties. The lands date back to the statehood grant for school lands. During this time, the United States was land rich and cash poor and to help fund schools the founding fathers gave any new state from Ohio west anywhere from 1 to 4 sections out of every township to be set aside for the benefit of schools. Oregon received sections 16 and 36 from each township. This has some historic origin from England. After Henry VIII became head of the Church of England, he took over the monastery and church lands and provided some of those lands to schools. The lands DSL manages for the Common School Fund are linked through the Oregon Constitution. There are about 600,000 acres in eastern Oregon.

The Committee's charge is to 1) review the Secretary of State's Audit Report; 2) analyze whether the current rate reflects at least the fair market value rental rate; and 3) make recommendations to Director Hanus and the State Land Board regarding whether the current grazing fee formula generates a fair market value for the Common School Fund.

Ann reviewed DSL's responsibilities to ensure the best use and best fiduciary management to maintain the lands for the Common School Fund over the long term. The Common School Fund was established as a permanent trust fund for schools. There is a trust principle that must be considered, not just today's generation of school children but for their kids and grandkids in the future.

She noted John Lilly, as the Committee's Chair, is to handle meeting logistics and to ensure meetings are orderly, meaningful and stay on schedule. He will work to ensure all members have opportunity to participate. John will be working closely with Nancy Pustis and Randy Wiest. She also advised one member, Diana Oberbarnscheidt, was unable to attend due to a conflicting responsibility. Randy and Nancy will update Diana on this first meeting. The meetings will all be conducted as public meetings and the records and minutes will be public. DSL will provide staffing. She said if members cannot attend they may send an alternate to observe or speak but alternates will not be members of the committee. She said she hopes decisions will be made through consensus. She also hopes to receive a recommendation from the Committee by June 2005. Ann expressed regrets at needing to leave the meeting to attend to other commitments in the Salem area.

John pointed out that materials were distributed to Committee members in preparation for their work. He also placed copies of the materials on the table. DSL staff created maps illustrating where the lands primarily used for grazing are located in eastern Oregon. All the grazing leases are identified. He noted the maps are "works in progress" and therefore suggestions and edits are welcome.

Overview of Secretary of State's Audit on Grazing Fee

John introduced Chuck Hibner, Audits Division. Chuck thanked the Committee for the opportunity to come and discuss the report. He also wished the Committee luck in undertaking the task before them and offered to provide any assistance to help the process. He provided some general background information on the Secretary of State's Audits Division. The DSL audit was for performance—economy efficiency and program. The audit topic was derived from a general statewide look at utilization of state-owned real property. DSL is a primary land owner and land manager in the State. ODOT, Forestry and Parks were also part of the survey. The Audits Division found that the rangelands held a lot of promise and embarked on an audit.

The purpose of the audit was to determine if the State Land Board through the Department of State Lands is maximizing long term income generated by its rangeland assets with proceeds going to the Common School Fund. He said he would be speaking exclusively to the rangeland grazing fees. It is one of the smaller parts of the whole audit.

These lands were part of the original land grant and carry a trust obligation and a fiduciary responsibility for the Land Board to manage to maximize the long term income for the Common School Fund. The trust obligation and two attorney general opinions formed the foundation for

the audit opinion that the Land Board should be obtaining full market value for the rental of the trust lands.

He reviewed sections of the report dealing with the grazing fees. He said the Division felt that market rates were not obtained. The Division recommended full market rates be obtained and regularly review the grazing fee formula. The Division does understand and considered such factors as economic development and risk sharing and need for government subsidies. The Division came back to the overarching principle of maximizing the Common School Fund.

Larry asked how full market value is determined. Chuck explained that the auditors estimated market value based on a range of values of \$35-50 per acre and analyzed and compared to historic data from last two land sales. In the last two sales some values were around \$100 per acre. The \$35-50 came from a DSL study and was a conservative value studied by the auditors. Larry asked if it was an average over the state, and Chuck confirmed it was an average.

A member asked how Audits reached the conclusion the lands could garner more per acre. Chuck didn't have specifics on the value but said it came from a prior analysis. He said he could obtain the analysis for the Committee.

John asked Chuck to discuss the USDA statistics and efforts to draw comparability between state grazing and types of grazing lands identified in the statistics. Chuck said the USDA statistics were used when the auditors were trying to find a reasonable source for fair market rates. They felt the rates were comparable.

Joe asked how the USDA survey was done. Chuck wasn't certain on the specifics but believes it is a monthly survey. He did not know if it was random. Joe asked if there were any verifiable facts that it was a true number. Chuck said he wasn't the best person to defend USDA's method; however, the auditors felt comfortable with the explanation. Chuck said he suspected fact-checking and statistical sampling was included in the survey but did not know how much. He felt very comfortable with the approach and the validity. He suggested inviting the USDA employee to discuss methodology for reaching those numbers..

Joe said he had facts and figures that do not correspond with those statistics.

Tom asked if the Committee needed to be concerned with the value of the property. He said it is an issue because the goal is to determine fair market rental value. He said he might not be concerned with what the property would sell for but what it would lease for. Another member also asked if the Committee should consider sales or should instead focus just on the grazing fee formula.

John advised that the group will be determining if they want to address whether or not land value should impact the lease rental. This first meeting is more for exploration. John said disposition of lands or short term management of the lands is not within the realm of the Committee. But the extent that the grazing fee may be connected to the value of the land could be pertinent.

Dan said land value is a factor in the private sector for private leases.

John asked Chuck if the USDA survey asked if the respondents subjected their lands to competitive bid. Chuck said he did not know but could ask the appropriate auditors. John said he hoped to bring the USDA staff in to a meeting to discuss the details of the survey.

A committee member asked about the state losing money over four years. Chuck said indications from another consultant's study showed that the lands were not showing a profit prior to that period. Over the four years studied, the loss was attributed to a simple disparity in income versus expenses. He did not know what other factors could have contributed. Members suggested fire suppression expenses may have been a factor. Chuck said those expenses could not be captured for two of those years.

Dan said funds are dispersed twice a year to the schools. He asked: If they were only dispersed once a year, would there be a gain in interest earnings? Chuck said this was not looked at but could be an interesting audit. John advised the distribution requirement was established in statute. John said the idea of making the change would be shared with Director Hanus.

Martin asked about the audit report findings on decisions regarding leaseholders. There is a statement that automatic renewal limits demand for grazing leases and potentially reduces fees collected. Chuck said this may come into play with competitive bidding because the leases are "locked up" for many years instead of on short term. Chuck said looking at USDA, BLM, Idaho and Washington rates suggested the rate was lower for the grazing rangelands. Chuck also suggested an economist might provide insight into bidding and financial cycles. Joe commented that people leasing blocks of land will often lease it cheaper and for a longer time if the lessee has to take care of it. Members suggested if leases were done at current market value with private leases that would be competitive.

John pointed out the auditor said the current rate did not look comparable to market rate based on the USDA statistics. But the auditors did not scrutinize the current formula. Chuck agreed with this. John asked hypothetically if the state formula had been within the 70 percent range of the USDA rate, would the auditors have had the same position about competitive bidding? Chuck said competitive bidding is not necessarily the answer but is commonly thought of as a way to get to competitive rates. If the formula mirrored or achieved the same results, it might be acceptable.

John advised that at the next meeting the Committee will take an in depth look at the current fee formula. Today's meeting will set the ground work for future discussions. John thanked Chuck for participating in the meeting.

Larry asked if the State Land Board and DSL were also responsible for maintaining the infrastructure of the state school systems. If the rates were raised too high and lost agricultural community interest (i.e., lost grazing lessees), that would negatively impact the rural schools. Is the school system part of the responsibility or is it purely monetary? John said it was a difficult question, but the primary purpose is to take care of the Common School Fund Trust which is for the school kids of today and the future. The Department must lease for fair market value to meet trust management principles. This may appear as if it is contrary to the community's health in

some cases. The Land Board will be considering community interest and stability; however, their primary focus by law is unswerving devotion to the beneficiaries of the Trust. Sometimes the beneficiaries' interests may differ from the community's. John Tanaka noted the previous Committee decided competitive bidding may help in the short term but may not in the long term.

John said the current rangeland administrative rules have lessees operating under contracts that are mostly long term, some 20 years with 20 year right of renewal. Other lessees operate with 15 years and with a right to renew for another 15 years. Competitive bidding is used if a piece of land is not being leased. The current issue is to study the grazing fee formula and determine if it is appropriate to gain fair market value.

George referred to the Asset Management Plan. He said other benefits can be considered besides financial, but financial is the primary benefit. There are issues of what happens when a family cannot maintain a farm and the livelihood is lost and the family is impacted. John Tanaka said there are some related studies on the decline of the number of agricultural families in an area and the impacts on the remaining families and the changes in the costs of doing business. George said he felt considerations cannot be strictly economical despite the Common School Fund responsibilities. There are considerations, he said, because of the nature of land issues.

A committee member stressed the volatility of the cattle market and emphasized that the last few years have been good.

John said in past discussions about the fee, a critical understanding reached was the product the lessees were producing. He said the Department's understanding is that lessees are cow-calf operations. He said if the operations had changed, the Committee needed to know about that change. The Committee will need to ask the USDA representatives about the businesses of those surveyed.

George asked if there was any hunting on the properties. John said there may be some guided hunting occurring, but DSL does not receive any fees for that activity. Nancy said guiding hunting could be a source of revenue, but DSL does not know the extent of the activity. She noted that all DSL lands are public lands and with few restrictions placed upon them for recreation use.

Public Comment

John invited audience members to speak to the Committee before the lunch period.

Bill Marlett said his organization has had a long-standing interest in the State Lands grazing program since as early as 1982. He said that during the Barbara Roberts administration, the Land Board opened the up the rangeland rules but that was overturned by Governor Kitzhaber. The organization still feels in some situations competitive bidding is the best protocol for the Land Board to meet its fiduciary responsibilities to the Common School Fund. He said he believes that without competitive bidding there is not a way to determine fair market value. It is just a best guess by using statistics and comparisons. He expressed concern about DSL taking

into consideration other issues such as weed eradication. Some consideration should be given to restoration costs, which may not be currently given consideration in the audit process. He is also concerned there may be some attempt to suppress expense at the state level in order to make the books look better than they actually are. He also suggested taking a hard look at land auctions to dispose of some lands with high overhead and low return.

Tom suggested a current lease statement would indicate market value. Bill said he was just parroting what he had heard from an economist and he is not an expert on competitive bidding or fair market value. Bill said there is also a question of what if the rate is fair market value but the program is still losing money—then what? Does that satisfy Trust responsibilities?

Overview of the Department's Rangeland Management Program

John provided a brief history of the original lands in the Trust. He advised that there are about 640,000 acres of rangelands, primarily in southeast Oregon. There are about 130,000 acres of forest lands. The largest block of forest lands (about 86,000 acres) is in the Elliot State Forest between Roseburg and Coos Bay. There are also forest acres in the Klamath County and the Clatsop-Tillamook forest in northwest Oregon. Other counties also have some forest acres. The ownership pattern no longer looks like the original 16 and 36. The change resulted from the 1965 Land Board decision under Governor Tom McCall to manage the land and consolidate ownership. For 30 years, the DSL staff worked with BLM on a land exchange program to block up state lands. That is why large blocks, such as the Owyhee, Stockade, outside Burns and Wagonfire, north of Lakeview, now exist. Other states have more traditional checkerboard state land patterns. John also advised DSL is in the process of beginning to revise the Asset Management Plan.

Nancy Pustis gave an overview of the current rangeland management program. She utilized the map to indicate how lands are either blocks or isolated parcels. She said plans are drawn up to manage and monitor the blocks. Lands most recently leased are for 15 years with a right of renewal for another 15 years. Some older leases are still for 20 years. DSL has 146 leases. There are 66,000 AUMs. For the AUMs, \$288,000 was generated. Billings are sent out annually for the leases. The fee calculation changes annually. The calculation is based on the average weighted calf price of the previous 12 months. The rating is from October through September of the previous year. The administrative rule identifies the fee formula.

She advised Randy is the only rangeland manager for DSL; he has statewide responsibilities for the rangelands. In the last couple of years, DSL has hired a seasonal workforce to conduct rangeland analysis work. This year, there were two range technicians and an archaeologist. The range techs' primary responsibility has been to work with Randy for the rangeland analysis. The archaeologist is doing site reviews for all of the range improvement work in areas where the ground will be disturbed. These positions are limited to six months. The goal is to have an operating plan on each large land block, and to incorporate some of the smaller blocks. Some plans are informal, and some are formal written plans. Randy works closely with the lessees. The seasonal crew has been out to monitor some of the lands. This involves lease compliance as

well as utilization. Randy reported approximately 90-95% of the block areas were reviewed for plans last year. At least 70-75% is anticipated this year.

The office has partnered to do weed management of noxious weeds on state lands. DSL has weed management plans in Lake, Wallowa and Harney Counties and in Jordan Valley areas.

Randy discussed projects for improvement. He described the improvement fund and distributed an information sheet. In many cases, DSL is buying the materials and the lessees are doing the work, e.g., buying fence materials and the lessee installs the fence. Three rangeland drills are loaned out to do seed work on state lands. He clarified that 12.5% of grazing fees are allocated to improvements. He explained how the aid is distributed. It is largely distributed as needed and justified and program-wide.

John explained how the grazing fees accounting works.

Randy discussed some of the noxious weed programs. He said some of the money has come out of the improvement funds. He said the test plots have had excellent results. Members asked if it was up to lessees to monitor noxious weeds and how that was monitored. Randy said it is difficult to get state grants, but there have been efforts. Nancy said they have worked with ODFW and ODA and others to get grants through, but the state is often excluded. DSL has partnered with ODFW for certain projects. The permittees are not *financially* responsible for noxious weed management, but they are responsible for noxious weeds. This responsibility can just be reporting the noxious weeds to DSL or for working with DSL to resolve the weed issue.

John noted more than 12.5% of the annual revenue may be put into improvements during the 2005-07 biennium. Some will be used on weed problems.

Randy discussed the protocol for rangeland analysis. He said it was developed in 2002 using the Natural Resource Conservation Service. It is designed to assess large tracts of land as accurately and precisely as possible. About 38,000 acres were done in 2002. He said they have used work groups to address issues. Randy also discussed some juniper control efforts.

John distributed lists of block leases holds and of the smaller isolated tracts. He also distributed the forage lease form (contract). Not all lessees are under this form. Some have much longer contracts and are under different lease contracts.

The group discussed who would be the press contact for the Committee. The Committee agreed John should be the press contact. John also advised Monte Turner is the communications coordinator for DSL and may also field some calls and forward to John as appropriate. John said his assistant in Salem is Nicole Kielsmeier.

John asked if the Committee might want to solicit public input after they have decided on tentative recommendations. Members suggested it was worthwhile once there was a draft or information to share. They also asked about how the information was distributed and interested parties identified. John explained how mailing lists are maintained and how a press release would be done. A change to the formula would also require a change to the Oregon

Administrative Rule. This would require approval through Land Board. At the Land Board meeting and in the administrative rule process, there would be opportunity for the public to comment. Committee agreed to reach that decision at a future meeting.

A summary of the meeting will be posted on the website and distributed upon request. A press release and public notice will be given prior to meetings.

A member asked if the state would have any control over the land if it was sold, as suggested in the audit. John explained it would be converting the asset in the investment portfolio from a land to monetary asset. He explained it would be possible to invest the monies into another property.

Next Meeting

John advised the next meeting agenda would include an in-depth review of the grazing fee formula; a presentation by USDA about their survey; and a report of comparisons of what other states are doing.

The meeting was tentatively set for Friday, November 19, 2004 at the Riverhouse in Bend starting at 10:00 AM. George suggested having one meeting in Burns, and John was favorable to that idea. He also suggested a future meeting could be held in Lakeview.

Final Comments

Joe made final comments regarding range rates. On non-irrigated land he has a lease with a timber company. He pays a lump sum whether or not grass is there and has an obligation to keep up fences. They have been with the company for 70 years. He discussed the AUMs on this and another property leased. He wanted to comment on state land blocks. Prior to 1980, they had lots of these but were used in exchange for the block in 1982. He cited revenues in 1979, 1980 and 1981 that demonstrated that the state increased their revenue by blocking their lands. He said he thinks the public should know that this has been advantageous to the public.

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News Release

04-034

September 7, 2004

<p>For more information: Monte Turner 503/378-3805 ext. 247</p>
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State Lands Rangeland Grazing Fee Advisory Committee members named

First meeting scheduled September 17 in Bend

Department of State Lands Director Ann Hanus has named eight members of a Rangeland Grazing Fee Advisory Committee that will review fees charged for approximately 638,000 acres of rangeland in southeastern and central Oregon.

The first meeting of the committee will be held Friday, September 17, in Bend. The meeting begins at 10 a.m. at the Riverhouse Resort, 3075 N. Business 97 in the Middle and South Sisters rooms.

An audit from the Secretary of State's Audits Division released earlier this year recommended that DSL review the formula used to establish grazing fees at least every three years. Committee members will provide recommendations to Hanus and the State Land Board regarding whether the current formula generates fair market value, Hanus said. She said she expects the committee to make recommendations by next summer. If the committee recommends changes, the agency would conduct a public rulemaking process, which includes public meetings and final approval by the State Land Board.

Members of the committee and the interests or expertise they represent include:

- Agricultural economist, John Tanaka, Union, OSU Department of Agricultural and Resource Economics. Tanaka holds a PhD in range science from Utah State University. He recently was elected as 2nd vice president of the international Society for Range Management.
- Rangeland scientist, Larry Larson, LaGrande, professor of range ecology, OSU Department of Rangeland Resources. Larson has a PhD in range ecology from Colorado State University.

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- Rangeland lessees:
 - Martin Andre, Andre Ranches, Arock. Andre has been a rancher in Malheur County for 26 years. He has served on the Soil & Water Conservation District board for four years.
 - Joseph Flynn, Joe Flynn Ranch, Plush. Flynn's family has ranched in Lake County since 1905. Flynn has served on Bureau of Land Management and Lake County grazing advisory boards.
- Public interests:
 - Tom Clemens, Bend, Oregon Department of Revenue, Property Tax Division Eastern Oregon Regional Manager. The Department of Revenue field offices Clemens supervises review farm values, which include lease data. Clemens, who grew up in Burns on a ranch, holds a real estate broker's license and is a registered appraiser.
 - George Grier, Springfield, project manager, McKenzie River Trust. Grier manages conservation projects in Lane and Douglas counties. From 1973-1985, he owned and managed a 450-acre farm, and from 1984-2000, he worked as a financial consultant. He currently is a member of the Lane County Farm Bureau board.
 - Local government, Dan Nichols, Diamond, Harney County commissioner. Nichols has served as a commissioner for eight years and has been a rancher for the past 25 years. He has been a member of the Oregon Farm Bureau state board as well as the Oregon ASCS State Committee.
 - Education beneficiary, Diana Oberbarnscheidt, Bend, president, Oregon PTA. Oberbarnscheidt served on DSL's range management plan committee last year, which reviewed plans for parcels of southeastern Oregon rangeland. She has been a member of the Oregon PTA State Board for 11 years and participated in several Oregon State Department of Education committees.

DSL Assistant Director John Lilly will chair the committee.

To receive agendas for meetings of the advisory committee, contact Nicole Kielsmeier, Department of State Lands, Policy & Planning Division, 775 Summer St. NE, Suite 100, Salem, OR 97301-1279. She also may be reached at (503) 378-3805 ext. 239 or e-mail: Nicole.Kielsmeier@dsl.state.or.us.

The state-owned rangelands are the largest block of land remaining from a grant of land by the U.S. Congress to support schools when Oregon became a state. The Oregon Constitution dedicated the school lands and their mineral, timber and other resources to the Common School Fund. Twice a year, the State Land Board distributes investment earnings from the fund to counties for school use.

DSL

[Back]

**Oregon Department of State Lands
Grazing Fee Advisory Committee Meeting
September 17, 2004
10 A.M. to 3 P.M.
South and Middle Sisters Meeting Rooms, Riverhouse
Bend, Oregon**

10 A.M.

Welcome/Opening Comments	John Lilly, Assistant Director, Chair
Introduction of Committee Members	Committee Members
Overview of Purpose of Committee	Ann Hanus, Director
Committee Discussion/Questions	
Overview of Secretary of State's Audit on Grazing Fee	Charles Hibner, Deputy State Auditor, Audits Division
Committee Discussion/Questions	

12:00 P.M.

Lunch (*provided*)

12:30 P.M.

Public Comment	
Overview of the Department's Rangeland Management Program	Steve Purchase, Assistant Director Nancy Pustis, Manager, Eastern Region Randy Wiest, Rangeland Manager
Committee Operating Procedures	John Lilly
What's Next?	
▪ Questions to be answered	
▪ Information needed	
▪ Next Meeting Date: November 19?	
▪ Next meeting location ?	



Oregon
Department
of State Lands

Director's Grazing Fee Advisory Committee 2004-2005

Charter

Background: The Department of State Lands (DSL) manages about 640,000 acres of rangeland in Southeastern Oregon primarily in Lake, Harney and Malheur Counties. The lands are considered to be assets of the Common School Fund, a fund established at statehood to provide financial support for Oregon's public K-12 schools. The State Land Board (Board), consisting of the Governor, the Secretary of State and the State Treasurer, are the trustees of the Fund and direct the policies of the Department. Much of the land is leased for grazing. There are about 146 lessees each operating under contract with the Department and annually paying fees based upon the carrying capacity of the leasehold and a formula adopted by the Board and implemented by the Department. The last fee formula change was in 1995; the fee itself is adjusted annually in accordance with the provisions of the formula.

In 2004 the State's Audits Division released an audit of the Department's rangeland management program and observed that the grazing fee had not been periodically reviewed as required by the Board's rules. In addition the Audits Division recommended that the fee be increased to approximate rates reported by the USDA paid by lessees for the use of private non-irrigated grazing lands.

Grazing Fee Formula Review: The Director of the DSL determined that the fee formula is in need of review. An advisory committee, representing various interests (the DSL, lessees, rangeland economist, rangeland scientist, local government official, public interests and school beneficiary), has been appointed. The Director is seeking recommendations from the advisory committee regarding the existing grazing fee formula. The Director will review the recommendations and report them to the Land Board along with the Department's recommendations for action. No new formula or fee for forage use of rangelands will be imposed until the Land Board has approved a change in the current formula.

Principles: The Grazing Fee Advisory Committee, in deliberating over its tasks, must adhere to the following principles within its recommendations:

1. The Land Board and Department of State Lands must obtain fair market value from the use of Common School Fund trust lands in order to meet fiduciary responsibilities; and
2. The Common School Fund trust lands must be managed to conserve the productivity and sustainability of the lands for the Common School Fund over the long term.

The Grazing Fee Advisory Committee's Tasks: The Committee, chaired by the Department's Assistant Director for Policy and Planning will:

1. Review the audit report findings as to the grazing fee;
2. Analyze whether the current rate reflects at least a fair market value rental rate; and
3. Make recommendations to the Director concerning the fee formula

Committee Operations:

1. The Chair will ensure that:
 - Meetings are orderly, meaningful and stay on schedule;
 - All members have an equal opportunity to participate in discussions and deliberations;
 - Meetings are scheduled to meet the time commitments of as many members as possible; and
 - The committee discusses work assignments and future agendas.

The Chair is expected to fully participate in discussions.

2. All committee meetings will be conducted as public meetings. Recordings of the meetings will be kept as well as a meeting summary. All work products will be treated as public records.
3. The advisory committee will be supported in its work by the staff of the DSL. The advisory committee may seek advice of outside experts.
4. In the event a member is unable to attend a meeting, an alternate may be sent to monitor the discussion and report meeting results to the absent member but not participate in consensus discussions.
5. Committee decisions will be made by consensus. Consensus means that a member can "live with" the recommendation or decision and that the decision is, at a minimum, not inconsistent with the member's interests. When consensus is reached, it usually means members will not work to block the recommendation or decision.

Schedule: The Committee is expected to complete its work no later than June 2005 and provide its report to the Land Board in August 2005.



Oregon

Theodore R. Kulongoski, Governor

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M E M O R A N D U M

February 13, 2004

State Land Board

TO: James Pitts
Performance Audit Administrator

FROM: Ann Hanus *Ann Hanus*

SUBJECT: Agency Response to Draft Rangeland Audit Report and Recommendations

Theodore R. Kulongoski
Governor

Bill Bradbury
Secretary of State

Randall Edwards
State Treasurer

By means of this memorandum, we are responding to the draft "Audit Report: Oregon State Land Board Rangeland Revenue for the Common School Fund Fiscal Years 1998 to 2002." We have carefully read this report and generally concur with the recommendations of the auditors. Specifically, we are in complete agreement that:

- The grazing fee formula and factors comprising that formula should be reviewed at least once every three years, and
- If rangelands are retained, we should determine the resources needed to protect the asset.

Also, we generally agree that it is appropriate to sell selected, isolated rangeland parcels and/or exchange selected parcels of rangeland for better performing assets.

Our only major concerns are directed toward:

- The relevance/utility, if any, of comparing the average annual fee reported by the U.S. Department of Agriculture (USDA) for grazing on privately-owned, non-irrigated land in Oregon to the fee charged by DSL, and
- The recommendation that we obtain market rates for leases either by reinstating competitive bidding for rangeland leases or increasing grazing fees.

These concerns aside, we believe that, although selling or exchanging poorly performing rangeland parcels for better performing assets is prudent, doing so will neither be easy nor without an as-yet-undetermined cost. Among the practical considerations we have identified are:

- A market may not exist for many of the parcels selected for sale or exchange.
- The cost to conduct rangeland sales may exceed the cost of continuing to manage the parcels.

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February 13, 2004
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- Additional staff and other resources may be needed to rapidly initiate and sustain a sales program.
- Despite the apparent low annual return from these lands, a careful, well-considered evaluation of the future value/use/appreciation needs to be done before embarking on a wholesale land disposal effort.

Additionally, although we agree that rangeland has not been a major source of revenue to the Common School Fund, it nevertheless has been a relatively constant/dependable producer.

We want to thank the Audits Division for the thorough job it has done concerning this review. In the following attachment to this memorandum, we have addressed the above mentioned concerns and factors relevant to carrying out the recommendations made.

Please contact me if you have any questions, or require more information.

DISCUSSION OF DRAFT AUDIT REPORT

DSL Audit Concerns

In general, we believe that the conclusions of the audit report are theoretically correct. However, we believe they need to be tempered by several practical considerations:

- If the decision is made to sell much, if not all of the rangeland, at what rate could the market absorb this acreage?
- Would the cost to conduct the sale of a rangeland exceed the cost of continuing to manage it?
- What additional staff and other resources would DSL require to rapidly initiate a sales program?
- Despite the apparent low annual return from these lands, a careful, well-considered evaluation of the future value/use/appreciation needs to be done before embarking on a wholesale land disposal effort.
- Unsold rangeland parcels would still cost money to manage. Since we are at minimal staffing levels (one rangeland specialist), there would be fixed costs that would continue.
- Since we recently hired an Eastern Oregon Property Manager, we are only beginning to explore other sources of revenue from these lands.

After reading the Secretary of State's audit report, Department of State Lands' staff researched rangeland rental rates and performance. Based on this effort, we concluded:

- A number of methods are available to attempt to determine the performance of rangeland as an asset. However, considerable controversy exists concerning the appropriateness of most of these methods or what is considered an acceptable rate of return for this type of asset. Typically, the leasing of rangeland yields returns that are low when compared to standard real estate investment returns. DSL's rangelands have proven to be a reliable source of revenue.
- For some time, the Land Board has realized that rangeland does not always generate positive net operating revenue. As stated in DSL's 1995 Asset Management Plan:

"The Board recognizes that the potential for a positive net operating income (NOI) from the leasing of rangelands for grazing is unlikely in the short term given current management costs, lease rates and cattle prices. It also recognizes the integral relationship many of the leaseholds have to lessees' deeded land and to BLM grazing allotments for cattle ranching operations in southeastern Oregon."

- A comparison of the rental received from leasing a tract of publicly-owned land to one that is privately-owned is subject to criticism unless the parcels have similar vegetative characteristics and the services offered by the lessor are identical.
- The use of United States Department of Agriculture (USDA) annual data "Monthly Least Rates For Private Non-Irrigated Grazing Land" for comparative purposes may be indicative, but is not a reliable measure of what private landowners are receiving for rent due to the weaknesses of the USDA data as explained below.

Audits Division Observations

Before addressing each of the four recommendations, we believe it is useful to briefly discuss two major observations the auditors use to support their recommendations.

Observation #1:

The grazing fee charged by DSL is low when compared to that received by the owners of privately-owned, non-irrigated grazing land in Oregon.

In the audit report DSL's rangeland rental fee (which in 2002 was \$4.52) is compared to the average grazing fee for privately-owned, non-irrigated grazing land in Oregon in 2002 as determined by an annual USDA survey. The auditors contend that the rent received by DSL for the use of its rangeland (which is non-irrigated) is substantially lower than that reported in the annual USDA study. Consequently, it appears to the auditors that DSL is undercharging for the use of its rangeland.

Based on numerous conversations DSL staff has had with USDA analysts, we have determined that the USDA data are not a valid indicator of whether the forage fee charged by the agency is appropriate.

The USDA data are based on the answers given by respondents to four questions (#3, 13, 14 and 15, Section 1) contained in an annual survey entitled "Cattle Report" conducted by that agency. These questions are:

- (# 3) Total cattle and calves on hand January 1?
- (#13) Were any cattle or calves reported on the total acres operated?
- (#14) Which of the following is the most commonly used method of charging for grazing on privately-owned, non-irrigated grazing land in your area?
 - Per head per month?
 - Per animal unit month (AUM)?
 - Per cow with nursing calf per month?
 What was the average charge for this method in your area during 2002?
- (#15) During 2002, did this operation pay a fee to graze cattle on privately-owned, non-irrigated land using either a per head per month, per animal per unit month, or per cow with nursing calf per month method?

Question 14 only asks the respondent his/her opinion of “*what was the average charge (to graze cattle on privately-owned, non-irrigated land) in your area during (the past year)?*” This is similar to asking various landlords: “*What do you think the average rent is for a two bedroom apartment in Salem?*” The answers given in both instances are a matter of opinion, and are not based on either specific documented reports or necessarily on first hand knowledge of all the market (that is, as a private land lessee or lessor). Furthermore, there is no objective, independent method to verify the USDA’s grazing lease fee information. Some of the information is confidential.

Questions Asked by DSL of USDA Analysts

We focused our research in the four counties where DSL leases the most rangeland: Harney, Klamath, Lake and Malheur (as indicated in the following table):

DSL Rangeland: Leases & AUMs

County	Acres of Rangeland		AUMs on “Blocked” Parcels	AUMs on “Isolated” Parcels
	Leased	Unleased		
Baker	2,951	160	800	
Crook	6,061	1,827		253
Deschutes	40,822	640	4,200	256
Gilliam		960		
Grant	1,779	145		508
Harney	187,568	4,245	25,352	2,198
Jackson	200			20
Jefferson		78		
Klamath	2,043	157		603
Lake	93,850	1,930	13,449	1,045
Malheur	279,151	824	16,491	539
Morrow	39			8
Sherman	41	201		8
Umatilla		200		40
Union	80	182		90
Wallowa	201	1,252		58
Wasco	400	334		84
Wheeler	1,996	836		194
Total	617,182	13,971	60,292	5,904

Total Acres of rangeland: 631,153

Total AUMs: 66,196

To establish how representative the answers given in this survey are, DSL staff asked USDA analysts a number of questions.

(1) How many answers did you receive to questions #13, 14 and 15.

The following information was provided by the USDA:

- Total number of valid answers received for Oregon: 722
- Total number of answers with "positive" data: 148
- Total number of answers with "positive" data from:
 - Harney 12
 - Lake County 8
 - Klamath County 2
 - Malheur 19
 - Total 41 or 28% of total answers with positive data.

Source: Barry Adams, USDA, 2004

From this information, it is apparent that the \$12.60 average grazing fee reported as the average fee for privately-owned, non-irrigated grazing land in Oregon is based in part or wholly on what may be unreliable data for our four county area of interest. Additionally, because the four counties in which DSL has the majority of its rangeland constitute only 28% of the 148 positive answers received, the \$12.60 may or may not be representative of their average fee.

USDA Non-weighted Fees/AUM for Selected Oregon Counties

<i>County</i>	<i>Reports</i>	<i>Non-weighted Average AUM Fee</i>	<i>DSL AUMs Under Lease and % Total AUMs</i>	
Crook	3	\$13.88	253	0.4%
Grant	10	\$11.74	508	0.8%
Harney	7	\$11.28	27,550	41.6%
Malheur	9	\$ 7.95	17,030	25.7%
Morrow	3	\$ 9.52	8	-
Sherman	3	\$ 7.00	8	-
Umatilla	3	\$ 8.16	40	-
Wasco	4	\$ 8.34	84	0.1%
Wheeler	6	\$11.31	194	0.3%
Total	48		45,675	68.9%
State	57	\$12.81		

Source: Barry Adams, USDA, 2004
DSL, 2004

Notes:

- It should also be pointed out that nearly 90% of the total AUMs under lease to DSL on land managed by the agency occur in just three counties: Harney, Lake and Malheur.
- Lake County data was not available from USDA because of confidentiality reasons.

- It appears from these data that Crook and Malheur Counties had a large number of "low fee" AUMS.

Conclusion Concerning USDA Data

DSL leases its land "as is-where is." Only modest investments are made in the land by DSL. The USDA survey does not indicate if the land within its sample area is also "as is-where is" nor does it indicate the types and charges for services and improvements provided by the lessor to the lessee. We believe without more reliable market comparisons, use of the USDA data results in an "apples to oranges" comparison. Furthermore, the utility of the data for setting DSL fees is of marginal use since there is an apparent wide disparity between Malheur and Harney Counties. Practically speaking, this disparity is difficult to understand since there is a great deal of uniformity in the physical conditions of the DSL-leased land in these counties. Of additional concern is that the USDA is unable for confidentiality reasons to release data for Lake County.

DSL Mini-Survey of Rangeland Rental Fees

In a telephone survey conducted by DSL staff of landowners who lease non-irrigated land in southeastern Oregon for grazing, it was found that the reported fee varied markedly from \$3.24 to as much as \$18 per AUM. Often, the amount charged depended on the quality of vegetation. Typically, privately-owned land contains better quality forage than public land, often because of the level of investment made to improve forage and water on private land. With regard to the land considered in this survey, in some instances, the ground being leased was seeded or the forage consisted of hay "aftermath." Because cows grazing on this type of "improved" forage gain more weight per month than those on "native" acreage, a higher AUM rate can be charged.

Additionally, there is a wide variance in the services that a private landowner can offer to a lessee. Without more information concerning the attendant services offered by private landowners to those leasing the subject acreage (such as fencing, supply of water, payment of real estate taxes, liability insurance, utilities, etc.) a comparison of average grazing fees reported from a survey with those charged by DSL is extremely difficult and likely to lead to mistaken conclusions.

As a final comment, it is informative to compare forage rates charged by DSL during the period 2000 to 2004 with those of other western states having arid rangeland of a similar quality to that in Oregon and managed in a similar fashion and purpose as DSL. DSL has approached the fee-setting process through an active dialog with lessees and experts in range management. The dialog takes into account the product being produced from the land, the relative productivity of the land, the amount of risk to be shared and the market pricing for the product. Strict reliance on broad-based surveys tends to gloss over and generalize a market/industry that is highly variable. As is evident from the following table, DSL's grazing fee over the five-year period is within the range of the fees charged by other land management

agencies in states adjacent to Oregon over these three years, and considerably more than that charged by the BLM.

Grazing Fee Comparisons

Dollars Per AUM

	2000	2001	2002	2003	2004
Oregon Dept. of State Lands	\$3.64	\$4.36	\$4.52	\$4.16	\$4.32
Idaho Dept. of Lands	\$4.75	\$4.95	\$4.96	\$5.33	\$5.15
Washington Dept. of Nat. Res.	\$7.24	\$7.32	\$7.40	\$7.52	\$NA
Federal BLM Grazing Fee	\$1.35	\$1.35	\$1.43	\$1.35	\$NA

Observation #2:

Expenditures have exceeded revenue derived from rangeland.

It is correct that during the most recent two (FY2001 and FY2002) of the five fiscal years considered in the auditor's analysis, total annual costs exceeded total annual revenues for the rangeland program by \$13,115. During those two years, DSL incurred unexpected fire suppression costs on its rangeland. In 2001, the amount of fire suppression costs charged as a rangeland management expense was \$92,000 in 2001 and \$15,600 in 2002. For the three years 1998 to 2000, and in 2003, no such costs were incurred. If these costs are excluded from the total annual costs for those years, the rangeland program would have, in fact, been profitable – albeit not greatly so.

An additional consideration that DSL believes has significant bearing on rangeland revenue is a one-time payment of \$3.5 million authorized in 1999 by the Oregon State Legislature (which is discussed later). The primary purpose of this allocation was to compensate the Common School Fund for any revenue that might have been earned through competitive bidding if this method of offering leases would have been used after the expiration of a number of the leases. If this amount would be prorated on an annual basis over a 15-year period and considered revenue for each of those years, the rangeland program would be substantially profitable.

DSL believes that the \$13,115 deficit constitutes a relatively insignificant "holding cost" when compared to total revenue and total costs involved – less than 1% of total revenue for the five-year period.

Discussion of Audits Division Recommendations

(1) Sell all or part of the land through an open competitive bidding process.

We generally agree that it may be appropriate to sell selected isolated rangeland parcels. However, we do not believe it is necessarily in the best interests of the

Common School Fund or the beneficiaries of this trust to sell all rangeland managed by DSL.

For some time, DSL has endorsed the selling of parcels that either do not meet the agency performance criteria, and/or show limited potential to do so in the future. This policy is contained in the agency's Asset Management Plan (which was adopted by the Land Board in 1995) and is embodied in the administrative rules governing the sale, exchange and purchase of land (OAR 141-067-0130 through 141-067-0340). In adherence to this policy DSL has conducted both sales and exchanges of rangeland parcels.

Following adoption of the Asset Management Plan in 1995, DSL began to identify isolated parcels of rangeland for possible sale. As a result of this effort, the agency identified 66 parcels totaling 16,258 acres in 11 counties as candidates for sale, 31 of which totaling 5,261 acres were unleased. Following review by other state agencies, interest groups and the public, DSL identified 29 of the parcels covering 5,233 acres in Klamath, Harney and Lake Counties as available for sale. In March 2000, DSL held a sealed bid land sale for the nine unleased parcels. Twenty-three bids were submitted with a total bid premium of \$19,300, or about 19% above the total appraised value of the seven parcels sold.

In 1998, DSL conducted an exchange of isolated rangeland parcels totaling 8,706 acres for numerous parcels of private land consisting of 7,789 acres. By doing this, DSL substantially consolidated its ownership thereby decreasing management costs.

During the past two years, DSL did not offer any isolated tracts of rangeland for sale. The principal reason it did not do so was, until recently, the lack of administrative rules guiding the sale and exchange of state-owned land and understaffing. However, with the adoption of such rules (OAR 141-067-0130 through 141-067-0340) in April 2002, DSL can now proceed, staff availability and budget permitting. DSL may also now consider the sale or exchange of additional rangeland identified in earlier studies as non-performing, and the 38 requests it has received since 1995 from persons wanting to purchase or exchange land for 11,323 acres of state-owned rangeland.

Sale of multiple parcels raises a number of considerations:

- (1) How long would it take to sell a major part of the rangeland and at what cost to DSL?
- (2) How do existing lease agreements and administrative rule provisions affect DSL's ability to quickly dispose of rangeland parcels? For example, OAR 141-067 provides that once rangeland is classified by the Director as "available for sale," a qualified lessee has the right to bid last to meet the final bid. In addition, current leases provide that if DSL would *"find it to be in the best interest of the state to sell or exchange the lands embraced in this lease,*

then this lease may be terminated upon giving the lessee two years advance written notice, unless by mutual consent of the state and the lessee, an earlier termination date may be fixed."

- (3) Might rangeland parcels with a current minimal monetary value in the future be found to have much greater worth for various uses? Some examples could be:
 - Irrigated agricultural land. For example, at one time much of the rangeland managed by Washington Department of Natural Resources had a very low return similar to the rangeland managed by DSL. However, because an increasing amount of this land has become irrigated, it is commanding substantially higher rental fees as agricultural and pasture land.
 - A site for wind farms, geothermal development, and solar power.
 - Development of underlying water rights held by the state for non-agricultural uses.
- (4) Because many of the rangeland parcels are split estates (that is, the mineral rights have been severed from the surface rights), would DSL receive a reduced amount for this land?
- (5) Would the public beneficiaries of this rangeland contend that the long-term environmental and social benefits provided by it as a publicly-owned asset may equal or outweigh the financial considerations?
- (6) Would the better, revenue generating parcels sell first and quickly? If so, management costs may be reduced but, at the same time, program earnings may decline disproportionately.
- (7) What would the long-term management costs be for those parcels that did not sell?

It is also noteworthy that the issue of retaining or selling all of the state's rangeland was discussed in the mid-1980s at several public meetings. Following those discussions, the consensus among the meeting attendees was that the land should not be sold, but retained for future generations.

From a financial standpoint, it is certainly correct that the sale of all, or a significant part of the agency's rangeland could result in a considerable amount of revenue that could be reinvested in alternative land assets that have greater returns. This rangeland was given to the state by the federal government at the time of statehood to generate revenue for what is now the Common School Fund. Except for the money spent by DSL to manage and improve this land, there are no other costs associated with holding this asset.

(2) Obtain market rates for leases either by reinstating competitive bidding for rangeland leases or increasing grazing fees to market rates.

DSL concurs that competitive bidding is one, if not the most suitable way to ensure that market rates are realized. However, the agency is not able to use competitive

bidding for nearly all of the forage leases currently in place. This prohibition resulted from:

- An agreement reached by the agency in 1998 at the direction of the Land Board with a group of lessees who were in litigation with the Board and DSL, and
- Legislation enacted in 1997 (SB 5523) which allocated \$3.5 million to the Common School Fund. The purpose of this allocation was to:

“implement(ing) an assured lease program for state-owned rangeland... and.... be used as compensation to the Common School Fund to allow the State Land Board and the Division of State Lands to issue assured grazing leases to current state grazing leases in such a manner and under such terms as determined by the State Land Board to be consistent with the Board’s constitutional trust and land conservation obligations.”

However, competitive bidding is used to re-allocate leases that have been abandoned or in instances when previously unleased land is made available for lease. To understand why DSL does not employ competitive bidding as a means of awarding rangeland forage leases, it is necessary to briefly review the history of the development of its rangeland management rules.

Prior to 1994, DSL did not have any administrative rules to guide it in the administration of its rangeland. Instead, staff relied primarily on its experience, Land Board direction and policies, Attorney General opinions, and statutes to make management decisions. Leases were typically issued on a “first come, first served” basis. The majority of the land under lease had been acquired through land exchanges with the Bureau of Land Management (BLM) in the 1960s and 1970s. Lessees agreed to give up their assured BLM permits for state leases because the state offered lease terms similar to the BLM’s permit provisions.

Between 1992 and 1994, DSL staff undertook a comprehensive review of the rangeland program, and developed with considerable public involvement administrative rules governing the management of this asset. The rules that were adopted by the Land Board in 1994 provided that all leases upon their expiration be exposed to, and awarded by competitive bidding. Shortly after adoption of these rules, three lawsuits were filed concerning various rule provisions. One of these, a class action filed in Harney County Circuit Court on behalf of all then current lessees, contended that the competitive bidding provision violated their right to renew their leases pursuant to the terms and conditions of their leases.

In early 1995, the Land Board directed DSL to consider alternative ways of awarding leases other than competitive bidding. At its February 1995 meeting, the Board repealed the competitive bidding provisions of the rules. In that same year, the Harney County Circuit Court ordered, based on a 1983 Land Board Resolution, that all current lessees be granted 20-year leases, commencing in 1985 and terminating in 2005. It further ordered that these leases include a 20-year right of renewal. In response to this decision, the Land Board filed an appeal. In 1997, the Court of

Appeals reversed major portions of the Circuit Court's decision. It found that the Board and DSL were not compelled to renew leases. In response to that decision, the lessees petitioned the Oregon Supreme Court to review the Court of Appeals' decision.

To facilitate settlement of the litigation, the Oregon State Legislature authorized a one-time payment of \$3.5 million to the Common School Fund. As mentioned above, a primary purpose of this allocation was to compensate the Common School Fund for any revenue that might have been earned through competitive bidding. It was also hoped that by allocating this revenue, the then pending litigation before the Oregon Supreme Court could be withdrawn, thereby ending legal costs to DSL.

In the legislation, other specific uses for the appropriation were noted:

- (a) *"To provide a basis for settlement of ongoing litigation and reduce potential for future litigation."*
- (b) *"To provide a sufficient lease tenure and security of lease renewability to help stabilize affected eastern Oregon ranch units and local economics, and"*
- (c) *"To encourage lessee investments in rangeland health and productivity improvements and facilitate cooperative working relationships between lessees and conservation interest."*

In September 1998, after several months of discussion with representatives of the party filing the litigation, the appeal was withdrawn from the Oregon Supreme Court. Shortly thereafter, the \$3.5 million allocation was transferred by the Emergency Board to the Common School Fund, and the proposed changes to the administrative rules governing the management of rangeland adopted by the Land Board. Among these changes were that DSL would renew a lease for a term of 15 years if the lessee is in good standing unless another term is provided for as a term of the lease.

(3) If rangelands are leased using the grazing fee, review the grazing fee formula and factors at least once every three years.

As background information, the basic elements of the formula now used by DSL to establish the amount of compensation due for the use of rangeland for grazing were developed in 1993 by the Grazing Fee Advisory Committee. In 1996, pursuant to the requirements of HB 3239, the formula was reviewed by the State Land Grazing Advisory Committee. The outcome of this review was that although the basic cropshare premise used in the formula was determined to be a valid approach, the Committee believed that the formula was overly complex and not as responsive as it should be to changes in the marketplace. To improve the formula, the Committee proposed a number of changes that the Land Board adopted in December 1996.

Although DSL has closely monitored the fee that results after inputting the variables each year to determine if it is paralleling market conditions, it has not undertaken a formal review of the formula every three years as required by OAR 141-110-0080(3). To ensure that DSL is in compliance with the provisions of the administrative rules, the agency will conduct a formal review of the formula within the next 12 months, and every three years thereafter.

(4) If rangelands are retained, determine the resources needed to protect the asset and maximize its value.

DSL agrees with this recommendation. For some time, agency staff has been engaged in identifying improvements needed to our rangeland holdings. Although a number of these improvements have already been made, many more improvements are needed. During the past several years, DSL:

- Began an aggressive program to control, for example, medusahead, pepperweed, skeleton weed and yellow star thistle, four noxious weeds that are invading large tracts of state-owned rangeland in eastern Oregon. During 2003-2005 biennium, \$40,000 is identified for additional weed control.
- Undertook a rangeland health assessment of 38,000 acres in 2002 and 50,000 acres in 2003. During 2004 and 2005, DSL will continue assessing rangeland health for an additional 30,000 acres each of those years.
- Reseeded nearly 2,400 acres to rehabilitate rangeland damaged by wildfires.
- Constructed various water delivery facilities and fences.

Through the process of the rangeland health assessment process, we will be able to identify resource improvements such as noxious weed treatment, water developments, prescribed burning, fencing, and shrub and juniper treatment. These improvements will result in increasing the value of these parcels.



Oregon

Theodore R. Kulongoski, Governor

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State Land Board
Theodore R. Kulongoski
Governor

DATE: March 5, 2004
TO: Rangeland Lessees
Oregon Legislators
Interested Parties
FROM: Ann Hanus, Director

Bill Bradbury
Secretary of State

Randall Edwards
State Treasurer

SUBJECT: Secretary of State Audit of DSL Rangeland Management

This week the Secretary of State's Audits Division released a report on DSL's management of state-owned rangelands. We worked closely with the auditors and made a number of major suggestions for their consideration—some of which they accepted and some of which they rejected. We generally agree with most of their recommendations, but not all of them.

The auditors found that rangelands lost at least \$13,115 for the Common School Fund during the period 1998-2002. This amount did not include a payment in 1999 of \$3.5 million from the General Fund to the CSF to provide assured grazing rights to lessees for the term of their leases.

The auditors recommend selling all or part of the rangelands through an open competitive bidding process, exchanging all or part of the land for a better performing asset and obtaining market rates for leases either through competitive bidding for rangeland leases or increasing grazing fees to market rates. Actions listed below relate to some of these recommendations. We will continue our current practice to lease land when leases expire or are cancelled using a competitive bidding process.

DSL plans several actions to address audit recommendations:

- **ASSET MANAGEMENT PLAN:** We will analyze audit recommendations through a process begun recently to update the State Land Board's Asset Management Plan. The plan, first adopted in 1995, guides DSL in its care and management of the land, waterways and minerals under the stewardship of the board to provide the highest benefit for the Common School Fund. The plan update will re-evaluate the income

potential and highest and best use of all parcels, will identify lands for sale or exchange and will determine how the proceeds would be re-invested.

- **LAND SALES:** Until recently, DSL did not have staff to handle land sales or to fully explore new revenue generation opportunities. Approval of an additional position by the 2003 Legislature will allow DSL to begin to process existing land sale applications this fall. We will concentrate on those sales that make good business sense to benefit the Common School Fund. We also will explore new revenue options, such as wind generation of electricity. To speed up this work, we will seek additional staff and resources from the 2005 Legislature.
- **ADVISORY COMMITTEE:** DSL will form a grazing fee advisory committee in the near future to review audit findings related to the current lease fee formula and make recommendations to the Land Board.
- **STRATEGIC PLAN:** Our Strategic Plan, adopted by the Land Board last fall, also contains actions that address some of the concerns expressed in the audit. Examples include investigating revenue options and conducting resource condition inventories on 30,000 acres of rangeland per year.

DSL staff members and I plan meetings May 17-19 in Lakeview and Burns to discuss the rangeland audit and the Asset Management Plan update with lessees and other interested parties. We will notify all lessees and others as soon as details are confirmed.

The full audit report is available at the Audits Division Web site:
<http://www.sos.state.or.us/audits/audithp.htm>.

DSL's full response to the audit is available at: <http://www.oregonstatelands.us>. Click on "Rangeland Audit" on the Home Page. The site also provides information about the Asset Management Plan update process. Click on "Asset Management Plan" in the left-side margin.

Should you need print copies of these documents, contact Nicole Kielsmeier in our Policy and Planning Division: (503) 378-3805 ext. 239.

If you have further questions about the audit, please contact me or Policy and Planning Assistant Director John Lilly at (503) 378-3805 ext. 281 or john.lilly@dsl.state.or.us.

Report No. 2004-09

March 3, 2004



Cathy Pollino, State Auditor, Audits Division

Bradbury, Secretary of State

Secretary of State Audit Report

Oregon State Land Board Rangeland Revenue for the Common School Fund Fiscal Years 1998 to 2002

Summary

PURPOSE

The purpose of this audit was to determine if the State Land Board (board), through the Department of State Lands (department), is maximizing the long-term income generated by its rangeland assets.

BACKGROUND

State-owned rangelands are a part of the original land grant received when the state was admitted to the Union. The state is required to use the land and any proceeds from the sale of the land to support public schools. As a trust asset, Oregon's rangelands are to be managed with undivided loyalty to the trust recipient, Oregon's schools. The board must also manage the rangelands to maximize long-term income for schools.

RESULTS IN BRIEF

We found that the board could better fulfill its duty to maximize revenue for Oregon's K-12 public schools.

We found that in fiscal years 1998 through 2002, rangelands lost money for schools. The financial loss for this time period was at least \$13,115 for state rangelands. Actual losses were more than that because rangeland fire suppression costs were not available prior to 2001. State-owned rangelands have lost money as far back as 1987.

If all rangelands had been sold and the proceeds invested, we conservatively estimate that the Common School Fund would have received at least \$3.0 million to \$4.2 million more income for fiscal years 1998 through 2002. Alternatively, if market lease rates had been charged for state rangeland leases for the five fiscal years from 1998 to 2002, we estimate that the Common School Fund would have earned \$1.45 million more.

RECOMMENDATIONS

We recommend that the State Land Board use a systematic approach to maximizing long-term income from rangelands. The Department of State Lands should evaluate each parcel for sale or alternate use, and determine how best to maximize long-term revenue. Options to maximize returns for rangelands include the following actions:

- Sell all or part of the land through an open competitive bidding process;
- Exchange all or part of the land for a better performing asset; and
- Obtain market rates for leases either by reinstating competitive bidding for rangeland leases or increasing grazing fees to market rates.

We further recommend to the State Land Board that:

- If rangelands are leased using the grazing fee, review the grazing fee formula and factors at least once every three years as required by Oregon Administrative Rules; and
- If rangelands are retained, determine the resources needed to properly protect the asset and maximize its value.

AGENCY'S RESPONSE

The Department of State Lands generally agrees with most of the recommendations, but has reservations about some of the recommendations.

Introduction

The Common School Fund was established under the Oregon Constitution as a trust fund for the benefit of public schools. The State Land Board—composed of the Governor, the Secretary of State and the State Treasurer—is responsible for managing the assets of the Common School Fund. The board is required to manage the assets to maximize long-term income for public schools.

Both financial assets and real property benefit the Common School Fund.

Financial assets are invested in stocks, bonds and short-term investments. The Common School Fund real property assets include forestland, agricultural land and rangeland, as well as some industrial, commercial, and residential properties.

The State Treasurer and Oregon Investment Council manage the financial assets of the Common School Fund.

With the exception of forestlands, the Department of State Lands manages the real property assets of the Common

School Fund at the direction of the board. As of June 30, 2003, the Common School Fund Balance was approximately \$702 million. Twice a year, the department distributes fund earnings to counties for support of K-12 public schools. Distributions are made in proportion to the number of individuals between the ages of four and twenty residing within each county.

Background

In 1859, the United States Congress passed the Admission Act, granting Oregon admission to the Union. Section 4 of the Admission Act granted the state approximately six percent of the land, which was sections 16 and 36 of each township to the state, "for the use of schools."¹ The Oregon legislature accepted congress' land offer, creating a binding agreement whereby the state is required to use the land and any proceeds from sales of the land for public schools. As a result, the state created the Common School Fund to hold the proceeds of all lands granted to the state for education purposes. This land is often called 'Trust Land' to signify that the State Land Board holds it in trust for the schools, and acts as trustee in administering the land to benefit Oregon's current and future school children.

As a trust asset, Oregon's rangelands are to be managed with undivided loyalty to the trust recipient, and may not be used to benefit others at the expense of the trust beneficiaries without com-

ensation. In addition, trust assets must be preserved for future beneficiaries. Rangeland soil, water, and growing capacity must be maintained to sustain the land's grazing capacity.

In 1992, the Oregon Attorney General concluded that the board's duty is to manage Trust Lands for the long-term benefit of schools. In 1977 and 1978 opinions, the Attorney General characterized the board's obligation as a duty to maximize the value of, and revenue from, these lands over the long-term. The board is required to obtain full market value from the sale or rental of Trust Lands.

As the administrative arm of the board, the department manages an estimated 638,000 acres of rangeland. Most of this land is located in central and eastern Oregon. Rangelands are used primarily for the grazing of domestic livestock. Of approximately 638,000 acres of rangeland administered by the department, about 613,000 acres (96 percent) are Trust Land. The board therefore must manage rangelands to maximize long-term income for schools.

The department currently manages 144 rangeland leases, of which 54 involve 1,000 acres or more, including 11 in excess of 10,000 acres. It also manages leases of smaller "isolated" parcels. Together, the leases provide for about 65,000 animal unit months (AUMs).² One staff member in the department's Bend office is responsible for managing the rangeland, as well as working with the leaseholders to improve the condition of this asset.

¹ A township is defined as a six-mile by six-mile square area, which includes 36 sections. Each section is one square mile.

² An AUM is the amount of forage necessary to feed one animal unit for one month. An animal unit includes one cow, or one cow and one calf (of less than six months in age).

Audit Results

Income From Rangelands Has Not Been Maximized

We found that rangelands with a conservative value between \$22.7 and \$32.5 million actually lost money, at least \$13,115 over the five-year period of our review. Further, we found that because of limited resources available to the program, the department was not able to verify the condition of most of the land or properly monitor leaseholder compliance with lease provisions.

As a comparison, our analysis determined that the board would have generated significantly more income per year over this period, had it used alternative strategies such as selling the land and investing the proceeds in alternative investments (at least \$3.0 million), or charging market rates for leases (\$1.45 million).

Net Income From Rangelands Has Been Negative

When we reviewed revenues and costs attributed to rangeland operations by the Department of State Lands for fiscal years 1998 through 2002, we found that rangelands lost money over the five-year period reviewed.

The department provided us with an Asset Management Plan Update that shows revenues and costs allocated to rangelands and other programs benefiting the Common School Fund.³ The costs allocated to rangelands were incomplete, however, because they did not include fire suppression and rehabilitation costs directly attributable to rangelands. Information on fire suppression and rehabilitation costs is not available for years prior to 2001.

After adding fire costs for just two of the five fiscal years, we found that expenses exceeded revenues for this five-

year period. For the five fiscal years, total rangeland revenue was \$1,454,203 and total estimated costs were \$1,467,318. As shown in Table 1, costs exceeded revenues by \$13,115 for the five fiscal years.

Fiscal Year	Total Revenues From Leases	Total Costs
1998	\$245,106	\$240,961*
1999	287,135**	252,481*
2000	282,599	215,673*
2001	316,843	380,493
2002	322,520	377,710
Total	\$1,454,203	\$1,467,318

* Information for fire suppression/rehabilitation costs not available/included.

** Revenue does not include a one-time transfer of \$3.5 million from General Fund to Common School Fund. See discussion on page 5 of this report.

Further, it appears that the rangelands have a history of negative net income. In 1995, a consultant's report concluded that the rangelands program had operated in the red during fiscal years 1988 through 1994. The report noted that during the reported period the program lost \$988,000. The consultant recommended that rangelands be actively marketed for sale or exchange.

Revenues Could Be Increased If Rangelands Were Sold

One option available to the board to improve revenues generated by rangeland assets is to sell the rangelands. Selling the rangelands would reduce management costs while providing proceeds that could be invested in alternate assets.

Most rangeland leases allow the land to be sold with two years' notice to the leaseholder. A wholesale disposal of state owned rangeland could potentially depress rangeland prices. Thus, if the board decides to sell the rangeland, it should proceed over several years to maximize the value for the Common School Fund.

To assess whether the board was maximizing income from its rangeland assets, we analyzed what the asset would have produced using an alternative investment, also known as opportunity cost. Since the board can sell rangelands, it has the ability to invest rangeland assets in an alternate asset. Revenue maximization requires selling the rangelands and investing in another asset if more revenue can be achieved with the same or lower level of risk.

Estimated Average Selling Price Per Acre

Based on our interviews with department, federal and local officials, the average market value of rangeland in Eastern Oregon is hard to determine. In 1993, a committee reviewing grazing fees charged by the board used \$35 per acre as a minimum value for rangelands. Previous audit work that we conducted showed that Admission Act lands would likely sell, on average, for about \$50 per acre, based on sales of comparable properties, average assessed land values of comparable properties, and estimates of department staff. Another source cited \$50 as a minimum per acre value for rangeland. Therefore, to facilitate a comparison with alternate investments, we estimate that a conservative range of value for rangeland assets is between \$35 and \$50 per acre.

We believe this estimate to be conservative, since in December 1999 the board authorized the department to offer nine isolated unleased parcels of rangeland in Lake and Klamath Counties for sale through a sealed bid process. A total of 23 bids were received for seven of the nine unleased parcels, resulting in the sale of 514.72 acres. The sale value totaled \$119,919.09, including a 40-acre parcel containing timber that sold for \$62,000. Excluding the parcel containing timber, the average per acre selling price was \$122.01.

³ The Asset Management Plan can be seen at the Department of State Lands website: <http://statelands.dsl.state.or.us/>.

Audit Results (continued)

\$22.7 to \$32.5 Million Could Be Invested in Other Assets

If rangelands could be sold for net proceeds between \$35 and \$50 per acre, then the rangeland assets held by the board could conservatively provide an estimated \$22.7 to \$32.5 million to be invested in other assets.

The income from rangelands could be increased, with less risk, if an alternate investment with less risk provides a higher average return.⁴ For example, investment in U.S. Treasury Bills is often thought to be risk-free. Therefore, the average income from rangeland assets must surpass the average income from U.S. Treasury Bills, or an opportunity exists to increase income with essentially no risk by converting rangeland assets to three-month Treasury Bills.

\$3.0 to \$4.2 Million More Would Have Been Earned

If the board had sold the rangelands and achieved the average rates of return earned by an alternate investment, we estimate that at least \$3.0 to \$4.2 million would have been earned for the Common School Fund in fiscal years 1998 through 2002.⁵ If the average costs remain the same, this range is an estimate of future income lost due to holding rangeland assets rather than converting them into more profitable assets.

In addition, there is currently no property tax revenue being generated for schools by the rangelands. If state-owned rangelands were converted to private ownership then they would generate

property taxes, some of which would increase funding for Oregon's public schools. When making decisions about selling rangeland, the board, acting with undivided loyalty to Oregon's public schools, should consider the additional revenue that would support public schools.

Table 2 shows the returns that could be expected annually if rangelands continue to earn 2.6%, which is the average annual rate of return for three month U.S. Treasury Bills.⁶

Table 2: Expected Annual Rangeland Return

		Rate of Return
		2.6%
Net Price per Acre	\$35.00	\$590,986
	\$50.00	\$844,266

Other Reports Have Suggested that Rangelands Be Evaluated for Disposal

The suggestion that rangelands be evaluated for sale was previously made to the board in a 1970 report by Charles E. Poulton, Professor of Range Ecology at Oregon State University. The report noted that the previous policy of the state was to sell rangeland and lease the land that was not sold. The earlier state policies resulted in selling the best quality land. The report suggested incorporating an aggressive program of exchange and/or sale of rangeland assets based on consideration of individual parcels.

Another recommendation to sell the rangelands was made by the department in 1995 when it released the Proposed Asset Management Plan. The plan was developed to guide the care and management of land, waterways, and minerals

entrusted to the land board. In the plan, the department recommended that, "Rangelands will be actively marketed for sale or exchange. Existing lessees may be offered the first right of refusal on the purchase of Rangelands."

Legal Requirements Regarding the Sale of State-Owned Land

In reviewing the state's legal requirements for land sales, we noted several requirements, such as preference to other government entities that might reduce the potential sales price of rangelands. Because the board has a duty to maximize the value of rangelands for schools and obtain market rates for any rangeland sold, it should consider requesting that the sale of rangelands be exempt from the requirement to offer the land to other government entities before selling the land through an open, competitive bidding process. The most administratively effective way of ensuring that the Common School Fund receives the best price for any sale of rangeland assets is to use open, competitive bidding.

Revenues Could Be Increased Through Grazing Fees

Another option available to the board to improve revenues generated by rangeland assets and comply with trust responsibilities is to increase grazing fees.

The Rangeland Grazing Fee is Below Market Rates

A 1975 opinion of the Oregon Attorney General states that the state must, "... receive full market value for the sale, rental or other use of its trust lands."⁷ The Attorney General characterizes charging less than full market value as a subsidy.

In 1996, the board approved the current formula for determining the annual grazing fee to be paid for using state-owned grazing land.⁸ For the five years reviewed, the grazing fee formula has con-

⁴ Note that asset appreciation for rangeland is not being explicitly considered because department and BLM staff have stated that rangeland appreciation is generally at or below the rate of inflation.

⁵ This amount equals the expected return shown in Table 2 corresponding to a net price per acre of \$35 and \$50, and a 2.6 percent rate of return multiplied by five and rounded to the nearest \$100,000.

⁶ Calculated by subtracting inflation from the average constant maturity yield of 3-month t-bills for calendar years 1983 through 2002.

⁷ C37 Op Atty Gen 569, 574 (1975)

Audit Results (continued)

sistently produced rates below estimated market rates for privately owned non-irrigated grazing land.

In 2002, the grazing fee for state-owned grazing land in Oregon was \$4.52 per Animal Unit Month (AUM), while the U.S. Department of Agriculture (USDA) National Agricultural Statistics Service (NASS) reported the 2002 average grazing fee for privately owned, non-irrigated grazing land in Oregon to be \$12.60 per AUM.⁹

Department management stated that USDA indexes for private grazing fees might include land with amenities that make it more valuable than the rangeland that the department leases. Research suggests that public rangeland leases are worth roughly 30 percent less than private lease rates because fewer services are provided.¹⁰ On this basis, we estimate that the market value of the grazing fee for state-owned rangeland in 2002 was \$8.82 per AUM, or \$4.30 per AUM more than the rate set by the department. Table 3 presents private grazing fees, estimated market fees for public range-

land grazing, and the fees paid by leaseholders for grazing on state-owned rangeland in Oregon. If the board had charged market rates for leases, we estimate that \$1.45 million more would have been earned for the Common School Fund in fiscal years 1998 through 2002.

Another way to analyze grazing fees is to determine how much the board would need to charge in order to produce the same income as it would if it were to sell the asset. If rangelands can be sold for net proceeds of \$35 per acre, then at 2.6 percent return, rangelands would be expected to provide annual income of at least \$0.91 per acre. We found average costs per acre to be at least \$0.47 per acre from fiscal years 1998 through 2002. If the average costs remain the same, then the board will need to charge at least \$1.38 per acre to justify holding rangeland versus converting to an asset with an expected annual real return of 2.6 percent. Income of \$1.38 per acre converts to a grazing fee of about \$13.13 per AUM.

Formula Factors Not Reviewed

In accordance with OAR 141-110-0080, the department is to review the grazing fee formula and factors at least once every three years to ensure that they reflect at least a fair market rental rate. However, a review of the formula and factors has not been conducted since 1996.

Decisions Regarding Leaseholders

In reviewing board actions related to rangelands since 1995, we found that the board made decisions favoring

Table 3: Private Grazing Fee, Estimated Value of Public Grazing, and Grazing Fee Set by Oregon State Land Board (Per AUM)

	Average Private Grazing Fee*	Est. Market Value of Public Land Grazing**	Oregon State Land Board Grazing Fee
1998	\$12.80	\$8.96	\$3.21
1999	\$12.30	\$8.61	\$3.72
2000	\$12.90	\$9.03	\$3.64
2001	\$12.80	\$8.96	\$4.36
2002	\$12.60	\$8.82	\$4.52

* Source USDA, National Agricultural Statistics Service. The average rates are estimates based on survey indications of monthly lease rates for private, non-irrigated grazing land from the January Agricultural Survey.

** Calculated as 70 percent of private fee.

grazing leaseholders at the expense of the Common School Fund.

On June 13, 1995, the board voted to repeal competitive bidding for grazing leases, which had been in place for less than a year. By repealing competitive bidding, the board limited demand for grazing leases and effectively reduced the potential revenue from grazing fees.

In 1999 the Legislative Assembly authorized a transfer of \$3.5 million from the General Fund to the Common School Fund, as compensation to the trust for implementation of a lease renewal preference that gives current leaseholders an automatic 15-year renewal at the end of their 15-year lease. The \$3.5 million was compensation set at \$50 per Animal Unit Month (AUM) for 70,000 AUMs. The automatic renewal eliminates demand for grazing leases and potentially reduces revenue from grazing fees for 30 years or more. The \$3.5 million transfer was insufficient to compensate for not maximizing revenue, as it only covers the difference between actual and potential revenue for less than three years.¹¹ Because the \$3.5 million did not come from grazing fees, we did not consider it to be lease revenue for 1999.

⁸ The AUM Rental Rate is $G \times CC \times S \times P$. In the formula: G = Animal gain per month (fixed at 30 pounds), CC = Marketable calf crop (fixed at 80%), S = state share of calf gain (fixed at 20%), and P = average weighted calf price based on USDA Oregon agriculture price data indicating the average statewide sales price of calves for the preceding one-year period.)

⁹ According to the USDA, the final NASS published grazing fees are derived through an analysis of annual survey indications, state historical trends, and regional and national differences.

¹⁰ Bartlett, E.T., L.A. Torrell, N.R. Rimbley, L.W. Van Tassell, and D.W. McCollum. 2001. Valuing Public Land Forage. *Journal of Range Management* 56. cited in O'Laughlin, J. and P.S. Cook. 2001. Endowment Fund Reform and Idaho's State Lands: Evaluating Financial Performance of Forest and Rangeland Assets. Report no. 21, Idaho Forest, Wildlife and Range Policy Analysis Group, University of Idaho, Moscow.

¹¹ This assumes a 2.6 percent return on a net sales price of \$35 per acre.

Audit Results (continued)

Evaluate Resources Needed to Preserve the Asset

If the decision is made to retain all or a portion of the rangelands, the board should determine the resources needed to properly protect rangeland soil, water, and growing capacity.

We found that the department's efforts to manage and protect rangeland quality by monitoring lease compliance and leaseholder adherence to rangeland management plans were insufficient to detect or prevent overgrazing and improper use of the land by leaseholders.

We also found that the department dedicates 12.5 percent of lease receipts to rangeland improvements. According to the department, this is not enough to complete needed improvements. As a result, land maintenance, such as noxious weed control, has been put off. Rangeland improvements are currently aimed primarily at dispersing cattle and improving leaseholder's access to rangelands.

According to department's Asset Management Plan, a rangeland management plan should be developed for each leasehold in cooperation with the leaseholder, and should be made part of the grazing lease. The plan describes scheduled animal grazing by pasture or leasehold, establishes initial grazing capacity of the land, and describes any other special provisions. The plan should be reviewed annually by the department, to determine leaseholders' compliance with the plan's terms and conditions, and to establish the effectiveness of the plan. The plan should be updated as necessary based on annual reviews.

Leaseholders are required to report annual land use. However, the department is only comparing reported use to allowable use, and does so without physical verification of actual land use. The department has only one Range Manager responsible for monitoring leases. In 2002, the Range Manager was able to

visit only approximately 40-45 percent of all state-owned rangeland.

A report prepared by an agriculture management consultant stated that the quantities, composition, and quality of vegetation for livestock consumption are important indicators for sustainable forage production and range management.¹² The last full review of rangeland condition was completed in 1970. In 2002, the department began conducting a rangeland health assessment of all rangelands, and has assessed approximately 85,000 acres. At the planned rate of review, a complete assessment will not be finished until 2019.

We recommend that the State Land Board use a systematic approach to maximizing long-term income from rangelands. The Department of State Lands should evaluate each parcel for sale or alternate use, and determine how best to maximize long-term revenue. Options to maximize returns for rangelands include the following actions:

- Sell all or part of the land through an open competitive bidding process;
- Exchange all or part of the land for a better performing asset; and
- Obtain market rates for leases either by reinstating competitive bidding for rangeland leases or increasing grazing fees to market rates.

Agency's Response

This report summarizes the department's response to the audit recommendations. The full text of the department's response is available for review at the Audits Division.

We generally agree that it is appropriate to sell selected isolated rangeland parcels and/or exchange selected parcels of rangeland for better performing

assets. However, we do not believe it is necessarily in the best interests of the Common School Fund or the beneficiaries of this trust to sell all rangeland managed by DSL.

For some time, DSL has endorsed the selling of parcels that either do not meet the agency performance criteria, and/or show limited potential to do so in the future. In adherence to the agency's Asset Management Plan, DSL has conducted both sales and exchanges of rangeland parcels.

During the past two years, DSL did not offer any isolated tracts of rangeland for sale. The principal reason it did not do so was, until recently, the lack of administrative rules guiding the sale and exchange of state-owned land and understaffing. However, with the adoption of such rules, DSL can now proceed, staff availability and budget permitting. DSL may also now consider the sale or exchange of additional rangeland identified in earlier studies as non-performing, and the 38 requests it has received since 1995 from persons wanting to purchase or exchange land for 11,323 acres of state-owned rangeland.

DSL concurs that competitive bidding is one, if not the most suitable way to ensure that market rates are realized. However, the agency is not able to use competitive bidding for nearly all the forage leases currently in place. This prohibition resulted from an agreement reached by the agency at the direction of the Land Board with a group of lessees who were in litigation with the Board and DSL, and from legislation enacted which allocated \$3.5 million to the Common School Fund.

The auditor's analysis of the effect of the \$3.5 million compensation payment to provide assured grazing rights to lessees for the term of the lease is flawed. The auditors conclude that the lessees benefited at the expense of the fund. However, our analysis reveals

¹² Agland Investment Services, Inc. 2000. *Trust Performance Measurement: A Report to Western States Land Commissioners Association.*

Audit Results (continued)

that the action was of great benefit to the Common School Fund. The fund received a one-time payment of \$3.5 million in 1999 based on the market value rate of \$50 per AUM times 70,000 AUMs. This payment compensated the Common School Fund for assured grazing rights for current leasees only for the term of their lease. Most terms are 30 years.

(Auditor Comment: As we state on page 5, the compensation payment was derived from a transfer of General Funds to the Common School Fund. If the compensation payment had been paid by the leaseholders, we would have then viewed the payment as earned income.)

With regard to the average annual fee reported by the U.S. Department of Agriculture (USDA) for grazing on privately-owned, non-irrigated land in Oregon, a comparison of the rental received from leasing a tract of publicly-owned land to one that is privately-owned is subject to criticism unless the parcels have similar vegetative characteristics and the services offered by the lessor are identical. The use of USDA annual data purposes may be indicative, but is not a reliable measure of what private landowners are receiving for rent due to the weaknesses of the USDA data.

We further recommend to the State Land Board that:

- If rangelands are leased using the grazing fee, review the grazing fee formula and factors at least once every three years as required by Oregon Administrative Rules; and

Agency's Response: DSL agrees with this recommendation. Although DSL has closely monitored the fee that results after inputting the variables each year to determine if it is paralleling market conditions, it has not undertaken a formal review of the formula every three years as required. To en-

sure that DSL is in compliance with the provisions of the administrative rules, the agency will conduct a formal review of the formula within the next 12 months, and every three years thereafter.

- If rangelands are retained, the board should determine the resources needed to properly protect the asset and maximize its value.

Agency's Response: DSL agrees with this recommendation. For some time, agency staff has been engaged in identifying improvements needed to our rangeland holdings. Although a number of these improvements have already been made, many more improvements are needed. During the past several years, DSL:

- Began an aggressive program to control, for example, medusahead, pepperweed, skeleton weed and yellow star thistle, four noxious weeds that are invading large tracts of state-owned rangeland in eastern Oregon. During the 2003-2005 biennium, \$40,000 is identified for additional weed control.
- Undertook a rangeland health assessment of 38,000 acres in 2002 and 50,000 acres in 2003. During 2004 and 2005, DSL will continue assessing rangeland health for an additional 30,000 acres each of those years.
- Reseeded nearly 2,400 acres to rehabilitate rangeland damaged by wildfires.
- Constructed various water delivery facilities and fences.

Through the process of the rangeland health assessment process, we will be able to identify resource improvements such as noxious weed treatment, water developments, prescribed burning, fencing, and shrub and juniper treat-

ment. These improvements will result in increasing the value of these parcels.

Follow Up on Prior Audit Recommendations

This section is an update on the department's efforts to implement prior audit recommendations communicated in our audit report number 94-01, titled *Division of State Lands*, issued in 1994, and in our report number 2001-13, titled *Division of State Lands: Change of Director Audit*, issued in 2001. This update discusses only recommendations we had not previously reported as fully implemented.

Division of State Lands (Report No. 94-01)

Recommendation: Department management should establish specific performance standards that the department can use to measure its success in identifying and placing under lease uses of state-owned submerged and submersible lands.

Status-Implemented

Agency's Response: The department has made significant progress in addressing this recommendation. At its October 2003 meeting, the Land Board adopted the Department of State Land's Strategic Plan. This plan, which has been under development for the past two years, contains a number of goals and actions relating to land and waterway management. Associated with these goals are specific performance measures. For example, the department has established the following performance measures relating to the management of the state-owned submerged and submersible land as well as upland under its jurisdiction. By 2005:

- 75% of all users of this land will be "paying appropriate user fees."

Audit Results (continued)

- *A resource inventory will have been completed for 60% of this land.*
- *Area management plans will have been completed for 80% of this land.*

The department will report its progress on the implementation of the plan goals to the Land Board, legislators, and key constituents every six months. The plan will be updated every two years at the end of odd-numbered years to incorporate items resulting from legislative actions and new information. Now that this plan has been adopted, the department will begin implementing the goals and performance measures contained in it.

Recommendation: Department management should compile information on the cost and benefit of identifying and placing under lease uses of submerged and submersible lands. Department management can use this information to determine the cost-effectiveness of and an appropriate level of resources for identifying and placing under lease submerged and submersible lands.

Status-Implemented

Agency's Response: *With the change in state law in 1995 the universe of state owned waterways and therefore the number of uses subject to lease or other authorization is now limited. Therefore, to compile a cost-effective review seems now moot. In addition, the audit team was responding to our reports of the large number of structures in need of lease. The lease process at that time was lengthy with low rates and application fees. Since that time the Land Board has increased the rental rates and the application fee as well as relieved small personal dock-owners of the need to obtain a lease and substituted a low effort registration process. In addition, the Land Board's rules call for an annual increase in the rental rates for most uses*

of 3%. In general, we have found that putting uses under lease, once identified, pays off in the long run since they continue to generate revenue to the Common School Fund (at a minimum of additional cost to administer the lease) as long as the use remains.

During 1999 the department did an extensive inventory of the most developed reaches of state-owned waterways. The department did both on-the-water and aerial photo interpretation to locate leaseable structures/uses. The department mapped all these sites as well as tabulated the data in the department's Geographic Information System. The department also researched the upland property owner information at the local tax assessor and identified the most likely owner of the structures. All of this information is used by the department's property managers as 'leads' to follow up as potential leases and registrations.

Recommendation: The department should establish specific procedures and time frames for identifying and placing under lease uses of state-owned submerged and submersible lands. This includes exerting ownership rights to submerged and submersible lands to which the state is entitled.

Status-Partially Implemented

Agency's Response: *The department has made significant progress in addressing the first part of this recommendation. As discussed above, the Land Board adopted the Department of State Land's Strategic Plan at its October 2003 meeting. This plan contains a number of goals and actions relating to the management of state-owned submerged and submersible land – several of which have already been discussed above. The department also requested and received approval during the 2001 and 2003 sessions of the Legislature for a limited duration position dedicated to bringing users of state-owned submerged and submersible land without proper authorization into compliance.*

Recommendation: The department should work with Business Registry Section staff to create mailing labels from the Business Registry database for businesses within industry classifications that are likely to hold unclaimed property. Using the labels, the department should mail information, forms, and instructions to likely holders of unclaimed property.

Status-Implemented

Agency's Response: *Department staff have worked with the Secretary of State's Business Registry database and extracted from it the names of businesses within various SICs that are likely to hold unclaimed property. These names have been added to the department's mailing list. Periodically, department staff reviews the Business Registry list to identify the names of new businesses to incorporate within the agency's mailing list. The department does mail information to these holders as well as periodically conduct seminars to inform them and other businesses of the state's unclaimed property reporting requirements.*

Recommendation: The department should work with staff from the Employment Department to obtain legislative approval to use otherwise confidential payroll data to identify likely holders of unclaimed property.

Status-Implemented

Agency's Response: *To satisfy the intent of this recommendation, the department was closely involved in the development and subsequent enactment of HB 2129 (introduced in the 2001 session). A provision of the bill (codified as ORS 98.353), directs the Department of Revenue and the Corporation Department of the Office of the Secretary of State to assist the department in determining which persons are required to file a report under ORS 98.352. The department believed that this approach is a better way to identify*

Audit Results (continued)

"likely holders of unclaimed property" than by utilizing Employment Department staff and resources.

Recommendation: The department should establish and monitor financial performance measures to provide a means to evaluate programs, make decisions, and demonstrate how successfully it is achieving its objective of generating revenue for the Common School Fund.

Status-Partially Implemented

Agency's Response: *The department has made significant progress in addressing this recommendation. The State Land Board adopted the Department of State Land's Strategic Plan at its October 2003 meeting. This plan contains a number of goals and actions relating to land and waterway management. Associated with, or incorporated within these goals are specific performance measures that the department will now use to "evaluate (its) programs, make decisions, and demonstrate how successfully it is achieving its objective of generating revenue for the Common School Fund." Additionally, this plan also establishes as Agency Measure #1 "Percent annual increase in revenues from all sources; 2005 goal is 4.5% increase over 2002 amount." Now that this plan has been adopted, the department will begin implementing the goals and performance measures contained in it.*

Recommendation: When developing its Asset Management Plan, the department should incorporate minimum required rates of return for real property assets that are consistent with financial theory and that meet the department's trust obligations.

Status-Not Implemented

Agency's Response: *The department will begin updating its Asset Management Plan within the next several months. As a part of the process of up-*

dating this plan, the department will recommend the board adopt appropriate rates of return for the real assets managed by the department.

Recommendation: The department should periodically monitor the actual rate of return against the established minimums and take appropriate action when necessary.

Status-Not Implemented

Agency's Response: *Once the department completes its update of the Asset Management Plan, it will have the requisite target rates of return against which to measure the performance of its real assets.*

Division of State Lands: Change of Director Audit (Report No. 2001-13)

Recommendation: The department should take additional measures to ensure that leave and payroll policies are clearly understood by department management, personnel, and payroll officers.

Status-Implemented

Agency's Response: *The department has taken a number of measures to ensure that leave and payroll policies are clearly understood by all agency staff. Among the action taken have included the development and circulation to all staff of policy statements concerning leave and payroll policies. Additionally, department policies on a wide variety of topics including leave and payroll policies are posted on the agency's internal Internet website. Because non-managerial/non-exempt staff formed a union bargaining unit in 2001, many of the policies concerning leave and payroll are clearly spelled out in the contract agreement.*

Recommendation: The department should work with the Department of Administrative Services State Controller's Division to develop written policies and procedures to implement the forthcom-

ing state policy regarding agency head travel and timesheet review and approval.

Status-Implemented

Agency's Response: *The department contacted the Department of Administrative Services (DAS) and agreed to defer to that agency's policies concerning all policies and procedures regarding agency director travel and timesheet review and approval. However, after consulting with DAS and staff from the Secretary of State's office, it was decided that the most practical and expedient way for the department's director to have his/her travel and timesheets reviewed and approved was to have them signed by a designated Department of State Lands Assistant Director. To have such documents signed by the Governor (as chair of the Land Board) or a person at DAS was determined to be impractical.*

Objectives, Scope and Methodology

The objective of this audit was to determine if the State Land Board, through the Department of State Lands, is maximizing the long-term income generated by its rangeland assets.

We reviewed background information available on the Department of State Lands (department) website to gain an understanding of the rangeland program. We reviewed the department's Asset Management Plan, and the 2000 and 2003 progress updates for the Asset Management Plan.

We reviewed *Oregon Revised Statutes*, Oregon Administrative Rules and Oregon Attorney General Opinions relevant to the rangeland program.

We conducted an initial review of revenue generation by state-owned rangelands, mineral rights, and submerged and submersible lands. Based on our review, we found that rangelands were the most likely land classification to be underperforming, and decided to pursue a detailed review of rangelands.

We interviewed key staff at the department office in Salem, as well as the Eastern Region Manager and Range Manager in the Bend office.

We reviewed reports related to range management, trust fund management, and the financial performance of rangelands.

We obtained a list of active grazing leases including parcel size, AUM capacity and annual fee. We reviewed sample leases to identify important lease provisions.

We contacted the United States Department of Agriculture to obtain information on private grazing fees in Oregon and fees charged by other states with similar publicly owned rangelands.

We contacted county tax assessment officials to obtain an understanding of rangeland value and tax implications of

converting rangeland to private ownership.

We contacted officials with the federal Bureau of Land Management to gain an understanding of their range management practices, and to confirm that rangeland value appreciation does not exceed the rate of inflation.

We contacted officials in other states responsible for range or natural resource management in order to determine how their grazing fees were set, what other fees were charged for grazing, and if they had found alternate uses for rangeland.

We reviewed the report of the 1993 Grazing Fee Advisory Committee to the Director of the Department of State Lands, to gain an understanding of the basis for the grazing fee formula and each of its components.

We reviewed accounting data used by the department in their cost allocations. To compare the results from the rangeland program to results of alternate investments, we also reviewed returns from U.S. Treasury securities compared to inflation.

We reviewed minutes of State Land Board (board) meetings available on the department website, which included minutes starting in 1995. The minutes were reviewed to identify decisions of the board affecting rangeland management. In addition, we obtained detailed information on some board meeting agenda items.

This audit was conducted in accordance with generally accepted government auditing standards.

Auditing standards require auditors to be independent of the audited organization to avoid the possibility or perception of a relationship that could impair the audit work done or the findings reported. The Secretary of State serves as the constitutional Auditor of Public Accounts, and also serves as a member of the State Land Board, the subject of this report.

This audit was performed by staff members of the Oregon Audits Division, a branch of the office of Secretary of State. All staff members working on this audit have declared personal independence from the State Land Board and Department of State Lands.

AUDIT ADMINISTRATOR: *James Pitts*

AUDIT STAFF: *Jonathan Hart, MA*
Gary Fredricks, CPA
Sheronne Blasi, MPA

DEPUTY DIRECTOR: *Charles A. Hibner, CPA*

*The courtesies and cooperation extended by the officials and staff of the
Division of State Lands were commendable and much appreciated.*

*This report, which is a public record, is intended to promote the best possible
management of public resources. Copies may be obtained by mail at:*

*Oregon Audits Division
255 Capitol Street NE, Suite 500
Salem, OR 97310*

*by phone at 503-986-2255 and 800-336-8218 (hotline), or
internet at Audits.Hotline@state.or.us and
<http://www.sos.state.or.us/audits/audithp.htm>*

STATEMENT OF OREGON CATTLEMAN'S ASSOCIATION REGARDING THE SECRETARY OF STATE'S AUDIT OF THE STATE LAND BOARD'S COMMON SCHOOL GRAZING LANDS PROGRAM

March 11, 2004

I. INTRODUCTION

The Oregon Secretary of State's audit report ("Report") of the Oregon State Land Board's ("Board") common school grazing lands program was released on March 3, 2004. The primary finding is "the board could better fulfill its duty to maximize revenue for Oregon's K-12 public schools".¹ Based upon that finding the Report made recommendations to the board that, 1) the sale of all state grazing lands and investing the proceeds through the Common School Fund, and/or 2) charging market lease rates for the grazing leases held by approximately 144 livestock producers, would be two possible ways to increase the revenue flow to the Common School Fund. The Report states the Department of State Lands ("Department") generally agrees with most of the recommendations, but has reservations about some of the recommendations.

Absent from the Report in the back ground section or elsewhere is any discussion of either the constitutional or statutory provisions detailing the responsibilities of the Board and the Department for the management of the States grazing lands. Also there is no mention of the class action litigation between the lessees and the State commenced in 1994 that ultimately reached the Oregon Supreme Court in 1998, at which point a settlement was reached between the parties that was approved and finalized by Order of the Harney County Circuit Court. The settlement agreement was conditioned upon approval by the Board of the leases to be issued, and the terms of those leases, and the transfer by the legislature or the emergency board of \$3,500,000 from the general fund to the Common School Fund.

The items mentioned that do not appear in the Report, certainly suggest that assumptions underlying the Report are incorrect, and the findings and the recommendations in the Report, are, and therefore open to question. The exclusion of the \$3,500,000 transfer to the Common School Fund from any consideration in calculation of the total revenue attributable the state grazing lands program, is an example of an item mentioned in the Report, but excluded based upon flawed assumptions by the authors.

II. BOARD AND DEPARTMENT RESPONSIBILITIES REGARDING THE STATE GRAZING LAND PROGRAM

Article VIII, s. 5 of the Oregon Constitution provides for the creation of the State Land Board and identifies individuals that make up the Board. It further provides "(2)The board shall manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people

¹ Art. VIII, s. 2 provides that the "proceeds of all lands granted to the states for educational purposes" shall be deposited in the Common School fund. The Department of State Lands administers the Common School Fund, pursuant to certain statutory prescriptions. ORS 273.101. See, e.g. ORS 273.101

of this state, consistent with the conservation of this resource and under sound techniques of land management.”

The ongoing management of the Board’s responsibility for the common school grazing lands is delegated to the Department of State Lands and their management with respect to the leases in question is authorized by statute:

“(b) Lease the lands subject to such terms and conditions as the department prescribes or is otherwise prescribed by law. Leases shall be of sufficient duration so as to encourage the rehabilitation and the improvement of the lands by the lessee.” ORS 273.815 (1) (b)

The same statute states in some detail the terms of a lease that the Department could issue to carry out its obligations, that contained a lease term and a renewal terms of 20 years, not the 15 year period actually adopted in the lease agreed by the Department as part of the settlement of the class action litigation mentioned above. ORS 273.815(2)

The Audit Report does not reflect any consideration of the constitutional requirement that the grazing lands be managed in a manner “consistent with the conservation of this resource and under sound techniques of land management”. In its advocacy one trust principle, that of maximizing revenue to K-12 schools, it totally ignored an equally important trust principle, the duty of any trustee, such as the Land Board, is to preserve and enhance the trust asset. This second trust principle is reflected not only in the constitutional provision mentioned, but in the legislative direction to implement long term leases with rights of renewal to encourage lessees to take “ownership” of their lease rights and adopt measures to enhance and rehabilitate the trust asset. Not to be found in any statute or constitutional provision is the requirement that the Board pursue top dollar for the leases at the expense of all other trust obligations. In fact the duty stated to be the primary obligation of the Board in the Report with respect to these lands, is not to be found in either the statutory or the constitutional provisions governing the Boards actions. The duty to “maximize revenue” at the expense of all other considerations is parallel to, if not identical with, the positions argued unsuccessfully through four separate court cases involving these grazing leases instigated by an environmental organizations over the past ten years.

III. CURRENT LEASE RATES ARE AT OR ABOVE THE MARKET RATE FOR PUBLIC LAND GRAZING LEASES.

The Report states that the State grazing land formula adopted in 1996 to set lease rates for State grazing land leases yielded a rate of \$4.52 per AUM² in 2002. Based upon a USDA National Agricultural Statistics Service report, the Audit Report asserts that the 2002 average grazing fees for privately owned, non-irrigated grazing land in Oregon are 12.60 per AUM. Based upon another publication, the Audit Report concludes that a 30% reduction in the private land lease rates is an appropriate method to identify the public land grazing lease fees, and by applying that reduction for the year 2002, the market rate for the States grazing land program lease rate is \$4.30 below market rate, or stated differently, the market rate for the states grazing land program is \$8.82 per AUM. The Report concludes that by charging market rates as defined

² AUM means Animal Unit Month which is defined in the Report.

by the Audit Report, the common school fund would have realized an additional \$1.45 million in revenue from the grazing program in the period 1998-2002.

The only public grazing land leases in Oregon other than those at issue in the audit report, are those issued by the Bureau of Land Management (BLM) and the U.S. Forest Service (FS). In this instance the lands most comparable to the vast majority offered for lease by the Department under the State grazing land program are those of the BLM that are located contiguous to the States grazing lands in Harney, Malheur, Lake, and Klamath Counties. In fact much of those BLM lands are lands that were formerly owned by the State and were exchanged (traded) to the BLM in the 1960's in the largest land trade in the history of the United States.

The lease rates for those BLM lands, in fact for all BLM lands in Oregon, was \$_____/AUM in the year 2002. The FS grazing fees for the year 2002, was \$_____/AUM. Applying those rates, it appears that the Land Board has in fact obtained (above/below) market rates for the State grazing land program at least since 1996. That is hardly a basis for the Board to rush into a program and attempt to sell the lands in hopes of producing higher returns by managing financial assets rather than lands, as recommended by the Audit Report. In fact, if the market rate for the States Grazing Lands is \$4.52 per AUM or less, and if that is all those lands can reasonably be expected to return on an annual basis, perhaps the stated anticipated net return for the *sale* of the lands needs to be significantly reduced.

IV. THE \$3,500,000 GENERAL FUND TRANSFER TO THE COMMON SCHOOL FUND WAS INTENDED TO PERMANENTLY RESOLVE THE ISSUE OF "MARKET RATE" FOR GRAZING LAND LEASES, AND MUST BE CONSIDERED IN CALCULATIONS OF ANNUAL REVENUE FROM THESE LANDS.

Chap. 871, Or. L. 1997, s. 34 is the legislative enactment that appropriated the \$3,500,000 to the Emergency Board and authorized the Emergency Board to expend it for particular purposes that are listed in section 2 of the bill. It provides:

SECTION 34. (1) In addition to and not in lieu of any other appropriation, there is appropriated to the Emergency Board, out of the General Fund, for the biennium beginning July 1, 1997, the sum of \$3,500,000.

(2) The appropriation in subsection (1) of this section shall be used for implementing an assured lease program for state-owned rangeland. The appropriation shall be used as compensation to the Common School Fund to allow the State Land Board and the Division of State Lands to issue assured grazing leases to current state grazing lessees in such a manner and under such terms as determined by the State Land Board to be consistent with the Board's constitutional trust and land conservation obligations. The appropriation may be used for the following public purposes:

- (a) To provide a basis for settlement of ongoing litigation and reduce potential for future litigation;
- (b) To provide a sufficient lease tenure and security of

lease renewability to help stabilize affected eastern Oregon ranch units and local economies; and

(c) To encourage lessee investments in rangeland health and productivity improvements and facilitate cooperative working relationships between lessees and conservation interests.

(3) If any of the moneys referred to in subsection (1) of this section are not allocated by the Emergency Board prior to July 1, 1998, the remaining moneys on that date shall become available for any other purpose for which the Emergency Board may lawfully allocate funds.

Given the provisions of this legislative enactment it is difficult to see how the Secretary of State concludes, as it does in the Audit Report that the \$3,500,000 transfer authorized by this bill for the specific purposes to which it was directed should be totally excluded from consideration in calculating the revenue derived from the state grazing lands for the Common School Fund between 1998-2002. It is obvious that the income generated annually from the \$3,500,000 transferred to and managed by the Common School Fund must be included in any consideration of whether the return from the common school grazing lands equals or exceeds "market rates" for the long term leases it was intended to assure.

The settlement of the litigation which was under negotiation between the parties for the better part of 2 years as the litigation progressed through the courts. When it was finally concluded, it required approval of the State Land Board, and the issuance of a lease with specific terms and lease terms of 15 years with the right of renewal for an additional 15 years, and the transfer of \$3,500,000 to the Common School Fund by the Emergency Board. That was accomplished by December 18, 1998, according to the letter from Rives Kistler Assistant Attorney General assigned to defend the case which is attached as Ex. A.

The settlement also addressed the additional trust obligations (beyond maximizing revenue, although that is also addressed) of the Land board's and the Department's (then known as the Division) trust fiduciary and land conservation obligations, and strengthening resource stewardship requirements, according to a letter from Paul Cleary dated December 4, 1998, attached as Ex. B. Mr. Cleary was then the Director of the Division of State Lands, he additionally commented in the letter, *"** I think the revisions should also enhance the legal defensibility of the new lease form and leasing system, should they be challenged on either a legal sufficiency or trust obligation basis"*.

Prior to both Ex. A. & B, The Harney County Circuit Court, on Remand from the Oregon Supreme Court, approved the Class Action Settlement agreed to by the State and the Lessees. In doing so it overruled the objections to the settlement filed by the Oregon Natural Desert Association, ("ONDA") to the effect that the lease form agreed to amount to a lease in perpetuity at less than market rates. No mention was made in that objection, of the benefit to the Common School Fund, by the transfer of the \$3,500,000. No other objections were received to the settlement and it was approved. ONDA did not appeal that approval. A copy of the Lessee's

Response to ONDA's objection and a copy of the Court order approving the settlement are attached as Ex. C & D.³

³ ONDA filed its 4th lawsuit challenging the Department's State Grazing Land Lease program, again on the grounds that the issuance of the leases required by the settlement outlined above, represented a violation of the Land Board's fiduciary duty, and the leases are below market rate grazing leases in 2003. That case was also dismissed, and again ONDA did not appeal the dismissal. Again, ONDA refused to address the benefit to the Common School Fund, and the four years of enhanced returns it provided and will provide into the future in "perpetuity". It now appears that ONDA, unable to persuade three courts of the validity of its flawed approach to the issue has found an ally in the Secretary of States Office. Curiously, the Audit Report reflects the same reluctance to address the benefits of the \$3,500,000 transfer to the Common School Fund as part of the return from the Oregon State Common School Grazing Lands, as ONDA. It therefore should not be credited.

MEMORANDUM

April 13, 2004

To: Governor Theodore R. Kulongoski
Secretary of State Bill Bradbury
State Treasurer Randall Edwards

From: Ann Hanus
Director

Subject: Recent Audit of the Management of Rangelands

This past month the Secretary of State's Audits Division released an audit of the Department's management of rangeland for the period of 1998 to 2002 (see attachment). The audit recommended that the Land Board use a systematic approach to maximizing long-term income from rangelands. It called on the Department to evaluate each parcel for sale or alternate use, and determine how best to maximize long-term revenue.

While we agreed with a number of the audit's specific recommendations we had reservations about others. We are now implementing efforts to act on the audit recommendations and will provide a detailed plan.

Audit Recommendations

The specific recommendations of the audit include:

- Sell all or part of the land through an open competitive bidding process;
- Exchange all or part of the land for a better performing asset;
- Obtain market rates for leases either by reinstating competitive bidding for rangeland leases or increasing grazing fees to market rates;
- If rangelands are leased using the grazing fee, review the grazing fee formula and factors at least once every three years as required by Oregon Administrative Rule; and

- If rangelands are retained, determine the resources needed to properly protect the asset and maximize its value.

Department Plans

DSL plans several actions to address audit recommendations:

- **ASSET MANAGEMENT PLAN:** We will analyze audit recommendations through a process begun recently to update the State Land Board's Asset Management Plan. The plan, first adopted in 1995, guides DSL in its care and management of the land, waterways and minerals under the stewardship of the board to provide the highest benefit for the Common School Fund. The plan update will re-evaluate the income potential and highest and best use of all parcels; will identify lands for sale or exchange; and will determine how the proceeds would be re-invested.
- **LAND SALES:** Until recently, DSL did not have staff to handle land sales or to fully explore new revenue generation opportunities. Approval of an additional position by the 2003 Legislature will allow DSL to begin to process existing land sale applications this fall. We will concentrate on those sales that make good business sense to benefit the Common School Fund. We also will explore new revenue options, such as wind generation of electricity. To speed up this work, we will seek additional staff and resources from the 2005 Legislature.
- **ADVISORY COMMITTEE:** DSL will form a grazing fee advisory committee in the near future to review audit findings related to the current lease fee formula and make recommendations to the Land Board. Much like the 1995 Grazing Fee Advisory Committee this new committee will include persons representing lessee, education beneficiary and environmental interests as well as persons with expertise in agriculture economics and range science. We will recruit members over the next two months and return to the June Land Board meeting with a slate for your endorsement.
- **STRATEGIC PLAN:** Our Strategic Plan, adopted by the Land Board last fall, also contains actions that address some of the concerns expressed in the audit. Examples include investigating revenue options and conducting resource condition inventories on 30,000 acres of rangeland per year.

DSL staff members and I plan meetings May 17-19 in Lakeview and Burns to discuss the rangeland audit and the Asset Management Plan

update with lessees and other interested parties. We will notify all lessees and others as soon as details are confirmed.

A copy of the Department's response to the audit is attached to this Information Item.

Attachments

- A. Rangeland Audit
- B. DSL Responses



Oregon Department of State Lands

Answers to Commonly Asked
Questions Concerning the
Department of State Land's (DSL)
Response to the 2004 Rangeland
Audit Conducted by the Oregon Audit
Division

INTRODUCTION

This past March, the Audits Division of the Secretary of State's office released an audit of the Department's rangelands. During the week of May 17, DSL Director Ann Hanus and staff held public meetings in Burns, Lakeview and Bend to discuss the results of the audit and explain how DSL intends to respond to the audit recommendations. This Q and A is a result of those discussions.

QUESTIONS AND ANSWERS

1. Why was the rangeland audit conducted?

Audits are an essential accountability tool for ensuring that public dollars are spent wisely and within legal constraints. The Secretary of State's Audits Division conducted this audit as part of a series of routine audits focused on state real estate property. Over the past several years, audits have been conducted on Higher Education real estate, fish hatcheries, prison buildings, and fire fighting. Future audits are planned for parklands, Oregon Department of Transportation owned lands, and forest lands. Thus, this audit was not specifically requested by the Department and the Land Board. There is no intention by the Department of State Lands or the Land Board to reopen rangeland litigation that was settled in prior years.

2. What rangelands will you be selling? Do you intend to sell all rangelands?

At this time, we do not plan on selling large tracts of currently leased rangelands. DSL does not intend to recommend to the Land Board that all rangelands be sold; nor does the Land Board's current Asset Management Plan authorize the sale of all rangeland. Rangelands are viewed as an important contributor to the Common School Fund portfolio. In accordance with the Asset Management Plan, DSL will give priority to selling unleased smaller, isolated tracts of rangeland; a lower priority will be selling a few small isolated leased tracts that are difficult to manage and make good business sense to sell. We will

follow up on the existing pending land sale applications to determine if it makes good business sense to proceed through the sale process for some or all of these tracts. The progress will be slow as staff resources to do this work are extremely limited at this time.

At its June 8 meeting the Land Board authorized us to begin the process to determine if we should offer for sale nine parcels of isolated rangelands (the largest, in Malheur County, is 640 acres) totaling about 2,457 acres in Malheur, Wallowa, Wheeler and Jackson counties. These parcels were identified due to their isolation, difficulty in managing and cost. Further, some of the candidate parcels are currently leased and the lessee has shown interest in buying them. If we conclude that any or all of these parcels should be sold, we will return to the Land Board for permission to proceed with the sales, possibly by the end of this year.

3. If I hold a current lease, will the land I am leasing be sold?

At this time, we are giving a low priority to the sale of leased land. We are not going to sell leased land unless it makes good business sense for the Common School Fund and is in line with our Asset Management Plan. As stated before, we will give priority attention to selling isolated, unleased tracts.

Once the Asset Management Plan is revised and adopted (target date early 2005), we might also consider giving higher priority to selling the small isolated tracts of leased lands. In any event, we will not be offering a property for sale without having first talked to the lessee. We will honor all contractual obligations of the lease in effect at the time. Many of the current lease contracts require that DSL give the lessee a two-year prior notice if DSL determines to sell the land without the lease in place.

4. How will improvements be handled if land that is currently leased is sold?

This is only an issue if the rangeland is sold to someone other than the lessee. If the lease is terminated prior to the sale, then the lease contract terms control how DSL-approved lessee improvements are to be handled. Consult your current lease contract to see how this situation might apply to you. In many cases, the contract allows for the lessee to remove the improvements or DSL may choose to "...compensate the lessee for the fair market contributory value of the structural improvements." If the land is sold, subject to the existing lease to someone other than the current lessee, then the terms and conditions of the lease in place at the time of sale will control the disposition of the improvements.

5. Will the grazing fee formula for my lease change?

There is currently no immediate plan to change the grazing fee formula. Whether or not the formula will be changed is likely to be affected by the recommendations of the Grazing Fee Advisory Committee. In any event, for the formula to be changed at all, a public rulemaking process is required including public hearings and final approval of the Land Board.

The Director is putting together a Grazing Fee Advisory Committee to review the audit findings about the grazing fee and analyze whether the current rate reflects at least a fair market rental rate. We plan on having the Committee first meet in September and conclude their deliberations in the summer of 2005. The findings of this Committee will be reported to the Land Board. No change to the fee can be made without the review and approval of the Land Board following a public hearing process.

6. Does the Department intend to reinstate competitive bidding for rangeland leases? What was the purpose of the \$3.5 million dollar payment to the Common School Fund for grazing leases?

Competitive bidding will not be reinstated to award leases for current lessees as the terms and conditions of the current lease contract control how lease renewals are handled. You should look over your existing lease contract to see the renewal provisions. Current leases are binding on both the Department and the lessee. As long as the lessee lives up to the terms and conditions of the lease contract for the duration of the lease, there will not be competitive bidding for a current lease.

The purpose of the \$3.5 million that the Legislature transferred to the Common School Fund was "...to issue assured grazing leases to current state grazing lessees in such a manner and under such terms as determined by the State Land Board to be consistent with the Board's constitutional trust and land conservation obligations" (Chapter 871 Oregon Laws 1997).

If a leasehold becomes available due to: (1) lessee's default or (2) is given up by the current lessee or (3) previously unleased land is offered; a new lessee will be selected using the process described in the DSL rules for rangeland management (OAR 141-110- 040 and 050). According to the rule, a competitive bidding process may arise when there is interest expressed in leasing the parcel by several qualified parties.

7. Will the state have to repay the \$3.5 million?

No.

8. What is the purpose of the Grazing Fee Advisory Committee?

The charge to the Committee is: 1) review the audit findings about the grazing fee; 2) analyze whether the current rate reflects at least a fair market rental rate; and 3) make recommendations that the Director will report to the Land Board.

The primary trust responsibility goals with respect to management of the Common School Fund lands are to generate revenue for the Common School Fund and conserve the corpus of the fund and its lands. As the Committee deliberates, it is important that the Committee's recommendations adhere to the following principles:

- 1.) The Land Board and the Department of State Lands must obtain fair market value from the use of Common School Fund trust lands in order to meet fiduciary responsibilities;
- 2.) The Common School Fund lands must be managed to conserve the productivity and sustainability of the lands for the Common School Fund over the long term.

The work of the Committee will begin in September 2004 and is expected to be completed by June 2005.

9. Will the state finance the sale of land?

Yes. The terms are stated in the Land Board's rules and state law for land sales.

An eligible purchaser of rangelands may enter into a land sale contract with DSL for a period not exceeding 10 calendar years beginning with the date of issuance of the certificate of sale. A 10 percent payment is due at the time of the sale and the remainder is to be paid off in 10 equal annual installments. The interest is fixed at the time of sale by DSL.

10. How much is the land sale and exchange application fee?

\$250. The fee is set by the Board in its rules for sales, exchange and purchase of lands. See OAR 141-067-280.

**STATE OF OREGON
STATE LAND BOARD
DIVISION OF STATE LANDS**

Rangeland Forage Lease FL-16322

The Oregon State Land Board and the Division of State Lands (STATE), hereby lease to the person(s) herein named (LESSEE) the following described lands on the terms and conditions stated herein, to wit:

NAME of LESSEE:

ADDRESS:

Monte Siegner

PO Box 33
Riverside, Oregon 97917

Land situated in Malheur County more fully described as follows:

Legal Description: See Attachment 1

Total number of acres: 158.52 more or less.

SECTION 1 - LEASE TERM, RENEWAL, RECLASSIFICATION

- 1.1 Term: This Lease shall continue for a period of fifteen (15) years commencing on March 1st, 1999 and expiring on February 28th, 2015.
- 1.2 Renewal: LESSEE shall have an option to renew this lease for an additional term of fifteen (15) years after the original and each renewal lease term provided that LESSEE has submitted a completed lease renewal application form to the STATE. Upon receipt of such application, this lease shall be renewed by the STATE unless:
- (a) The STATE determines that the LESSEE has not complied with the terms of this Lease, the applicable statutes and administrative rules, and any applicable Rangeland Management Plan and amendments thereto; or
 - (b) The STATE determines, pursuant to Subsection 1.3 of this Lease and applicable statutory and administrative rule criteria and procedure, that the lands for which this Lease is issued, or a portion thereof, should be reclassified to a land classification other than rangeland. If

the reclassification process has been initiated but not been completed by the lease expiration date specified in Subsection 1.1, this Lease shall be extended on a month-to-month basis until the review is completed, but in no event shall this Lease expire any earlier than two (2) years after LESSEE has been notified that the land will be reclassified and this Lease will be terminated as to the reclassified land, or

- (c) The STATE determines that the renewal of this Lease for all or portions of the leasehold would be contrary to local, state, or federal law, or would be inconsistent with the STATE's fiduciary responsibilities, or would not obtain the greatest public benefit consistent with the conservation of the resource under sound techniques of land management as required by Article VIII, Section 5 of the Oregon Constitution. Unless the renewal of this Lease is contrary to law, STATE shall provide LESSEE two (2) years advance written notice of its intent to not renew this Lease for all or portions of the leasehold pursuant to the provisions of this Subsection (1.2(c)). The Division shall report all proposed determinations pursuant to this Subsection (1.2(c)) to the State Land Board for review and final approval.

The provisions of Subsection 1.2 only apply to renewal of this LEASE. They do not affect any right or obligation that either the STATE or the LESSEE has under any other section of this Lease.

1.3 Reclassification:

- (a) Lands may be evaluated by the STATE for reclassification if they are determined to be:
 - (i) Isolated and/or uneconomic to manage;
 - (ii) Zoned for a use other than exclusive farm use, exclusive grazing use, or similar exclusive agricultural use;
 - (iii) Required for public infrastructure use; community expansion or economic development purposes;
 - (iv) Surrounded by land dedicated to another use which precludes grazing such as critical habitat for threatened or endangered species; or
 - (v) Incapable of supporting sustained forage yields under proper rangeland practices.
- (b) Reclassifications can occur at any time for vacant lands. Reclassifications for lands under lease can only occur upon expiration of the term of that lease following two (2) years advance notice and

consultation with the affected lessee, the pertinent Oregon legislative committee(s), and other interested persons.

- (c) Reclassifications for lands under lease shall be restricted to the minimum acreage necessary to meet the purpose of and need for the reclassification. The Division shall work with the affected lessee to minimize, and wherever practicable, offset the loss of Animal Unit Months (AUMs) of grazing capacity on a leasehold due to a land reclassification. Affected leaseholds shall be given a priority in the allocation of Division rangeland improvement funding. Affected lessees shall also be notified of any opportunity to lease vacant lands in their operating area.
- (d) The Division shall report all proposed rangeland reclassifications to the State Land Board for review and final approval.

SECTION 2 - AUTHORIZED FORAGE USES AND CAPACITY

- 2.1 Purpose: This Lease shall grant the LESSEE the right to use the above described land for rangeland forage purposes in accordance with these Lease terms and conditions, applicable local, state and federal laws, the applicable Rangeland Management Plan, and the applicable Oregon Administrative Rules.
- 2.2 Forage Production Capacity And Adjustment: The average annual base rate forage production capacity presently established by the STATE for this Lease is 12 AUMs. The STATE reserves the right to redetermine the average annual base rate forage production capacity at any time during the term of this Lease.

SECTION 3 - RENTAL

- 3.1 Rental: The rental to be paid for the first lease year beginning March 1st, 1999, and ending February 28th, 2000, is \$100.00, receipt of which is hereby acknowledged. For subsequent lease years, the annual base lease rental will be calculated by multiplying the annual base rate forage production capacity (in AUMS) established by the STATE pursuant to Subsection 2.2 by the base AUM rental rate as established and adjusted pursuant to the provisions of applicable Oregon Administrative Rules. Rental amounts may also include annual charges for loan repayments by the LESSEE as authorized under the provisions of applicable Oregon Administrative Rules. Unless otherwise authorized by the STATE, annual rental amounts shall be paid by the LESSEE each year in advance within thirty (30) days of the date of the STATE's billing notice.

SECTION 4 - RESERVATIONS AND RESTRICTIONS

- 4.1 Compliance: The STATE shall have access to the premises at all reasonable times for the purpose of evaluating and ensuring compliance with the terms and conditions of this Lease.
- 4.2 Reservations: The STATE reserves:
- (a) The right to lease and dispose of all coal, oil, gas, geothermal resources and other minerals, and all deposits of clay, stone, gravel and sand valuable for building, mining, or commercial purposes, and all timber, together with the right to explore, mine, develop, produce and remove such minerals and other deposits and timber with the right of ingress and egress thereto, and to terminate this Lease as to all or any portion of the leasehold premises when required for these purposes with forty-five (45) days prior written notice to LESSEE.
 - (b) The right to enter in and upon the premises at any time for purposes of inspection or management.
 - (c) The right at any time to grant easements across the premises for roadways, ditches, canals, tunnels, telephone and telegraph lines, pipelines, power lines, or other lawful purpose, with right of ingress and egress thereto.
 - (d) The right to lease or authorize use of the premises or any part thereof at any time for any purpose other than the rights and privileges granted by this Lease, so long as the rights and privileges granted by this Lease are not substantively impaired by the subsequent lease or use, and with forty-five (45) days prior written notice to the LESSEE. If, during the term of this Lease as established in Subsection 1.1, the STATE determines that it is desirable to lease or authorize use of any portion of the leased premises for another purpose not otherwise reserved to the STATE in this Lease, and in a manner that substantively impairs the rights and privileges granted by this Lease, then the STATE shall compensate the LESSEE for liquidated damages with a one-time payment of fifty dollars (\$50) per AUM for any and all substantively impaired forage production capacity. The STATE shall also modify the leasehold description and adjust the average annual forage production capacity to delete the substantively impaired portion of the leasehold.
 - (e) All rights not expressly granted to LESSEE by this Lease are reserved by the STATE.

4.3 Public Access and Recreational Use Reservation: All STATE land leased for rangeland forage purposes shall be open and available to the public for recreational uses unless restricted or closed by the STATE to public entry pursuant to the provisions of applicable Oregon Administrative Rules. LESSEE may request the STATE to close the lands to public entry or restrict recreational uses by the public on all or portions of the leased premises in order to protect (a) crops, (b) other land cover, (c) improvements on the land, (d) livestock, (e) LESSEE, or (f) the general public.

4.4 Restriction on Use: In connection with use of the premises the LESSEE shall:

- (a) Comply with all applicable local, state and federal laws and regulations affecting the premises and the use thereof, and correct at the LESSEE's own expense any failure of compliance created through the LESSEE's fault or by reason of the LESSEE's use.
- (b) Take all reasonable precautions to protect the leased area from fire and report the observance of any fires on or adjacent to the leased premises to the STATE as soon as possible and be prepared to make reasonable effort to contain or suppress the fire if requested.
- (c) Dispose of all waste in a proper manner and not allow debris, garbage or other refuse to accumulate on the leased premises. If LESSEE allows debris, garbage or other refuse to accumulate on the premises, STATE shall have the right to remove the debris and collect the cost of such removal from LESSEE.
- (d) Not cut, destroy or remove, or permit to be cut, destroyed or removed, any timber that may be upon the premises except with written permission of the STATE or in accordance with an approved Rangeland Management Plan. The LESSEE shall promptly report to the STATE the cutting or removal of timber by other persons.
- (e) Conduct all operations on the premises in a manner which protects long term soil fertility, forage production, and water quality, and does not contribute to soil erosion or noxious weeds.
- (f) Maintain all buildings, wells, dams, windmills, fences, and other improvements located on the leased premises in a good state of repair.

4.5 Water Rights: Any water right initiated or established on the leased premises, that, pursuant to applicable state law governing the use and appropriation of water, is an appurtenance of the leased premises, shall

remain with the land described in this Lease and can only be transferred with written permission of the STATE.

- 4.6 Hazardous Materials: LESSEE shall obtain prior written authorization from the STATE before using, placing, or storing any material on the leasehold. LESSEE shall use, place, store or release, or allow to be used, placed, stored or released, any material that may pose a danger to the public, wildlife, or its habitat, including, but not limited to, hazardous wastes, pesticides, or toxic substances only in strict compliance with all laws and manufacturer's instructions and shall take all necessary precautions to protect the leasehold and its soil and vegetation. LESSEE shall keep and maintain accurate and complete records of the amount of such materials stored and/or used on the leasehold and shall immediately notify STATE of any potential risk to the leasehold.

SECTION 5 - REQUIREMENTS

- 5.1 Assignment and Sublease: The LESSEE may not assign, mortgage, sublease nor enter into any pasture lease without first obtaining the prior written consent of the STATE pursuant to the requirements of the applicable Oregon Administrative Rules. The STATE reserves the right to condition its consent as it deems reasonably prudent, including the right to require changes to the terms of this Lease. Each assignee, sublessee, and pasture lessee shall be required to comply with all of LESSEE's obligations under this Lease, the applicable Rangeland Management Plan and the applicable Oregon Administrative Rules. LESSEE shall remain liable for the performance of the obligations under this Lease unless the STATE's written consent expressly releases LESSEE from further liability hereunder. For the purposes of this section, if LESSEE is a corporation or partnership, the transfer of any corporate stock or partnership interest (including by operation of law) shall be deemed an assignment subject to the provisions of this Section if the result of said transfer shall be the change of management control or controlling interest of LESSEE.
- 5.2 Condition of Premises and Improvements: The leased premises and improvements on the leased premises have been inspected and are accepted in their present condition, and LESSEE takes the premises and improvements AS IS. The STATE has made no oral representations concerning the condition of the leased premises, nor its fitness or suitability for any purpose, including the grazing of livestock. The improvements shall be kept in as good a condition by LESSEE as existed at the commencement of the Lease allowing for reasonable wear and tear. Generally, the leased premises shall be managed in a husbandlike manner so as not to cause damage to the land or deterioration in the amount, type, or quality of forage

as determined by the STATE. Specifically, the premises shall be maintained in accordance with the applicable Rangeland Management Plan as provided in Section 7. LESSEE shall be responsible for all maintenance expenses unless otherwise designated in the Rangeland Management Plan.

- 5.3 Liability: LESSEE agrees to defend and hold STATE harmless from any and all claims suffered or alleged to be suffered on the premises or arising out of the LESSEE's operations on the premises. Further, LESSEE shall be responsible for the payment of any fines or penalties charged against the premises as a result of LESSEE's action in not complying with laws or regulations affecting the premises.
- 5.4 Assessments: LESSEE shall pay all taxes and/or assessments that may be legally charged on public lands or related improvements which are levied against the property subject to this Lease, whether or not such taxes and/or assessments have been levied against the leasehold or STATE by the assessing agency.

SECTION 6 - MISCELLANEOUS

- 6.1 No Partnership: STATE is not a partner nor a joint venture with LESSEE in connection with the business carried on under this Lease and shall have no obligation with respect to LESSEE's debts or other liabilities.
- 6.2 Non-Waiver: Waiver by either party of strict performance or any provisions of this Lease shall not be a waiver nor prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 6.3 Attorney Fees: If a suit or action is instituted in connection with any controversy arising out of this Lease, the prevailing party shall be entitled to recover, in addition to costs, such sums as the court may adjudge reasonable as attorney fees.
- 6.4 Binding Interest: This Lease shall be binding upon and inure to the benefit of the parties, and the respective heirs, administrators, successors, and assigns of the parties hereto.
- 6.5 Notices: Any official STATE notice required under this Lease shall be sent by certified mail and shall expressly be deemed to be delivered five (5) days after the certified letter is mailed to the address given by the LESSEE in the signature block of this Lease or as shown on the most recent formal written notice of record with this Lease. LESSEE shall provide the STATE formal written notice of any change of address, change in corporation/partnership/ownership, or change in person(s) authorized to

represent the LESSEE. The STATE shall provide written acknowledgment of such formal LESSEE written notices and retain copies of both the LESSEE notice(s) and STATE acknowledgment(s) with this Lease.

6.6 Liens:

- (a) No person shall have the right to file or place any lien of any kind or character upon the land or improvements within the leasehold premises without the prior written consent of the STATE.
- (b) In the event liens or other charges are placed on the leasehold premises, including land or improvements, arising out of LESSEE's actions directly or indirectly, the LESSEE shall immediately cause such liens to be discharged. The STATE may terminate this Lease if LESSEE fails to discharge such liens or charges after ten (10) days notice to do so by STATE. LESSEE shall pay and indemnify the STATE for all costs, damages or charges of whatsoever nature, including attorney's fees, necessary to discharge such liens or charges whether such costs, damages or charges are incurred prior or subsequent to any cancellation of this Lease.

6.7 Default: The following shall be events of default:

- (a) Failure of LESSEE to pay any rent or other charge within thirty (30) days after a billing notice is mailed by STATE.
- (b) Failure of LESSEE to comply with applicable laws, administrative rules, management plans, or any terms or conditions or obligations of the Lease within thirty (30) days after written notice by STATE specifying the nature of the deficiency. If the default is of such a nature that it cannot be completely remedied within the thirty (30)-day period, this provision shall be complied with if LESSEE begins correction of the default within the thirty (30)-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.
- (c) Insolvency of LESSEE; an assignment by LESSEE for the benefit of creditors; the filing by LESSEE of a voluntary petition in bankruptcy; an adjudication that LESSEE is bankrupt or the appointment of a receiver of the properties of LESSEE; the filing of any involuntary petition of bankruptcy and failure of LESSEE to secure a dismissal of the petition within thirty (30) days after filing; attachment of or the levying of execution on the leasehold interest and failure of LESSEE to secure discharge of the attachment or release of the levy of execution within ten (10) days. If LESSEE consists of two (2) or more

individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within ten (10) days after an event of default occurs the remaining individuals produce evidence satisfactory to STATE that they have unconditionally acquired the interest of the one causing the default. If the Lease has been assigned in compliance with Subsection 5.1 of this Lease, the events of default so specified in this Subsection shall apply only with respect to the one then exercising the rights of LESSEE under the Lease.

- (d) Notwithstanding the above, if the STATE in good faith believes that a material default has occurred which may imperil the STATE's rights in the land or its fiduciary duties under law, the STATE may declare an immediate default without any right of LESSEE to cure the deficiency.

6.8 Termination Upon Default: In the event of a default, the STATE shall have the right to terminate this Lease by giving written notice of termination to LESSEE by certified mail. Upon such termination, the STATE shall have the right to re-enter said premises. The STATE shall be entitled to recover from LESSEE all costs arising out of the reentry and all costs of re-letting the premises. In the event the STATE elects to terminate this Lease, LESSEE shall immediately vacate the premises. All improvements located thereon shall be disposed of as provided by Section 8 of this Lease.

6.9 STATE's Right to Cure Defaults:

- (a) If the LESSEE fails to perform any obligation under this Lease, the STATE shall have the option to perform the obligation of the Lease after thirty (30) days written notice to the LESSEE. All of the STATE's expenditures to carry out the obligation shall be reimbursed by the LESSEE on demand with interest at the rate of one percent (1%) per month accrued from the date of expenditure by the STATE.
- (b) In the event any violation or breach of the provision of this Lease is causing damage to the leasehold premises or the LESSEE is utilizing the leasehold premises in a manner not permitted by the provision of this Lease, or in any case damages are occurring to the leasehold premises, the STATE may immediately enter upon the leasehold premises and take such action as necessary to cease such damages or use. In the event the damage or use is occurring by reason of a violation or breach of the provisions of this Lease, the LESSEE shall be liable for all costs incurred by the STATE by reasons of such violations. The STATE, at its option, may send notice to the LESSEE of such violations and LESSEE shall immediately cease such use or violation and correct such violation.

- 6.10 Weed Control: As authorized in writing by the STATE, the LESSEE shall control noxious weeds, plant pests and diseases on the leased premises as directed by the local county weed control district, the Oregon Department of Agriculture and/or any other governmental authority which may now or in the future have authority with regard to the prevention and/or control of noxious weeds, plant pests and/or diseases, or as may be authorized or directed by the STATE.
- 6.11 Termination for Sale or Exchange: In addition to any other Lease reservation or termination provision contained herein, this Lease is granted upon the express condition that should the STATE hereafter find it to be in the best interest of the STATE to sell or exchange the lands embraced in this Lease, then this Lease may be terminated upon giving the LESSEE two (2) years advance written notice, unless by mutual consent of the STATE and the LESSEE, an earlier termination date may be fixed.
- 6.12 Holdover: If LESSEE does not vacate the leased premises at the time required, STATE shall have the option to treat LESSEE as a tenant from month to month, subject to all of the provisions of this Lease except the provisions for term, renewal, and rental. The STATE shall have the option to unilaterally establish a new rental for the month-to-month tenancy, with said rental payable in advance. If a month-to-month tenancy results from holdover by LESSEE under this paragraph, the tenancy shall be terminable at the end of any monthly rental period upon written notice from STATE given not less than ten (10) days prior to the termination date which shall be specified in the notice. LESSEE waives any notice which would otherwise be provided by law with respect to a month-to-month tenancy.
- 6.13 Governing Law: This Lease and all matters related to the rights and responsibilities hereunder are governed by and subject to the laws of the State of Oregon and the administrative rules of the Division of State Lands and the State Land Board, as they may change from time to time. The administrative rules contain terms and conditions which relate to the rights and responsibilities of the parties hereunder, and such terms and conditions (as they may change from time to time) are hereby incorporated by reference and made a part of this Lease.
- 6.14 Binding on Successors: This Lease shall be binding on and shall inure to the benefit of the successors and assigns of the parties hereto, STATE and LESSEE, but nothing in this Subsection shall be construed as a consent by STATE to any disposition or transfer of the Lease or any interest herein by LESSEE except as otherwise expressly provided in this Lease.

- 6.15 Nondiscrimination: The leased premises shall be used in a manner, and for such purposes, that assure fair and nondiscriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender, or national origin.
- 6.16 Exhibits: All Exhibits to which reference is made in this Lease are incorporated in this Lease by the respective references to them, whether or not they are actually attached, provided they have been signed or initialed by all the parties. References to "this Lease" include matters incorporated by reference.
- 6.17 Compliance With Applicable Law: STATE's performance under this Contract is conditioned on LESSEE's compliance with the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555, which are incorporated by reference herein.

SECTION 7 - OPERATION OF PREMISES

- 7.1 Rangeland Management Plan: Rangeland Management Plans may be adopted by the STATE with regard to the land leased hereunder, in accordance with the provisions of applicable Oregon Administrative Rules. LESSEE shall manage the land in strict accordance with the approved Rangeland Management Plan for the premises, as it may be revised by STATE from time to time after consultation with the LESSEE. If applicable, the Rangeland Management Plan shall be attached as an exhibit to this Lease and is hereby incorporated as a part of this Lease.
- 7.2 Reporting: LESSEE shall report to the STATE the actual forage use by pasture in terms of AUMs within forty-five (45) days after the last use has been completed each year. Reports shall be submitted on a form provided by the STATE.

SECTION 8 - IMPROVEMENTS

- 8.1 Authorized Improvements: No improvement that exceeds one thousand dollars (\$1000) in cost or value may be constructed or placed upon leased land unless the LESSEE shall have first obtained the prior written authorization of the Division. Authorization for improvements shall be processed according to the requirements of applicable Oregon Administrative Rules. The existing LESSEE improvements as listed in Exhibit _ attached to this Lease are hereby authorized by the STATE.
- 8.2 Unauthorized Improvements: Unauthorized improvements shall, at the election of the STATE, either be removed from the premises by LESSEE (or if STATE so elects, by the STATE at LESSEE's cost and expense), or remain on

the leased premises. Any improvements placed upon the leased premises without authorization as required by Subsection 8.1 may, at the option of the STATE, immediately become the property of the STATE.

8.3 Compensation For Authorized Structural Improvements: Upon expiration of the term of this Lease, if the Lease is not renewed and LESSEE owns structural improvements on which the STATE has no lien for rentals or penalties, the STATE shall at its option allow LESSEE to remove the affected structural improvements or require any new LESSEE of the premises to pay the former LESSEE the fair market contributory value for such structural improvements at the time the new LESSEE takes possession thereof pursuant to the provisions of applicable statutes and administrative rules. In the event that all or any portion of the Lease is terminated by STATE and the leasehold is not relet, STATE shall at its option allow LESSEE to remove the structural improvements or compensate LESSEE for the fair market contributory value of the structural improvements. If STATE and LESSEE are unable to agree on the fair market contributory value of the structural improvements, it shall be determined pursuant to the provisions of applicable statutes and administrative rules.

8.4 Removal of Structural Improvements: Any structural improvements LESSEE is authorized to remove must be removed within sixty (60) days of the termination of the Lease unless otherwise agreed by the parties. LESSEE shall be responsible for any damage done to the premises as a result of the removal of the structural improvements. Any structural improvements remaining on the property after the sixty (60)-day period may at the option of the STATE become the property of STATE, unless otherwise agreed by the parties.

SECTION 9 - ENTIRE AGREEMENT

9.1 ENTIRE AGREEMENT: THIS LEASE, TOGETHER WITH THE ATTACHED EXHIBITS AND ATTACHMENTS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS LEASE SHALL BIND EITHER PARTY UNLESS IN WRITING. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN, AND SHALL BE VALID AND BINDING ONLY IF IT IS SIGNED BY EACH PARTY. THERE ARE NO UNDERSTANDINGS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS LEASE. LESSEE, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT LESSEE READ THIS LEASE, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. THIS LEASE SUPERSEDES ALL PRIOR OR EXISTING LEASE OR RENTAL AGREEMENTS BETWEEN THE PARTIES.

The LESSEE expressly agrees to all covenants herein and binds him/herself for the payment of the rental herein before specified.

DIVISION OF STATE LANDS

LESSEE

Stephyn Pulase
Authorized Signature

Monte Sagner
Signature

3/4/99
Date

2-14-99
Date

Division of State Lands
775 Summer Street NE
Salem OR 97310-1337
(503) 378-3805

P.O. Box 33
Mailing Address

Division of State Lands
20300 Empire Avenue Suite B-1
Bend OR 97701
(541) 388-6480

Riverside One 97917
City State Zip

541-493-2029
Telephone Number

**OREGON
STATE LAND BOARD**

**DIVISION
OF
STATE
LANDS**



**ASSET
MANAGEMENT
PLAN**

*A Plan to Guide the Care and
Management of Land, Waterways and Minerals
to Benefit the Common School Fund*

December, 1995



THE STATE LAND BOARD

**JOHN KITZHABER - GOVERNOR
PHIL KEISLING - SECRETARY OF STATE
JIM HILL - STATE TREASURER**

**OREGON DIVISION OF STATE LANDS
PAUL CLEARY - DIRECTOR**

The State Land Board

"The Governor, Secretary of State and State Treasurer shall constitute a State Land Board ... the board shall manage lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound management techniques of land management."

(Constitution of 1859; Amendment proposed by H.J.R. No. 7, 1967, and adopted by the people May 28, 1968)

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INTRODUCTION

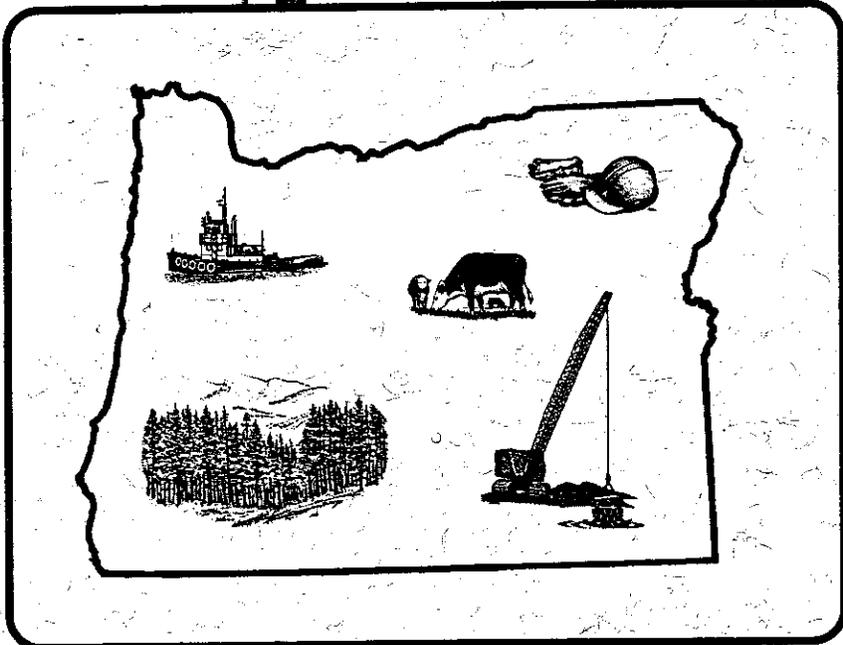
The State Land Board and the Division of State Lands (Division) manage approximately 2.3 million acres of land owned by the State of Oregon. These lands fall into two broad categories—Trust Lands and Non-Trust Lands. Trust Lands were granted to the state by the federal government at the time of statehood specifically to support the state's public schools (kindergarten to 12th grade). They originally included Sections 16 and 36 in each township. Since that time, many of these lands have been sold or exchanged. Submerged and submersible lands underlying navigable waterways were also granted to the state at the same time. These and other lands granted to the state at a later time (e.g., Swamp-land Act lands) are known as Non-Trust Lands, which are managed for the greatest benefit of all the people of the state.

The Division acts as the administrative arm of the State Land Board, which is comprised of the Governor, Secretary of State and Treasurer. The Land Board is the trustee of the Common School Fund (Fund or CSF), a permanent fund or account managed to provide revenue to public schools. As a trustee, the Land Board has a legal obligation to manage Trust Lands for the maximum long-term benefit of the public schools and must exercise prudence, skill and diligence in keeping the lands and Fund productive.



*Lincoln School
Benton County,
Oregon—C. 1915*

The Common School Fund includes two types of assets—financial assets (e.g., cash and investments in stocks, bonds and other securities) and real property. While Non-Trust Lands are



not considered CSF assets, revenues from their management are deposited in the Fund. This Asset Management Plan (Plan) addresses management of all of the Land Board's real estate assets. It does not address the Fund's financial assets, which are managed by the State Treasurer and the Oregon Investment Council and are currently valued at approximately \$400 million. Like many investments, CSF financial

assets are managed to maximize return while exercising sound fiscal judgment.

The real property assets managed by the Land Board and the Division are conservatively valued at approximately \$1.1 billion. Contributions to the CSF from real property assets are derived from a variety of business activities. For example, Rangelands are leased for grazing; timber is sold; and waterway areas are leased for such uses as sand and gravel removal, houseboat moorages, marinas and log storage.

The Land Board and the Division have identified four primary reasons for adopting this Plan:

1. The need to establish a coordinated comprehensive real estate management philosophy;

2. The need to proactively manage the Land Board's real estate assets with the same vigor applied to the investment portfolio;
3. The need to increase net revenues from CSF real estate assets to meet Land Board goals; and
4. The need to provide a guide to balance revenue generation and resource conservation decisions.

The Land Board and Division developed this Plan to improve performance and efficiency, provide greater benefits to Oregon's schools and people, guide the management of public lands and improve customer service. A consultant team, headed by Cogan Owens Cogan, produced the Plan in collaboration with Division staff and the Land Board and with public and agency input. *A supporting Background Document, developed in conjunction with this Plan, includes data and analyses that support the Plan's strategies.*

The following elements are included in the Plan:

- ◆ **An overall philosophy** elaborates trust and stewardship mandates and provides the Land Board with a cohesive and flexible foundation for more detailed policies.
- ◆ **Guiding principles** provide more detailed management direction for all Division land assets.
- ◆ **Resource-specific management prescriptions** include, for each land class, revenue enhancement and investment objectives and strategies to resolve potential conflicts between resource stewardship and revenue enhancement.

The Land Board developed this Plan to improve performance and efficiency, provide greater benefits to Oregon's schools and people, guide the management of public lands and improve customer service.

- ◆ **Overall implementation measures** define the actions necessary to carry out the Plan. These measures will be developed for each land class by the Division after consultation with stakeholders and other affected parties, circulation for public review and input and review by the Land Board.

The Division must engage in additional planning, develop implementation measures and, in some cases, initiate administrative rule-making in order for the Plan to be fully operative. *The Land Board and Division will continue to seek public input on land management prescriptions and implementation measures long after this Plan is adopted.* The Plan will be reviewed and updated at least every five years.

OVERALL MANAGEMENT PHILOSOPHY

It is essential that land management by the Land Board Land Division be based on a cohesive overall philosophy. This philosophy is centered on the Land Board's fiduciary trust responsibilities and role as a responsible steward of public lands. These responsibilities differ for Trust and Non-Trust Lands. The distinction stems from how these lands came under Land Board jurisdiction.

Trust Lands

Trust Lands are those lands granted by the United States to the state "for the use of schools" upon its admission into the Union. The primary obligation of the Land Board, as trustee, is to manage and protect these lands for the maximum, long-term benefit of the public schools, consistent with sound stewardship, conservation and business management principles. The Oregon Constitution dedicates revenues derived from Trust Lands to the Common School Fund.

While revenue maximization is the standard fiduciary goal of a trustee, the Land Board is not required to maximize present income without regard to other considerations. Rather, the Land Board's duty is to maximize the value of, and revenue from, Trust Lands over the long term. Present income may be foregone to conserve specific properties if it is determined that such action will enhance land value and income for the benefit of future beneficiaries.

The primary obligation of the Land Board, as trustee, is to manage and protect these lands for the maximum, long-term benefit of the public schools, consistent with sound stewardship, conservation and business management principles.

Above all, the Land Board's trust obligation requires it to remain flexible so it can respond to changing resource conservation and management concerns and future revenue-generating opportunities.

The duty to obtain market value and maximize revenue does not limit the Land Board to consideration of economic factors in managing Trust Lands. The Land Board is free to explore innovative mechanisms for securing environmental, social and other non-economic benefits so long as doing so would not diminish prudent long-term economic return from the lands. However, permanent dispositions of Trust Lands must meet a strict standard of generating the greatest possible proceeds because they represent a one-time only benefit to the trust.

Above all, the Land Board's trust obligation requires it to remain flexible so it can respond to changing resource conservation and management concerns and future revenue-generating opportunities. A major challenge for the Asset Management Plan is to provide consistent management direction for the present while retaining the necessary management flexibility for the future.

Non-Trust Lands

Non-Trust Lands include submerged and submersible lands underlying navigable waterways, the Territorial Sea and "swamp lands" granted to the state by the federal government. These lands are held and managed by the Land Board for the greatest benefit of all the people of the state. The Land Board has considerably more latitude in managing Non-Trust Lands than it does in managing Trust Land. Neither the Oregon Constitution nor statutes require that Non-Trust Lands be managed to generate revenue, allowing such lands to be used for a variety of purposes. However, any income produced from these lands is deposited in the CSF. The Public Trust Doctrine requires that the state's management of waterways avoid unreasonable interference with public navigation, fisheries and commerce. Thus, there is a need to apply sound stewardship, conservation and business management principles in managing Non-Trust Lands.

Key Themes

The Land Board and Division have selected the Plan's key themes as the underlying philosophy to be reflected in defining a program for management of the Land Board's real estate assets.

The Land Board and Division will continue to meet its obligations on Trust Lands.

The Oregon Admission Act and Constitution require the management of Trust Lands to maximize revenue over the long term for the Common School Fund. Thus, a fundamental goal of the Plan is to increase the overall value of the Land Board's real estate portfolio and the contributions of that portfolio to the CSF. In meeting its trust obligations, the Land Board's investment decisions will be evaluated using longer payback time periods than are typical in the private sector. Processes for the exchange, sale and acquisition of land will be formulated and conducted to satisfy the Land Board's trust responsibilities.

The Plan provides a balanced approach to revenue enhancement and resource stewardship.

Although the Land Board is required to maximize revenues over the long term for its Trust Lands, it is not precluded from addressing environmental and other values, especially on Non-Trust Lands. The land managed by the Land Board and Division contains many resources, including those which can be utilized to generate revenue for the Common School Fund, as well as those which should be protected for their resource and public use values. The Land Board recognizes that it must ensure adequate resource protection commensurate with its fiduciary and public trust obligations.

A fundamental goal of the Plan is to increase the overall value of the Land Board's real estate portfolio and the contributions of that portfolio to the CSF.

The Plan emphasizes land management, not land disposal.

As stated previously, one of the fundamental goals of the Plan is to increase the overall value of the Land Board's real estate assets. The Plan does not represent a blueprint for disposing of the Land Board's portfolio, nor does it recommend converting all real estate assets into other financial assets (stocks, bonds, etc.). Disposal of Trust Lands will generally be limited to non-performing assets (those for which expenses are greater than revenues or returns are substantially below market rates). Sale and acquisition processes will be reasoned and methodical and occur through case-by-case evaluations over time. Sale proceeds may be reinvested in new lands or improvements to existing real estate assets. Exchange opportunities will be fully explored as part of any disposal evaluation.

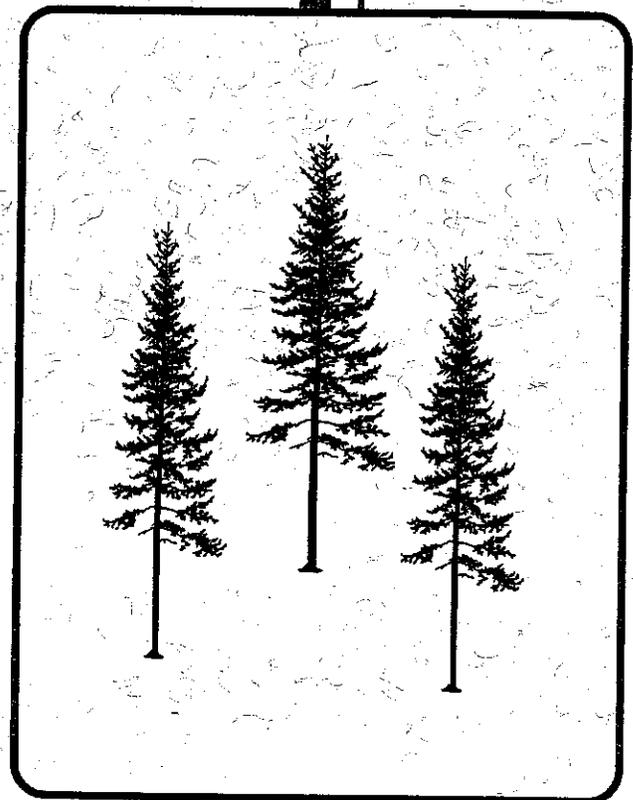
The Plan provides general land management direction; many details will be addressed during the implementation phase and will fully involve the public.

The Plan is designed to provide the Land Board and Division with overall guidance in making land management decisions. Specific implementation measures and management decisions, such as evaluation of waterway lease rates, disposition of isolated Rangeland parcels and adoption of new administrative rules will be further analyzed and developed during the implementation phase of the Plan. These implementation measures will be reviewed by the Land Board, and affected interests and the general public will be involved.

LAND CLASSIFICATION SYSTEM

A key element of the Asset Management Plan is a system to classify the agency's lands in a meaningful way. A Land Classification System (LCS) serves as a starting point to develop more specific land classifications and management direction. The LCS is use and resource-based, and classifies land by suitability for both existing and potential uses. Applied primarily at the macro or landscape level, it is a tool to apply broad management prescriptions to categories of land uses. At the micro or area/parcel-specific level, it is a starting point to develop more specific land classification categories and management prescriptions for specific geographic areas or types of land through area management planning. Seven primary land classes have been developed:

- ◆ **Forest Lands**—Elliott and Sun Pass State Forests, as well as other scattered forest tracts in eastern and western Oregon;
- ◆ **Agricultural Lands**—lands leased for farming operations in eight counties;
- ◆ **Rangelands**—grazing lands, located primarily in Harney, Lake and Malheur Counties;

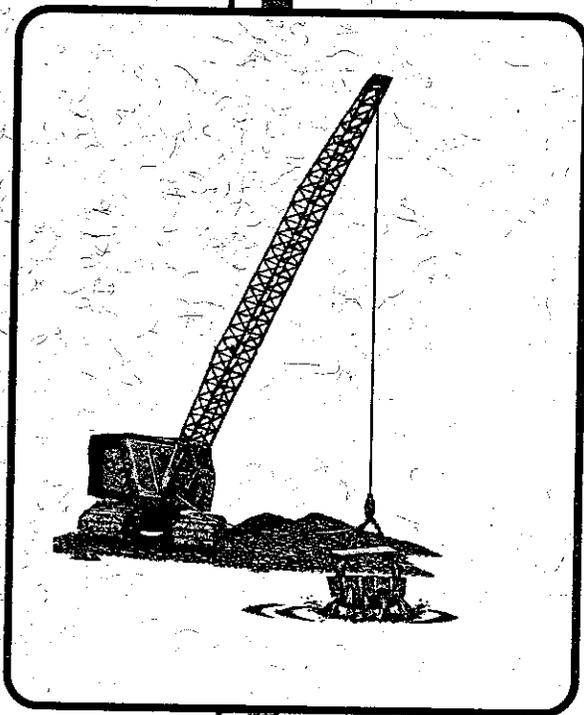


- ◆ **Industrial/Commercial/Residential Lands**—non-resource lands and buildings, such as the South and North Tongue Point marine industrial sites in Astoria and the Division's headquarters building in Salem;
- ◆ **Special Interest Lands**—lands with sensitive or unique natural, cultural, or recreational resources;
- ◆ **Waterways (Non-Trust Lands)**—submerged and submersible lands and the Territorial Sea (that area seaward of the coast for three nautical miles); and
- ◆ **Minerals**—mineral rights and lands containing mineral resources, such as geothermal resources, natural gas, industrial minerals and precious metals;

Other major elements of the LCS are:

- ◆ *Defining attributes*—attributes that further define the land classes; some attributes are applicable to all classes (e.g., Trust or Non-Trust designation); and others to only certain categories (e.g., productivity classes for Forest lands, type of lease for Rangelands and unique features present on Special Interest lands); and
- ◆ *Parcel-specific characteristics* such as size, ownership information, value, improvement potential and topography.

Almost all of the uplands managed by the Land Board and Division are Trust



Asset Inventory and Market Value 1993/1994

Table 1

Land Classification	Total Acres	Number of Leases/Permits	Approximate Market Value
Forest Lands	133,000	NA	\$1.066 billion
Agricultural Lands	5,227	12	\$2,338,000
Rangelands	638,000	151	\$26,795,000
Industrial/ Commercial/ Residential Lands	716	7	\$3,000,000
Waterways	800,000	431	NA
Minerals ²	753,000	24 Leases 10 Exploration Permits	Unknown
Total	2.3 Million	635	\$1.1 billion¹

Notes

1. Includes sand and gravel leases.

2. Subsurface rights only. Does not include 410,000 acres of land with surface and subsurface rights included in other land classes nor approximately 2.1 million acres managed by the Division for other state agencies.

Sources: Forest Lands: Duck Creek Associates; Agricultural Lands: Division of State Lands, COC; Rangelands: Palmer, Groth & Pietka; ICR: Division of State Lands

Lands. Non-Trust Lands include Waterways, approximately 25,000 acres of Rangelands and some tracts in other land classes. A summary of acreage by land class and its approximate market value is provided in Table 1. *Approximate market value estimates were derived and intended only for general comparative purposes and should not be interpreted as representing appraised fair market value for any specific land parcel or classification.*

GUIDING PRINCIPLES

The following Guiding Principles provide overall land management direction. They are applicable to all lands, irrespective of their classification.

General Land Administration Principles

1. The Land Board and Division will meet Admission Act and Public Trust Doctrine obligations. Trust Lands will be managed with the overriding objective of maximizing revenues over the long term for the Common School Fund, while conserving the value of the land and complying with applicable federal laws. Compliance with state laws will be pursued to the extent that it does not conflict with constitutional requirements, as determined by the Land Board and reviewable by the courts.

Non-Trust Lands will be managed with the overriding objective of providing the greatest benefit to the people of the State of Oregon, as determined by the Land Board in a manner consistent with all applicable laws and reviewable by the courts. Public Trust Doctrine requirements to manage Waterways in a manner that avoids unreasonable interference with public navigation, fisheries and commerce will be met.

2. The Land Board and Division will strive to balance revenue generating opportunities with resource stewardship needs. Whenever possible, strategies to increase revenues and contain costs without compromising the resource, en-

Whenever possible, strategies to increase revenue and contain costs without compromising the resource, environmental, cultural and public use values of the state's lands will be developed.

environmental, cultural and public use values of the state's lands will be developed.

3. The Division will develop area management plans, for public review and review by the Land Board, for definable geographic areas and/or for specific resources, e.g. waterway areas. Such plans will:

- ◆ Be organized by geographic location, resource type, or revenue generation potential;
- ◆ Inventory, as appropriate, various economic, environmental and social factors;
- ◆ Govern all management activities undertaken by the Division within the subject area;
- ◆ Identify appropriate land classification(s), including Special Interest lands;
- ◆ Establish specific land management strategies and implementation measures;
- ◆ Seek to maximize revenue to the Common School Fund over the long term for Trust Lands;
- ◆ Utilize the efforts of other agencies in developing coordinated management plans; and
- ◆ Include lessees, adjacent property owners, beneficiaries and other interested parties in the planning process.

4. The Division will seek a rate-of-return that meets or exceeds the market rate-of-return for each land classification, consistent with Trust and Non-Trust obligations. Because the Common School Fund investment portfolio will likely be the source for capital investment and acquisition funding, investment and acquisition decisions will be evaluated in relationship to the performance of that investment portfolio.
5. The Land Board and Division will actively pursue partnership agreements with other government entities and private and public organizations to foster the achievement of Plan principles and management prescriptions. Local, state and federal agencies and public interests with knowledge and expertise in land and waterway management will be consulted throughout Plan implementation.

Principles for Land Management and Leasing

1. The Land Board and Division will categorize and manage state land based on the primary uses identified in the land classification system or in area management plans. Secondary uses (e.g. telecommunications sites, grazing, pipeline easements, public recreation, road rights-of-way) are allowed as long as they do not substantially interfere with the primary uses.
2. The Division will identify and actively manage transition lands (i.e., resource lands with future potential for non-resource uses, most frequently located near larger, fast-growing communities). The Division will develop site-specific prescriptions for each transition land parcel and periodically reevaluate the prescriptions as site characteristics or conditions change. The Division will seek interim uses that fully utilize the current potential of the property, yet preserve and enhance the qualities that could attract more intensive utilization.

The Land Board and Division will categorize and manage state land based on the primary uses identified in the land classification system or in area management plans.

Whenever possible, the Land Board will set rates for leases, easements, licenses and other forms of use authorization that reflect a market pricing mechanism.

3. All parties proposing to use or occupy state land for commercial purposes must apply to the Division for written authorization, unless the use is specifically authorized by statute or administrative rule.
4. Leases will be considered to be, and treated as, cooperative business relationships between the Land Board and lessees. Lessees will be consulted on proposed activities affecting their authorized lease uses or proposed changes in lease terms and conditions. Lessees will have full responsibility to comply with all applicable laws and regulations, unless specifically relieved of that responsibility by lease terms and conditions.
5. Whenever possible, the Land Board will set rates for leases, easements, licenses and other forms of use authorization that reflect a market pricing mechanism. All rates charged will be periodically reviewed and adjusted where justified by market trends.
6. Leases, except those involving waterway, mineral, or grazing uses, will be offered through a competitive process, e.g., oral or sealed bids or "Request for Proposals." For Waterways, competitive leasing will be utilized when upland owner preference rights are not exercised. Timber will be sold by competitive bid; other forest products may be sold by negotiated contracts. Rangeland grazing leases are currently renewed non-competitively on a year-to-year basis. Current litigation may affect future Rangeland leasing procedures and bidding processes.
7. When cost-effective, the Division will engage the private sector or other public agencies (e.g. ports) as property and lease managers and real estate brokers. The Division will increase marketing coordination with the Oregon Economic Development Department staff.

Principles for Land Improvement, Marketing, Acquisition and Disposal

1. The Land Board and Division will encourage lessees and other parties to make improvements to state land, consistent with lease purposes. However, any party proposing such improvements must receive Division authorization prior to making the improvement, and must agree to maintain the improvement in good working order for the length of the lease.
2. The Division, subject to Land Board approval, will invest capital in land improvements to the extent that the project meets acceptable financial return and risk criteria. In most cases, the Division will limit direct capital investments to value enhancement activities and soft investments (e.g., site planning, rezoning, acquisition of access, or participation in local improvement districts).
3. The Division will encourage the development of water resources (e.g., wells), where such activities will:
 - ◆ Not adversely impact existing uses, water quality or availability and/or habitat;
 - ◆ Improve habitat; or
 - ◆ Increase the utility of state land.

Additionally, any required permits or water rights will be applied for, at the cost of the party making the improvements, in the name of the Division, unless otherwise agreed to by the Division.

4. The Land Board and Division will actively manage and market real estate identified for revenue-generating uses.

The Land Board and Division will actively manage and market real estate identified for revenue-generating uses.

Non-performing assets (i.e. an asset for which the net operating income [NOI] is negative; or for newly acquired investment lands, the rate-of-return is significantly less than comparable market rates) will be identified and strategies implemented to increase financial performance, reduce expenses, dispose of the assets, or retain them as non-performing assets. Real estate values will be periodically reviewed and updated.

5. Opportunities to acquire parcels available for sale or through other means (e.g., in-lieu selection or exchange), which have a high probability for appreciation in value and the ability to consistently generate revenue over the long term for the Common School Fund, will be evaluated and pursued. The acquisition of additional lands of any classification will be based upon direction in this Plan and the ability to obtain an appropriate rate-of-return on invested capital. Other factors to be considered include:

- ◆ Ability to support multiple uses over time;
- ◆ Management costs or capital expenditures required for site development, improvements, or infrastructure;
- ◆ Proximity to urban areas likely to experience consistent growth (i.e. transition lands that have high potential for development); and
- ◆ Location, accessibility and manageability.

6. The Land Board and Division will thoroughly evaluate opportunities to sell or exchange its land, particularly, non-performing Trust Lands and, in rare cases, Non-Trust Lands. Sales and exchanges may be pursued, on a case-by-case basis, to:

- ◆ Meet a management prescription;
 - ◆ Increase net operating income and contributions to the Common School Fund;
 - ◆ Reduce management costs; or
 - ◆ Increase management efficiency; e.g., where a parcel is impacted or surrounded by special single-purpose management areas such as National Parks, National Monuments, wildlife refuges, wilderness areas and wild and scenic river corridors, thereby restricting uses of the parcel.
7. Public review and Land Board approval of proposed land sales or exchanges will be required. Criteria for evaluating the proposed disposal of land will include: current and future value estimates and income potential; location, accessibility and manageability; natural, cultural and recreation resource assessments; alternative income-generating uses; expression of interest in exchange or purchase; and land status (i.e., Trust or Non-Trust).

Principles for Public Access and Recreation Use

1. The Division will allow public recreation on state lands when compatible with the objectives of the Asset Management Plan, and commensurate with public safety and the rights of lessees to use the subject land according to the provisions of their leases. Dispersed recreation and education opportunities will be emphasized. Regulations pertaining to public recreational use within specific areas may be established by the Land Board. Public access may be closed, restricted, or limited to protect public safety; to prevent theft, vandalism and garbage dumping; to protect soils, water quality, plants and animals; or to meet other land management objectives or lease terms.

Public review and Land Board approval of proposed land sales or exchanges will be required.

In recognition of its stewardship responsibilities, the Land Board will use appropriate measures and partnerships that are consistent with Trust and Non-Trust Land objectives.

2. The Division will work with other government entities and interested persons to make accessible to the public special features or resources on state land consistent with the conservation and/or protection of the attribute.
3. The construction and operation of improvements to state land for recreational use will be permitted only with prior written authorization of the Division. Temporary overnight camping will generally be allowed; however, its location and duration may be controlled or restricted.
4. The commercial use of state land on an exclusive or long-term basis for recreation will be permitted only with prior written authorization from the Division. Prior to allowing exclusive uses, the Division will consider the uniqueness of a recreational site or opportunity, and availability and proximity of other, similar recreational sites and opportunities. Such uses include, but are not limited to:
 - ◆ Long-term camping within the same area, or use in lieu of a permanent residence;
 - ◆ Base camps or "permanent" overnight sites maintained and used continuously and exclusively by guides or organizations; or
 - ◆ Hunting reserves exclusive to members.

Principles for Unique Natural and Cultural Resources

1. In recognition of its stewardship responsibilities, the Land Board will use appropriate measures and partnerships that are consistent with Trust and Non-Trust Land objectives to conserve cultural resources (e.g., historic, archaeologi-

cal); unique geological and physical features; riparian resources; wetlands; wildlife habitat; and sensitive and threatened endangered plant, animal and aquatic species.

2. The Division, with assistance from the Natural Heritage Program, will identify areas with special natural features that may be eligible for recognition by the Natural Heritage Program. This program identifies natural areas with special plants, animals and aquatic species or rare geologic features that should be protected. If conflicting uses are identified, the Division may seek funding to remove those lands from Trust designation (if applicable), exchange or transfer management of those lands to other entities equipped to maintain these features, or classify them as Special Interest lands pending future transfer.
3. The Division, with the assistance of the State Historic Preservation Office, will establish a procedure to identify historic and archaeological sites and protect them at a level which, at a minimum, meets regulatory requirements. Actual inventory may take place during area management planning, or when site disturbing activities are planned, or prior to land disposal.
4. The long-term protection and management of the state's wetland resources will be ensured through both regulatory and non-regulatory measures including:



- ◆ Providing protection of wetlands and restoration sites;

- ◆ Conserving and managing functions, and values, of wetlands;
 - ◆ Encouraging restoration of wetlands for watershed, water quality and/or wildlife objectives, while accommodating necessary economic activities; and
 - ◆ Managing Oregon's wetlands through partnerships that improve communication, cooperation and consistency among agencies, organizations and the public.
5. The long-term protection and management of state Scenic Waterways and federal Wild and Scenic Rivers will be ensured through both regulatory and non-regulatory measures, including:
- ◆ Protecting and enhancing scenic, aesthetic, natural, historic, archaeological, recreation, scientific and fish and wildlife values along federal Wild and Scenic Rivers and state Scenic Waterways through protection of the special attributes that caused the Waterways to be included in the Scenic Waterway system;
 - ◆ Preserving federal Wild and Scenic Rivers and state Scenic Waterways in their free-flowing condition and prohibiting dams, reservoirs and impoundments;
 - ◆ Recognizing recreation, fish and wildlife uses as the highest and best uses of the waters within Scenic Waterways; and
 - ◆ Cooperating with other state, local and federal agencies, affected Indian Tribes and other appropriate parties to achieve coordinated management and protection of state Scenic Waterway values.

RESOURCE-SPECIFIC MANAGEMENT PRESCRIPTIONS

Management prescriptions include land management and investment principles and strategies, and define allowed and prohibited uses on lands managed by the Land Board and Division. They are specific to each individual land class and provide an interim level of guidance until more refined management direction is developed in area management plans. As a group, they provide a balance of measures to enhance Common School Fund revenues and improve stewardship of public lands.

Forest Lands

The Land Board administers approximately 133,000 acres of Forest lands (approximately six percent of its total holdings). These lands, located primarily in western Oregon, are referred to as Common School Forest Lands and are managed by the Oregon Department of Forestry (DOF) for the Division. Approximately 85,000 acres are located in the Elliott State Forest in Coos and Douglas counties. The remainder is in the Sun Pass State Forest in Klamath County and in small tracts scattered throughout western and eastern Oregon. Many of these scattered tracts are adjacent to other Forest tracts managed by the DOF, the U.S. Bureau of Land Management (BLM) or the U.S. Forest Service. All Forest lands are Trust Lands.



Forest lands, in the aggregate, are the highest valued real estate in the Division's portfolio and, as a general rule, their disposal should be avoided. However, in the case of some scattered tracts, divestment may be a reasonable strategy.

The following management prescriptions will be applied to Forest lands:

1. Forest lands are to be managed primarily to produce a sustainable, even-flow harvest of timber, subject to economic, environmental and regulatory considerations, according to specific plans developed by forest managers. These plans will be prepared by the land manager (e.g., Department of Forestry) or the Division and approved by the Land Board.
2. Forest health practices will be incorporated into the management of Forest lands to reduce or prevent significant losses from insects, diseases, animals and other similar threats.
3. Forest land management costs and revenues will be periodically reviewed to ensure maximum effectiveness and efficiency. To the extent possible, they will be compared to those of other forest managers for similar Forest lands and activities and management intensities. Greater management costs will be acceptable where justified by increased productivity and higher return rates of investment.
4. Improvements to Forest lands (e.g., road building to improve access, pruning, fertilizing, pre-commercial thinning) will be subject to appropriate investment standards and return analyses.
5. Scattered tracts of Forest land, particularly those identified by the Division and the Oregon Department of Forestry as "marginal" lands (e.g., lands with low productiv-

ity or high management costs), will be evaluated for exchange, sale, or reclassification.

6. The acquisition of additional Forest lands will be targeted to western Oregon and the Klamath Basin and will be subject to appropriate investment standards and return analyses.

Agricultural Lands

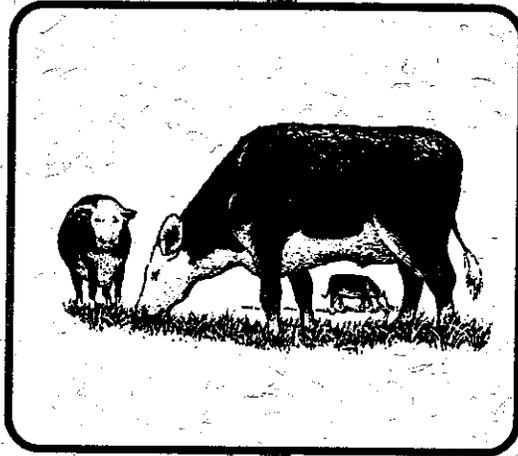
The Land Board administers and leases 5,227 acres of Agricultural lands (less than one percent of its total holdings) located primarily in the central and eastern portions of the state. A total of 12 Agricultural leases in Clackamas, Curry, Gilliam, Jefferson, Lake, Malheur, Marion and Morrow Counties range in size from 40 to 2,000 acres. Most Agricultural lands are Trust Lands.

The following management prescriptions will be applied to Agricultural lands:

1. Agricultural lands are to be managed primarily for the production of agricultural commodities.
2. The conversion of lower value land (e.g., rangelands) to Agricultural land will be encouraged if such a change in use does not result in significant adverse impacts to watersheds and natural and cultural features and meets appropriate investment standards and return analyses.
3. Lessees will be encouraged to undertake improvements to Agricultural lands to improve productivity. The Division may participate in improvements that meet the appropriate investment standards and return analyses.
4. Where return on investment warrants, the Division should pursue water rights sufficient to serve irrigation, and to serve other needs for water associated with standard farming practices.

5. The acquisition of Agricultural lands, with an emphasis on the Willamette Valley or other major agricultural centers, will be considered for future investment.

Rangelands



The Land Board administers approximately 638,000 acres of Rangelands (27 percent of its total holdings), all in eastern Oregon. Approximately 545,000 acres (85 percent) are blocked into consolidated holdings in Lake, Harney and Malheur Counties, with the remainder being small, isolated parcels. The Division leases for grazing approximately 617,000 acres, with 44 large-parcel leases on its blocked lands and 107 smaller-parcel leases on its isolated tracts. Almost all Rangelands are Trust Lands, with only about 25,000 acres being Non-Trust Lands.

The following management prescriptions will be applied to Rangelands:

1. Rangelands will be managed to ensure sustained forage yields for livestock grazing consistent with best management practices. Grazing levels may be adjusted, in consultation with lessees, on both Trust and Non-Trust Lands to protect Rangeland health and the long-term value of the land.
2. The Land Board and Division will seek to:
 - ◆ Periodically review and, as appropriate, adjust lease rates;
 - ◆ Where possible, reduce expenses and contain management costs; and

- ◆ Periodically review administrative rules to improve program efficiency and effectiveness.

The Board recognizes that the potential for a positive net operating income (NOI) from the leasing of Rangelands for grazing is unlikely in the short term given current management costs, lease rates and cattle prices. It also recognizes the integral relationship many of the leaseholds have to lessees' deeded land and to BLM grazing allotments for cattle ranching operations in southeastern Oregon.

3. The Land Board and Division may authorize alternative uses for a leasehold, even if the leasehold is already subject to a Rangeland lease for grazing or an alternative use, if such uses are:
 - ◆ Not specifically prohibited by an existing lease; and
 - ◆ Compatible, or do not unreasonably interfere, with uses previously authorized on the same leasehold.
4. Rangelands will be managed to prevent human-induced loss of Rangeland health. Toward this end, the Division:
 - ◆ Will work cooperatively with lessees to continue to implement Rangeland practices that maintain, achieve, or restore healthy, properly functioning ecosystems and maintain, restore, or enhance water quality; and
 - ◆ Assist in Rangeland developments and practices that will maintain or improve Rangeland health, including forage yield, where consistent with Land Board investment standards and environmental objectives.

The Board recognizes that the potential for a positive net operating income (NOI) from the leasing of Rangelands for grazing is unlikely in the short term given current management costs, lease rates and cattle prices.

5. A Rangeland management plan will be developed by the Division, in cooperation with the lessee, for each leasehold and will be made part of the grazing lease. The plan will:

- ◆ Describe animal grazing scheduled by pasture or leasehold; establish the initial grazing capacity; identify riparian areas, wildlife habitat, special natural, archaeological or cultural features and threatened or endangered species; describe any special provisions necessary to protect such features and species; and list any Division-authorized improvements;
- ◆ Be annually reviewed by the Division, and if necessary, updated to determine lessee compliance with the plan's terms and conditions, and to establish the effectiveness of the plan;
- ◆ Be consistent with any state or federal watershed management plans or strategies that may pertain to the area; and
- ◆ Be made available for public and agency comment pursuant to the Division's State Agency Coordination Program.

Due to the large number of current leases, the Division will develop Rangeland management plans in phases. Initially, plans will be developed and adopted for larger leaseholds and those containing significant wetland areas or which are important to achieve watershed management objectives.

6. The Land Board and Division will honor the terms and conditions of any existing valid lease, including any that entitle the lessee to compensation or renewal. Such circumstances may occur where there were prior federal grazing permits on lands acquired by the Land Board through exchange.

7. Capital investments by the Division will generally be limited to those necessary to protect the value of the land. Cost sharing with lessees or other agencies will be encouraged.
8. Rangeland improvements must be approved pursuant to the Rangeland management plan and lease agreement. All improvements, including fencing, will be designed, constructed and maintained to avoid adverse effects on wild-life populations and on hunting, trapping and other recreational uses.
9. Consistent with legislative direction in SB 1132 (1995), isolated parcels of Trust Rangelands will be considered for disposition (i.e., sale or exchange). Isolated parcels are:
 - ◆ Largely surrounded by land not owned by the Land Board or not contiguous to other larger tracts of state land; or
 - ◆ Difficult or uneconomical to manage due to access, location, isolation, low production value or similar factors.

The Land Board and Division shall establish a sale procedure for isolated parcels of Rangelands that is efficient and cost-effective.

Industrial, Commercial and Residential (ICR) Lands

The Land Board owns approximately 716 acres of ICR lands (less than one percent of its total holdings), including the North and South Tongue Point marine industrial sites in Clatsop County and Dibblee Point in Columbia County; its office building in Salem (Marion County); undeveloped residential sites in Bend and West Linn (Deschutes and Clackamas Counties); an undeveloped site near the Prineville airport (Crook County); and four 40-acre rural homesites at Lake Owyhee in Malheur County. Three of these sites (the North and South Tongue Point marine industrial

Capital investments by the Division will generally be limited to those necessary to protect the value of the land.

The Division will set lease rates for ICR properties based on comparable market lease rates.

sites and the office building) are currently under lease. ICR lands are a mixture of Trust and Non-Trust Lands.

The following management prescriptions will be applied to ICR lands:

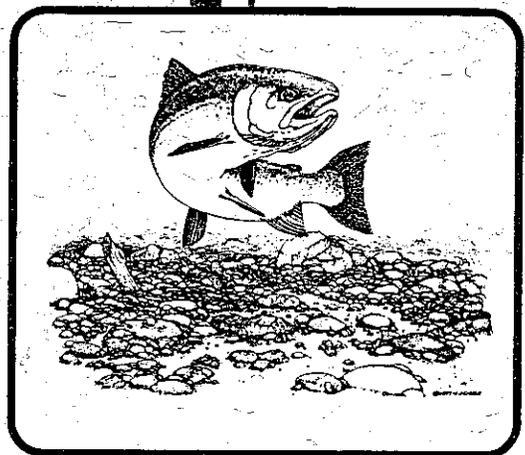
1. ICR lands will be managed for non-resource uses (e.g., development). With the exception of rock resources, mineral uses will generally not be permitted.
2. Individual management plans will be developed for all ICR lands. Generally, flexibility will be exercised in managing these lands to obtain the highest possible rate-of-return on asset value consistent with Trust or Non-Trust obligations. (Examples include joint venture leases, with "master leases" or individual leases solicited through a Request for Proposals process, or outright sale or exchange.) Sale or lease decisions will be included as part of the management plan and approved by the Land Board.
3. The Division will set lease rates for ICR properties based on comparable market lease rates.
4. Improvements and acquisitions of ICR properties should strive to exceed market rates-of-return, while recognizing that initial investments may not result in short-term value increases. The Division may invest in both soft improvements (e.g., zoning permits) and infrastructure improvements on ICR lands to the extent that investments result in long-term value increases and enhanced income generating capability, and are consistent with investment standards and return analyses.
5. The sale or exchange of ICR lands will be considered under the following circumstances:

- ◆ There is no foreseeable reason to retain the property based on the goals and objectives of the Asset Management Plan; and
 - ◆ Sale or exchange of the property will provide a rate-of-return in excess of the property's cost basis (where applicable) plus reasonable projected appreciation in value.
6. The Land Board will consider acquisition or exchange for ICR properties within urban growth boundaries and transition areas, based upon the following priorities: (a) surplus properties of other agencies; (b) exchange properties from other agencies; and (c) vacant, undeveloped, privately-owned properties.
 7. The Division will seek partnerships with the Oregon Economic Development Department, ports, local governments and other appropriate parties in planning for, marketing, managing and improving ICR lands.

Special Interest Lands

This land class may stand alone or be an overlay on other land classes. It includes unique aquatic and wildlife habitat, state Scenic Waterways, federal Wild and Scenic River areas, special natural and cultural resources and recreation lands (lands whose primary use is recreation). In addition, lands with future revenue potential may be "land banked" in this classification.

This class will most frequently be evaluated and applied through the area management planning process as the result of site-specific inventories. More lands may be classified as Special Interest lands during the area management planning process or upon further review of the Land Board's ownerships.



Special Interest lands will be managed primarily to ensure the protection of unique scenic, wildlife, cultural, natural, or recreation values.

The following management prescriptions will be applied to Special Interest lands:

1. Special Interest lands will be managed primarily to ensure the protection of unique scenic, wildlife, cultural, natural, or recreation values. Revenue generation activities will generally be permitted only if they do not adversely impact these values.
2. The Division will manage wildlife habitat to sustain wildlife populations or communities. These areas may be classified as Special Interest lands. When there are apparent conflicts between meeting the wildlife habitat and Trust management objectives, the Division will seek balanced solutions, partnerships and policies to resolve conflicts.
3. The Land Board and Division will establish, as necessary, special management prescriptions through the area management planning process to ensure the protection of unique scenic, cultural, natural and recreational features, as well as watersheds and sensitive, threatened and endangered species on its land. The management plan will describe what use(s) can occur within the subject area, and what specific management actions will be required to protect the subject feature or resource.
4. Where Special Interest lands constitute a significant land area of Trust Land and where revenue generating uses conflict with the identified resource values, the Division, with Land Board approval, may transfer management, either by agreement or by sale or exchange, to another agency or entity better equipped to protect the resource and the public interest values. Size and manageability of the area are key factors in determining the disposition of these areas.

5. The Division may invest in improvements, resource inventories and planning to resolve lease use conflicts, reduce impacts and increase revenues, particularly for lands that hold promise for future development and are "banked" in the Special Interest classification.
6. Additional Special Interest lands will only be acquired if they offer future use potential for revenue generation or can be acquired with Non-Trust monies and set aside for a particular Non-Trust purpose (e.g., wetland mitigation banking.)

Waterways

The Land Board has jurisdiction over approximately 800,000 acres of Waterways (34 percent of its total holdings) in two broad classifications: the Territorial Sea and submerged and submersible lands. The Territorial Sea extends three miles off the coastal shoreline. Submerged and submersible lands include all navigable and tidally influenced Waterways. The state also has claim over lakes that are navigable. Waterways are Non-Trust Lands.

The Division leases 1,815 acres of Waterways or adjacent uplands for commercial uses under four lease types: waterway leases, sand and gravel leases and permits, hydroelectric leases and mariculture leases. There are currently 431 properties under lease located on 47 bodies of water in 17 counties, with leasing activity concentrated along the Columbia and Willamette Rivers and coastal Waterways.

The Waterways classification covers a vast area. The concept of state ownership of waterways was established by the federal legislation that admitted the State of Oregon to the Union in 1859. Public rights of fishing, navigation and commerce are "Public Trust" interests that apply to all tidelands, shorelines, navi-

Public rights of fishing, navigation and commerce are "Public Trust" interests that apply to all tidelands, shorelines, navigable waters and underlying beds.

gable waters and underlying beds. The extent of public waterway ownership is determined in two ways—by tidality and by navigability. By tidality, all lands subject to the ebb and flow of the tides are publicly owned. In some cases, lands between ordinary high and low tide on tidelands have been sold to private interests.

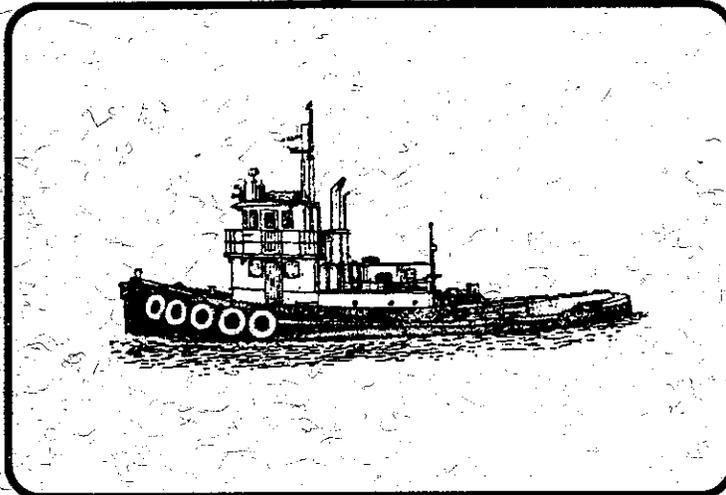
Public ownership via the navigability test is based upon whether the waterway was used or susceptible to use, in its ordinary condition, as a highway of commerce over which trade or travel occurred or could have been conducted in the customary modes of trade and travel on water at the time of statehood.

On major rivers and bays, tidality and navigability are clearly evident. In the case of smaller streams and lakes, the extent of navigability is sometimes more difficult to determine and depends on historical evidence of use and conditions at the time of statehood.

The following management prescriptions will be applied to Waterways:

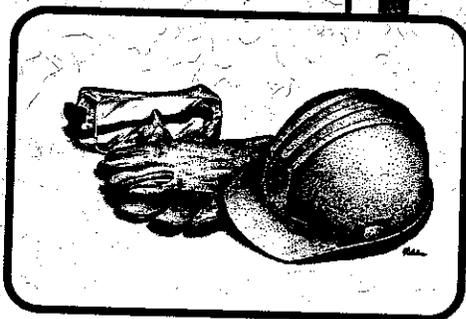
Navigable and Inland Tidal Waterways

1. Submerged and submersible lands on navigable and tidal Waterways are to be managed to ensure the collective rights of the public to fully use and enjoy them for commerce, navigation, fishing, recreation and other related public purposes (referred to as the Public Trust Doctrine). All uses of state submerged and submersible land must conform to local, state, or federal laws, and must be determined to be appropriate to the location and compatible with other existing uses.



2. Consistent with state law, the Land Board and Division will seek to identify, assert ownership of, and protect rivers, lakes and other bodies of water to which the state has a valid ownership claim. The claim may be based on the susceptibility of such waters to tidality or navigability or to ensure the public's right of use of such waters. The Land Board and Division will also seek to resolve ownership claims to submerged and submersible land under navigable or tidal waters.
3. The Division will not permit lessees or others to unreasonably interfere with the public's right of navigation, commerce or fisheries along publicly-owned Waterways.
4. When cost-effective, the Division will engage appropriate private sector entities and public agencies (e.g., port districts, counties, cities, etc.) as property and lease managers, or real estate brokers.
5. The Division will actively pursue leases for unauthorized uses and for unleased lands, with a focus on the potential leasing of higher rent activities on major Waterways in urban areas.
6. The Division will identify and bring under lease existing hydropower facilities located on publicly owned submerged and submersible lands. The Board will review and revise lease rates for hydropower facilities to reflect market values.
7. The Division will evaluate methods for calculating lease rates for submerged and submersible lands and resources to ensure that the state receives fair compensation reflective of local market conditions. A task force will be appointed by the Land Board to assist with this effort.

The Division manages the mineral rights on Land Board lands, as well as those on lands managed by other state agencies.



8. The Division will consider leasing existing filled lands. The sale of such lands will be pursued on a case-by-case basis and only if no interest in leasing is expressed.
9. The acquisition of adjacent uplands may be pursued in order to facilitate the development of prime waterfront locations as CSF investments, subject to investment standards and return analyses.
10. The Division will market the commercial use of submerged and submersible lands based on compatibility with resource stewardship and Public Trust goals. Planning and marketing efforts will be coordinated with local and state economic development efforts.

Territorial Sea

1. The Land Board and Division will manage state land within the Territorial Sea in accordance with the provisions of the Oregon Ocean Resources Management Plan; ORS 196 and ORS 197; the Statewide Planning Goals, specifically Goal 19; and other state and federal policies and regulations.
2. All persons desiring to use state land within the Territorial Sea for exclusive and/or commercial purposes (for example, placing docks or other structures on, or planting or harvesting kelp, seaweed, or animals attached to the sea floor bottom) will be required to obtain an easement, lease, or license from the Division before undertaking the activity.

Minerals

The Division manages the mineral rights on Land Board lands, as well as those on lands managed by other state agencies. In addition, the Land Board administers approximately 753,000 acres (32 percent of its total holdings) of subsurface mineral rights (split estate). This does not include 410,000 acres

of land with both surface and subsurface rights that are involved in other land classes. The Division currently has 24 Mineral leases for mining gravel, rock and diatomite deposits, as well as 10 exploration permits. Most Mineral lands are Trust Lands and revenues from all Mineral leases, as well as Mineral management fees for lands owned by other state agencies, accrue to the Common School Fund.

Mineral classification will be applied to all parcels with surface or subsurface mineral ownership interest, subject to mineral development, exploration or use. This classification will often be applied as an overlay to another Division land classification or as a stand-alone classification. The Mineral classification would also be appropriate as an overlay on certain waterway areas that contain identified mineral resources.

The following management prescriptions will be applied to Land Board-owned Mineral lands:

1. Land owned by the Land Board will be open to mineral exploration and development subject to existing laws, regulations and management plans. Land will be open to mineral activity unless the proposed use would:
 - ◆ Have significant adverse and non-mitigatable impacts on watershed integrity, and natural (for example, habitat, wetlands, etc.), cultural and archaeological features;
 - ◆ Substantially conflict with, or preclude, existing or future uses of the subject land that offer a higher return;
 - ◆ Interfere with the Public Trust uses of Non-Trust Land; or
 - ◆ Be located within a federal Wild and Scenic River, state Scenic Waterway, or similarly designated area, and the pro-

As a general rule, the Land Board will retain all of its mineral interest ownerships unless a geologic evaluation reveals no or extremely limited mineral potential.

posal would not be permitted under the appropriate management plan.

2. To ensure appropriate market rates, the Land Board will periodically review fees for mineral exploration and leases and royalties for mineral production .
3. The Division will encourage mining and energy companies to explore for minerals on Trust Lands.
4. Prior to investing in a mineral exploration or development project, or acquiring a known mineral property, the Division will conduct a rigorous geological evaluation and financial analysis of the proposed venture. Because the exploration and development of most Mineral resources is an inherently high risk endeavor, the Division will seek a commensurably high rate-of-return from investing in such properties or projects.
5. As a general rule, the Land Board will retain all of its mineral interest ownerships unless a geologic evaluation reveals no or extremely limited mineral potential. The Land Board may exchange mineral rights with the Bureau of Land Management on split estate lands when it results in equivalent mineral potential.

IMPLEMENTATION

A detailed implementation program will be developed for Land Board review in 1996. Public and stakeholder involvement will be critical to ensuring an effective, realistic and achievable implementation. To that end, the Land Board and Division will work closely with lessees, interest groups and the general public in developing proposed implementation measures. The implementation plan will include both overall and resource-specific measures to be carried out during the next three biennia (1995-97, 1997-99 and 1999-2001), as described below.

Area Management Plans

Area management plans will be developed for key areas. These plans will discuss options for land uses, how different land uses will be accommodated, and what principles will guide their use and development. In deciding what lands to target for area management planning, the Division will place priority on the following:

- (a) Lands identified in the Asset Management Plan as most appropriate for evaluation for sale or exchange or for transition lands;
- (b) Industrial/Commercial/Residential lands; and
- (c) Other lands with high potential for increased revenue generation and planning areas being addressed by other agencies in which Division holdings have revenue po-

Public and stakeholder involvement will be critical to ensuring an effective, realistic and achievable implementation.

Investment standards will be established to help the Land Board and Division judge the value of proposed land acquisitions and capital improvements.

tential or high public interest. These could include southeast Rangelands (i.e., large blocked tracts) or key Waterways (e.g., Multnomah Channel).

Investment Standards

Investment standards will be established to help the Land Board and Division judge the value of proposed land acquisitions and capital improvements.

Forest Management Cost Evaluation

The Division, in cooperation with the Department of Forestry, will review management costs to ensure maximum effectiveness and efficiency. Comparability of costs to other forest managers will be investigated. The costs and benefits of increasing management intensity will also be evaluated.

Scattered Forest Tracts Evaluation

The Division, in cooperation with the Department of Forestry, will identify those scattered tracts of Forest land considered to be marginal or in need of greater management attention. Marginal lands will be evaluated for exchange, sale, or reclassification. A sales procedure will be developed, if needed.

Isolated Rangeland Disposal Evaluation

The Division will develop a pilot Rangeland disposal program involving a limited number of unleased and leased isolated tracts. A pre-sale analysis will be conducted for each site to determine if any significant environmental, cultural, or historical resources are present. The value of each parcel and potential interest in purchase or exchange will also be determined. If warranted, parcels may be reclassified or not offered for disposal. Parcels cleared for sale will be offered according to a sales procedure developed during plan implementation and ap-

proved by the Board. Land exchanges will also be considered as part of the evaluation.

Grazing Fee Advisory Committee

The Governor will appoint a Grazing Fee Advisory Committee as required by HB 3239 (1995) to evaluate the Rangeland lease rates and recommend changes to the Land Board, if necessary.

Classification Criteria for Special Interest Lands

The Division will develop criteria and policies for the identification, classification and management of Special Interest lands to be applied during the area management planning process.

Strategies to Bring Unauthorized Waterway Users Under Lease

Strategies to be pursued by the Division will include identifying unauthorized uses, evaluating the economic feasibility of bringing these uses under lease, and initiating rule-making to provide more effective tools for bringing such uses under lease.

Waterway Leasing Program Evaluation

A task force, comprised of lessees and other interested parties, will be established to undertake a comprehensive review of lease rates, terms and procedures.

Cooperative Agreements With Ports and Other Entities for Management of Waterways

Such cooperative agreements will be developed with the primary goals of increasing revenues from waterway leases while maintaining access and other public interests.

A task force, comprised of lessees and other interested parties, will be established to undertake a comprehensive review of lease rates, terms and procedures.

Mineral Ownership Mapping

The Division will continue to work with the Oregon Department of Geology and Mineral Industries to map the Division's mineral ownerships in order to provide more comprehensive information to other agencies and those interested in mineral exploration.

WHO TO CONTACT

In addition to managing the resources described in this report, the Division of State Lands provides some direct services to the public and regulates certain aspects of the protection of Oregon's waterways.

DSL acts as a trustee for unclaimed property, administers estates with no known heirs, manages the South Slough National Estuarine Research Reserve (near Coos Bay), and provides support to the Oregon Natural Heritage Advisory Council. Moreover, DSL also maintains historical records on all state land transactions.

DSL administers Oregon's Removal-Fill Law, which requires a permit to remove, fill, or alter more than 50 cubic yards of material in the state's waterways. Wetlands conservation and management is also a key responsibility of DSL.

Contact our Salem office for further information on any of the other services and functions DSL provides.

Other DSL Offices:

South Slough National Estuarine

Research Preserve

P.O. Box 5417

Seven Devil's Road

Charleston, OR 97420

541-888-5558

541-888-5559 FAX

DSL Eastern Region

20300 Empire Avenue, Suite B1

Bend, OR 97701

541-388-6112

541-388-6480 FAX

For more information about this Asset Management Plan, contact:

Oregon Division of State Lands

775 Summer Street, NE

Salem, Oregon 97310-1337

503-378-3805,

FAX 503-378-4844

John Lilly

Assistant Director

Policy and Planning

503-378-3805, Ext. 281

E. David Blum

Property Manager

503-378-3805, Ext. 273

Presentation notes:

DSL Rangeland Mgmt Overview

- 1 Discussion on DSL's Rangelands holdings
 - a. 640,000 acres state owned Rangelands (view Map)
 - b. # Permittee's, AUM's, revenue generated last 10-years (handout)
 - i. Blocked (43 total)
 - ii. Isolated (103 total)
 - c. Fee calculation (annual)

- 2 Current Administration
 - a. 1-Range Manager
 - i. Seasonal workforce
 1. Range Technicians
 2. Staff Archeologist
 - b. AOP- (formal-informal)
 - c. Monitoring
 - d. Site Visits
 - e. Noxious Weeds- Weed Mgmt areas

- 3 Improvement Fund (handout)
 - a. Cost-share projects with Permittee's (financial-in kind)
 - b. Summary of projects funded
 - c. Noxious weed treatments
 - i. Medusahead Rye
 - ii. Perennial Pepperweed

- 4 Range analysis overview
 - a. Who-partnered with NRCS
 - i. Contracted to train DSL staff in Range Analysis process
 - ii. DSL would perform future analysis with only technical assistance from NRCS
 - iii. Summer of 2002, technical assistance summer of 2003

 - b. Where
 - i. Summer 2002
 1. Virginia Valley area approximately 38,000 acres
 - ii. Summer 2003
 1. 3-Forks area approximately 50,000 acres
 - iii. Summer 2004
 1. South of Jordan Valley

 - c. Presentation/Interpretation of data
 - i. Updating RMP's
 - ii. DSL interpretations
 - iii. Working Group
 - iv. Vegetation mapping

by DSL 9/17/04

Project completions from 2002-2004

Fence material purchased: 44-miles of stock fence
 *Includes riparian and division fencing

Wells: 2

Waterline: 45-miles
 *4-miles is replacement of existing waterline

Cattle Guards: 2

Noxious weed trmmts: 1,300 acres
 *Medusahead, Perennial Pepperweed, Skeleton Weed

Seed: 4,500 Lbs
 *Siberian Wheatgrass, native seed mixes and Basin Wildrye seed
 Targeted for Restoration projects in 04/05 Biennium

Stock Tanks: 10
 *6-tanks for Owyhee pipeline project

Juniper Control: 83-acres

Weed mgmt areas: \$37,500
 *Wallowa Resources WMA and Warner Valley WMA
 for control of Skeleton Weed, Yellow Starthistle, Pepperweed and Dalmation Toadflax
 on isolated parcels in NE Oregon, and Warner Valley

Approximate income received, grazing fees and total AUM's over last 10-years.

Year	Grazing Fee	Est. AUM's	Income Received
1994	\$2.50	68,794	\$171,985.00
1995	\$3.33	68,794	\$229,084.02
1996	\$3.43	68,794	\$235,963.42
1997	\$2.62	68,794	\$180,240.28
1998	\$3.72	68,794	\$255,913.68
1999	\$3.81	68,794	\$262,105.14
2000	\$3.64	68,794	\$250,410.16
2001	\$4.36	68,794	\$299,941.84
2002	\$4.52	68,794	\$310,948.88
2003	\$4.16	68,794	\$286,183.04
2004	\$4.32	66,707	\$288,174.24

OREGON ADMINISTRATIVE RULES
CHAPTER 141, DIVISION 110 — DIVISION OF STATE LANDS

DIVISION 110

MANAGEMENT OF RANGELAND

Applicability

141-110-000 These rules shall be used by the Division to guide the management of state land designated as rangeland, and shall apply to:

- (1) All rangeland leases issued after rule adoption, and
- (2) All grazing leases in force at the time of rule adoption to the extent that the rules do not conflict with valid existing lease terms and conditions.

Stat. Auth.: ORS 274.045, 273.051, 273.805 - 273.825

Stats. Implemented: ORS

Hist.: LB 4-1994, f. & cert. ef. 8-2-94

Policies

141-110-010 The following policies shall guide the Division in managing rangeland:

- (1)(a) All Trust Land shall be managed in accordance with the need to maximize long-term financial benefit to the Common School Fund.
- (b) All Non-Trust Land shall be managed with the objective of obtaining the greatest benefit for the people of this state consistent with the conservation of this resource under sound techniques of land management.
- (2) To the extent required by law, the Division shall honor the terms and conditions of any existing valid lease including any that entitle the lessee to compensation or renewal. Such circumstances may occur where there were prior federal grazing permits on lands acquired by the Division through exchange.
- (3) The Division shall manage rangeland to prevent human-induced loss of rangeland health. Toward this end, the Division:
 - (a) Shall continue or implement rangeland practices (as defined) that maintain, achieve or restore healthy, properly functioning ecosystems and maintain, restore, or enhance water quality; and
 - (b) May assist in rangeland developments and practices that will maintain or improve rangeland health.
- (4) The Division shall develop an assessment of rangeland health. The Division shall use rangeland health inventories and routine monitoring to identify rangeland vulnerable to an adverse transitional change (for example, healthy, at risk, or unhealthy), and to serve as the basis for rangeland management decisions.
- (5) The Division may authorize alternative uses (as defined) for a leasehold, even if the leasehold is already subject to a rangeland lease for grazing or an alternative use, if such uses are:
 - (a) Not specifically prohibited by valid existing leases for the leasehold, and
 - (b) Compatible, or do not unreasonably interfere, with uses authorized by the Division on the same leasehold.
- (6) The leasing of rangeland for alternative uses shall be governed by other applicable rules and statutes, and not these rules.

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Definitions

141-110-020 (1) "Alternative Use" is any use of state land other than livestock grazing or conservation use (as defined). Alternative uses include, but are not limited to agriculture, forestry, mineral and geothermal exploration and development, and commercial projects.

(2) "Animal Gain" is the number of pounds gained by an animal over a specific period while grazing on rangeland.

(3) "Animal Unit" is the number of animals that are roughly equivalent in the amount of forage they consume. An animal unit typically consists of one cow, or one cow and calf (of less than six months of age), or 1.4 yearlings, or one horse, or five sheep.

(4) "Animal Unit Month" or "AUM" is the amount of forage (approximately 800 pounds of air dried material) necessary to feed one animal unit for one month.

(5) "Applicant" is any person applying for a rangeland lease.

(6) "Area Management Plans" or "AMPs" are land use planning documents approved by the Division which apply to specific areas of state land. These plans designate land use classifications and present systematic guidelines for making resource management decisions. AMPs are developed by interdisciplinary planning teams with public participation.

(7) "Best Management Practices" or "BMPs" are site-specific, state-of-the-art techniques and methods for managing land and resources to maximize public benefits while minimizing the adverse effects of that use on the environment. To determine BMPs, the Division may consider, among other factors, past experience and scientific study.

(8) "Common School Fund" is a trust fund created by Article VIII of the Oregon Constitution. Revenue obtained from the leasing of rangeland, as well as from other activities, is deposited into the Common School Fund. The Oregon State Treasury and the Oregon Investment Council manage the fund with policy direction from the State Land Board, to maximize income derived from it over the long-term. As provided by the constitution and statute, this income is apportioned among all Oregon counties to help support the common public school districts.

(9) "Condition" is a rating of overall plant vigor, diversity, and production; the physical appearance and character of soils; riparian and watershed health; the intensity of erosion; and amount of surface litter on a specific parcel of land at a particular point in time. The condition of a parcel of land is necessarily subjective, and must account for the impacts of weather conditions, grazing, fire, insects, and other factors.

(10) "Conservation Use" is the complete resting of rangeland for the duration of a lease, typically for ecological reasons.

(11) "Cropshare" is a method of determining the annual base leasehold rental fee charged a lessee for the use of rangeland.

(12) "Development" is any structure (for example, fencing, building, pond, pipeline, etc.) or nonstructural activity or program (for example, seeding) authorized by the Division on a leasehold.

(13) "Director" means the Director of the Oregon Division of State Lands or the Directors designee.

OREGON ADMINISTRATIVE RULES
CHAPTER 141, DIVISION 110 — DIVISION OF STATE LANDS

(14) "Division" means the Oregon Division of State Lands.

(15) "Grazing Capacity" is the average number of AUMs the Division determines can be obtained from a specific pasture or leasehold for a specific period of time without compromising the long-term sustainability of the forage resource or watershed, or adversely affecting rangeland health or grazing animal response.

(16) "Grazing Schedule" is a planned sequence of grazing and/or resting designed for a particular leasehold or portion thereof (for example, a pasture) which will allow vegetation affected by grazing to have an opportunity to sustain its growth requirements.

(17) "Isolated Parcel" is a leasehold which is:

(a) Largely surrounded by land not owned by the Division, or otherwise not contiguous to other larger tracts of state land; or

(b) Determined by the Division to be difficult or uneconomical to manage due to access, location, isolation, low production value, or other factors.

(c) Typically, isolated parcels are unfenced and have few, if any, developments.

(18) "Lease" is a legal contract issued by the Division allowing the use of a specific leasehold for rangeland purposes under specified terms and conditions.

(19) "Leasehold" is a particular area of rangeland subject to lease.

(20) "Lessee" refers to any person having a valid rangeland lease issued by the Division.

(21) "Livestock" are domestic animals such as beef and dairy cattle, horses, sheep, and goats kept or produced primarily for farm, ranch or market purposes. "Livestock" also may include bison, llamas, emus, ostriches, and other species approved for use on a leasehold by the Division.

(22) "Marketable Calf Crop" means the estimated number of marketable beef calves available for sale over a one (1) year period expressed as a percent of stock cow herd. For the purpose of calculating the livestock grazing or conservation use leasehold fee, the marketable calf crop shall be fixed at eighty percent (80%).

(23) "Material" means items that may pose a danger to the public, wildlife or its habitat, or which do not enhance the usefulness or value of a leasehold including, but not limited to, waste or scrap items used in construction, hazardous wastes or toxic substances (as defined in 42 USC 9601-9657), chemicals and insecticides, garbage or other debris, and non-working motor vehicles and other mechanical equipment.

(24) "Mitigate" means to reduce the significant adverse effects of an action by considering and/or taking action, in the following order:

(a) Avoiding the effect altogether by not taking a certain action or parts of an action;

(b) Minimizing effects by limiting the degree or magnitude of the action and its implementation;

(c) Rectifying the effect by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the effect by preservation and maintenance operations during the life of the action, including monitoring and appropriate corrective measures;

(e) Compensating for the effect by replacing or providing a comparable substitute, if feasible.

(25) "Non-Trust Land" is state land managed by

the Division other than Trust Land. Examples of Non-Trust Land include state-owned Swamp Land Act Land, and submerged and submersible land (land below ordinary high water) under navigable waterways.

(26) "Pasture" is a specific area of rangeland, usually enclosed and separated from other areas by a fence, or isolated by some physical feature, which is managed for rangeland purposes. A leasehold may contain numerous pastures.

(27) "Pasture Agreement" is an arrangement in which a lessee contracts with another person to graze livestock on the lessee's leasehold. Under a pasture agreement, the lessee typically retains full management and control of the leasehold.

(28) "Person" is an individual, a political subdivision or government agency or, any corporation, association, firm, partnership, joint stock company, or quasi-public corporation registered to do business in the State of Oregon.

(29) "Rangeland" is state land designated and managed by the Division for rangeland purposes (as defined).

(30) "Rangeland Health" is the degree to which the integrity of the soil and the ecological processes of rangeland ecosystems are sustained.

(31) "Rangeland Management Plan" or "RMP" is a written document prepared and approved by the Division, in consultation with the lessee and other affected agencies and interests, indicating how a particular leasehold shall be managed during a specified term of a rangeland lease.

(32) "Rangeland Practices" are activities that improve or maintain rangeland health (as defined). Rangeland practices typically consist of watershed and/or other treatments (for example, planting, seeding, burning, rest, vegetation manipulation, or grazing management) that are undertaken to attempt to establish desired vegetation species or communities.

(33) "Rangeland Purpose" is the use of rangeland for livestock grazing and/or conservation use, determined by the Division to be appropriate to the subject leasehold(s) and consistent with applicable local, state and federal laws.

(34) "Riparian Area" means a zone of transition from an aquatic to a terrestrial system, dependent upon surface or subsurface water, that reveals through the zones existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg, slough, or ephemeral, intermittent or perennial stream.

(35) "State Land" is land owned and/or managed by the Division and includes Trust Land and Non-Trust Land.

(36) "State Share" is the percent of net livestock weight gain designated to the Division for the use of rangeland.

(37) "Sublease" means a leasing by lessee of all or part of the leasehold for any portion of the unexpired lease term.

(38) "Trust Land" is state land granted to the state upon its admission into the Union, or obtained by the state as a result of an exchange of Trust Land, or obtained in lieu of originally granted Trust Land, or purchased with trust funds, or obtained through foreclosure of loans using trust funds.

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Stat. Auth. ORS 273.045 & 273.051
Stats. Implemented ORS 273.805, 273.815 & 273.825
Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Rangeland Designation

141-110-030 (1) The Division shall designate state land available for rangeland purposes prior to conducting the leasing process pursuant to these rules.

(2) Rangeland designations shall initially be identified on an interim basis until such time as the Division has approved an Area Management Plan (AMP) which includes land use classifications or designations applicable to these areas. Once approved, AMPs shall govern rangeland designations.

(3) State land designated as rangeland shall be identified on maps maintained by the Division. These maps shall be at a scale adequate to identify individual leaseholds.

Stat. Auth. 273.045 & 273.051
Stats. Implemented 273.805, 273.815 & 273.825
Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95; LB 8-1996, f. & cert. ef. 12-13-96

The Leasing Process

141-110-040 (1) The leasing process for rangeland consists of the following steps:

(a) The Division shall determine if rangeland is available for rangeland leasing, and if so, how each leasehold shall be made available for lease.

(b) Whenever a leasehold is available for lease, the Division shall issue a Notice of Leasehold Availability to solicit applications from interested persons.

(2) Persons interested in obtaining a lease for a leasehold, including the existing lessee, must submit a timely and complete written application to the Division.

(3) The Division shall review and evaluate the applications received in response to the Notice of Leasehold Availability. This evaluation will determine which applicants, if any, are qualified to obtain a lease.

(4) If an applicant submits an application for an alternative use the Division will evaluate the proposed use to determine whether it:

(a) Is governed by other rules,
(b) Is consistent with applicable state, local, and federal laws, and/or management plans, and
(c) Meets the fiduciary or other applicable responsibilities of the Division relative to the site.

(5) When no applications have been received by the Division, the Division reserves the right to:

(a) Readvertise the availability of leaseholds.
(b) Redesignate the leasehold for alternative use(s).

Stat. Auth.: ORS 273.045 & 273.051
Stats. Implemented: ORS 273.805, 273.815 & 273.825
Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Notice of Leasehold Availability

141-110-050 (1) If the Division determines that a leasehold is available for rangeland lease, it shall give public notice of leasehold availability and provide an opportunity for applications to be submitted.

(2) The Notice of Leasehold Availability shall be:

(a) Published not less than once each week for two (2) successive weeks in a newspaper of general circulation in the area in which the leasehold is located.

(b) Sent to persons who request such notices and pay any associated charges.

(3) The notice shall solicit applications to obtain a rangeland lease and state:

(a) The location and size of the subject leasehold.

(b) The estimated annual grazing capacity, season(s) of use, and base rental rate.

(c) Whether additional developments (such as fencing) shall be required (and the extent thereof) if the successful applicant is not the immediate former lessee of the leasehold.

(d) Whether the Division will accept the value of developments or other forms of compensation proposed by an applicant or required by the Division as a part of an offer.

(e) What developments, if any, on the leasehold the applicant must purchase from the existing lessee, and an estimate of the present value of said developments as determined by the Division.

(f) The method by which the leasehold will be offered for lease.

(g) The deadline and location for submitting completed applications to the Division.

(h) That applications to lease the leasehold for an alternative use may be submitted to the Division for consideration.

Stat. Auth.: ORS 273.045 & 273.051
Stats. Implemented: ORS 273.805, 273.815 & 273.825
Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Application Requirements

141-110-060 (1) All persons applying to lease rangeland, or renew an expiring lease having a renewal provision shall:

(a) Apply to the Division using a form provided by the Division. One (1) application form shall be submitted for each leasehold, and

(b) Submit a non-refundable application fee as provided in OAR 141-110-090(5).

(2) The Division shall review and evaluate all applications received in response to a Notice of Leasehold Availability.

(3) Each applicant for a leasehold shall meet the following minimum qualification requirements:

(a) Be a "person" (as defined), and if an individual, be at least eighteen (18) years old.

(b) Not owe back rental or other fines or fees payable to the Division.

(c) Not have had any state or federal grazing or rangeland lease or permit cancelled for violation within thirty-six (36) months immediately preceding the date of the application.

(d) Have the financial resources, experience, intent and ability to:

(A) Use the subject leasehold for rangeland purpose(s).

(B) Undertake and complete the developments required by the Division to effectively use the subject leasehold.

(C) Compensate the prior lessee for the value of applicable developments should the lease not be awarded to the prior lessee (pursuant to OAR 141-

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110-130).

(D) Fully meet all terms and conditions of the lease, including all provisions of an approved RMP.

(E) Meet on a timely basis all lease payments as required by the terms and conditions of the lease, and any other applicable fees stipulated under these rules.

(4) The Division reserves the right to require an applicant for a leasehold to provide whatever background data, financial reports, income tax filings, or other information that may be needed by the Division to determine if the applicant meets the minimum qualification requirements listed in OAR 141-110-060(3).

(5) The Division reserves the right to deny an application if the Division determines that approval of a lease is contrary to local, state, or federal law, or to these rules, or is inconsistent with the fiduciary responsibilities of the Division, or will not result in the greatest public benefit.

Stat. Auth. 273.045 & 273.051

Stats. Implemented 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 3-2-94; LB 3-1995, f. & cert. ef. 10-13-95; LB 8-1996, f. & cert. ef. 12-13-96

General Lease Terms and Conditions

141-110-070 (1) The Division shall:

(a) Determine leaseholds; and

(b) Establish the terms and conditions of a proposed lease.

(2) A lease shall grant a lessee the right to use a leasehold for rangeland purposes in accordance with an approved RMP, applicable lease terms and conditions, applicable local, state and federal laws, and these rules.

(3) The Division may require a lessee to install fencing or other developments necessary to avoid conflicts with the Open Range Law or other applicable local, state, and federal laws. Such requirements shall be disclosed in the Notice of Leasehold Availability.

(4) Each lease shall incorporate the applicable RMP as a part of its terms and conditions. Failure of a lessee to adhere to the provisions of a RMP shall be cause for the Division to modify or terminate the lease.

(5) A lease may be issued for a term of up to ten (10) consecutive years.

(6) The Director may terminate a lease if the Division decides to dispose of all or part of the subject leasehold.

(7) The Director may modify or terminate a lease if the Division determines that another use, including alternative uses, of all or part of the leasehold would better meet the trust obligations of the Division, or result in the greatest public benefit. To the extent possible, the Division shall not make such changes until a normal seasonal or annual break occurs in a use cycle (for example, the end of a grazing season) to allow the lessee time to make other arrangements.

(8) The Division may require an applicant for lease or a lessee to obtain insurance and/or bond pursuant to OAR 141-110-150.

(9) The Division or its authorized representative(s) shall have the right to enter upon any leasehold at any reasonable time to make any necessary examinations or investigations, or to conduct noxious weed or pest abatement, or for

wildfire control.

(10) Leaseholds shall remain available and open to public use (including camping, hunting, fishing, and hiking), provided such public use does not interfere with the Division-authorized rangeland purposes or operations. The Division may close all or portions of leaseholds to public use upon a prior determination that such closure results in the greatest public benefit. Such closures shall be:

(a) For as short of duration as possible, commensurate with the need for the closure, and

(b) Responsive to a need for wildlife protection, public safety, protection of archaeological sites and objects, or for other reasons determined necessary by the Division. To the extent possible, the Division will notify lessees in writing of a proposed public use closure, and place a public notice in a newspaper of general circulation in the area in which the subject closure is located to request public input prior to taking an action.

(11) A lessee may not interfere with lawful public use of a leasehold, or obstruct free transit across state land or intimidate or otherwise threaten or harm public users of state land.

(12) Each lessee shall maintain and make available to the Division upon request all records and accounts related to the leasehold. These records shall accurately reflect the period of time each leasehold was used, for what purposes, and if used for grazing, by how many animal units.

(13) A lessee shall obtain prior written approval from the Division before:

(a) Placing developments exceeding one thousand dollars (\$1,000) per year on a leasehold.

(b) Restricting the public from entering all or a portion of a leasehold to protect livestock or developments.

(c) Removing developments, markers or signs on the leasehold which have been placed or approved by the Division.

(d) Using, placing, or storing material (as defined) on the leasehold.

(14) A lessee shall use a leasehold only for the rangeland purpose(s) authorized by the lease. The Division shall notify the lessee by certified mail of any unauthorized use(s). Such notice shall designate the required time frame and conditions to cure the violation.

(15) A lessee shall cooperate with appropriate county agencies and Oregon Department of Agriculture in the detection, prevention, and control of noxious weeds. The Division will rely on the Oregon Department of Agriculture for information and advice concerning which noxious weeds present on a leasehold require corrective action by the lessee, or the Oregon Department of Agriculture or its agents.

(16) A lessee shall cooperate with the Oregon Department of Agriculture and the Division in the management of plant pests and diseases.

(17) Under conservation use, no livestock grazing or uses that consume or remove forage, or that adversely impact rangeland health, fish and wildlife habitat or the physical, historical and cultural resources of a leasehold shall occur.

(18) A lessee shall cooperate with the Division and other agencies in the detection, prevention and control of wildfires on a leasehold.

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825

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Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Leasing Determination

141-110-080 Prior to issuing a rangeland lease, the Division shall prepare a written determination that shall:

(1) Address how the proposed lease would:

(a) Satisfy the trust responsibilities of the Division concerning the level of financial return from use of the leasehold over the long term;

(b) Be consistent with applicable local government zoning regulations and/or land use management plans; and

(c) Be compatible with any cooperative resource management plans affecting the area.

(2) Be sent to, pursuant to the requirements of the Divisions State Agency Coordination Plan:

(a) Persons indicating an interest in the specific leasehold;

(b) Affected state and federal agencies and tribal interests; and

(c) Local governments.

Stat. Auth.: ORS 274.045, 273.051, 273.805 - 273.825

Stats. Implemented: ORS

Hist.: LB 4-1994, f. & cert. ef. 8-2-94

Rangeland Use Base Rental and Fees

141-110-090 (1) The annual base rental for the use of a leasehold for rangeland purposes (livestock grazing and conservation use) shall be determined on an AUM basis using the following formula:

For each leasehold, the Division shall:

(a) Establish an annual grazing capacity (which will be indicated in the RMP and may be reviewed annually),

(b) Determine the base AUM rental rate using the cropshare approach:

$$\text{Base Rental Rate} = G \times CC \times S \times P$$

G = Animal gain per month

CC = Marketable calf crop

S = State share

P = Average weighted calf price

(2) For the purpose of determining the base AUM rental rate, the following formula factors shall be used.

(a) Pounds of gain per animal unit per month (G) shall be fixed at thirty (30) pounds.

(b) Marketable calf crop (CC) shall be fixed at eighty percent (80.0%).

(c) State share of calf gain (S) shall be fixed at twenty percent (20.0%) for calendar year 1997 and beyond.

(d) Average weighted calf price (P) shall be based on USDA Oregon agricultural price data indicating the average statewide sales price of calves for the preceding one year period based on an October through September year.

(3) The formula factors in section (2) of this rule shall be reviewed by the Division at least once every three (3) years to ensure they reflect at least a fair market rental rate.

(4) The minimum annual rental for all leaseholds subject to these rules shall be \$100.

(5) Each application for a rangeland lease (including renewals), shall be accompanied by a non-refundable fee payable to the Division in the amount of \$250 except for isolated parcels. Applications for isolated parcels shall be accompanied by a non-refundable fee of \$100.

(6) The annual rental due to the Division for use of rangeland shall be determined by multiplying the AUM rate as derived from the formula (OAR 141-110-090(1) and (2), as applicable) by the annual grazing capacity of the leasehold. As a result, the rental rate may be revised annually based upon the grazing capacity of the leasehold.

(7) The lease will indicate the amount of the initial annual rental payment as well as the method for computing annual changes to the rental fee; and the date payment is due to the Division.

(8) An application for a sublease, assignment, or pasture agreement shall be accompanied by a non-refundable application fee of \$250 payable to the Division.

(9) Each lessee using rangeland for livestock grazing must maintain and submit to the Division annual grazing use records as required in his/her lease. Failure to submit such use reports as required shall give the Division cause to terminate or modify the lease.

(10) In addition to any other remedies available, the Division shall impose the legal rate of interest on unpaid balances owed the Division pursuant to ORS 82.010

(11) The Director may allow a lessee credit toward annual rental for developments. To qualify for a credit, such development work must be:

(a) Determined by the Division to be necessary to accomplish the specific objectives listed in the RMP for the subject leasehold,

(b) Authorized by the Division in advance of initiation, and

(c) Completed within the time specified by the Division.

Stat. Auth. ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805 & 273.815, 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95; LB 8-1996, f. & cert. ef. 12-13-96

Rangeland Management Plan (RMP)

141-110-100 (1) The Division shall prepare a written RMP for each leasehold unless the parcel is determined to be isolated.

(2) The Division may prepare an RMP for an isolated parcel if special conditions (for example, threatened, endangered, or sensitive species, or critical wildlife habitat are identified on the leasehold) warrant such an action.

(3) An RMP considers the authorized use as it relates to other uses of rangeland and in relation to renewable resources (for example, watershed, vegetation, and wildlife). When grazing is the authorized use, an RMP shall establish the season(s) of use, the number of livestock permitted, and the developments needed.

(4) The RMP shall be developed by the Division in consultation with the lessee, other affected landowners, and applicable local, state, and federal agencies, tribal interests, and any interested persons.

(5) The Division shall send a notice of the availability of a draft RMP to all:

(a) Persons indicating an interest in the leasehold;

(b) Affected state or federal agencies, and tribal interests, and

(c) Local governments pursuant to the requirements of the Divisions State Agency

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Coordination Plan.

(6) Recipients of the notice of availability of the draft RMP shall have thirty (30) calendar days from the date of the notice to submit comments to the Division.

(7) Upon receipt of comments the Division shall:

(a) Reassess the draft RMP;

(b) Make any changes to the draft RMP determined to be necessary by the Division;

(c) Inform interested persons of significant changes to the draft RMP;

(d) Issue the RMP for the leasehold.

(8) The Division may use an applicable Allotment Management Plan or Integrated Activity Plan approved by the Bureau of Land Management or U.S. Forest Service in lieu of an RMP, provided that the plan substantially conforms with the other provisions of OAR 141-110-100.

(9) An RMP shall, as appropriate to the purpose(s) of the leasehold:

(a) Set the specific management objective(s) for the leasehold based on the need to maintain rangeland health, taking into account the vegetative components, condition, and resource values present consistent with applicable policies set forth in these rules (OAR 141-110-010);

(b) Set livestock grazing schedules by pasture or leasehold to meet stated objectives;

(c) Establish the annual grazing capacity (in AUMs) of the leasehold;

(d) Identify riparian areas, wildlife habitat, special natural or cultural features, known sensitive, threatened, and endangered species in the leasehold, and describe any special provisions necessary to protect or enhance these features and species;

(e) List existing Division-approved developments and any new treatments or developments needed and/or desired, which would facilitate achievement of the listed objectives for the leasehold;

(f) Describe any lessee flexibility during annual plan operation (including minimum and maximum annual stocking limits) given factors such as weather, fire, insect infestation, and other variables;

(g) Identify the rangeland health inventory standards to be used by the Division over time to monitor the rangeland health of the leasehold;

(h) Contain a schedule for monitoring the leasehold adequate to indicate whether rangeland health and other leasehold objectives are being met;

(i) Present a plan for response to wildfires that may occur on the leasehold.

(10) The Division shall annually review each RMP to:

(a) Determine the lessees compliance with the plans terms and conditions;

(b) Assess the effectiveness of the plan;

(c) Decide if the plan needs to be revised to reflect changes in use, range condition, or other factors.

(11) The Division reserves the right to modify the RMP as necessary after prior consultation with the lessee.

(12) The Division may, after consultation with the lessee, make periodic changes in the grazing capacity of a leasehold due to seasonal climatic or adverse conditions without public notification as required in OAR 141-110-100.

(13) The RMP shall be consistent with local, state and federal laws and rules, and approved state or federal coordinated resource plans or watershed management plans/strategies.

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Subleasing, Assignment of Leases, Pasture Agreements

141-110-110 (1) Any lessee wanting to sublease or assign a lease to, or enter into a pasture agreement with another person must:

(a) Apply to the Division for prior written authorization on a form provided by the Division, and

(b) Submit a non-refundable application fee as provided for in OAR 141-110-090(8).

(2) All such requests must be received by the Division at least thirty (30) calendar days prior:

(a) For a sublease or assignment, to the requested date of transfer, or

(b) For a pasture agreement, the date that it would take effect.

(3) No subleases, assignments, or pasture agreements shall occur without the prior written approval of the Division.

(4) If the Division authorizes a sublease, assignment, or pasture agreement, the lessee shall, in addition to the lease rental, pay the Division the difference between what s/he pays the Division for the lease, and what s/he collects from the sublessee, assignee, or person entering the pasturing agreement.

(5) The Division shall terminate the lease of any lessee who subleases or assigns, or enters into a pasture agreement for any part or all of his/her leasehold to another person without the prior written approval of the Division.

(6) A lessee entering into a pasture agreement approved by the Division shall continue to be bound by all terms and conditions of his/her lease, including the requirements of the RMP.

(7) Assignments, if approved by the Division, shall be no longer than the remaining term of the lease. An assignee of a rangeland lease shall be bound by the existing RMP.

(8) Assignees must meet all applicable requirements as set forth in OAR 141-110-060.

Stat. Auth. 273.045 & 273.051

Stats. Implemented 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95; LB 8-1996, f. & cert. ef. 12-13-96

Development Authorization

141-110-120 (1) Title to all developments that occur after adoption of these rules shall be in the name of the State of Oregon.

(2) The Division shall authorize proposed developments specifically listed in an approved RMP.

(3) The Division shall consider the following factors before deciding whether to authorize a proposed development on a leasehold without an approved RMP:

(a) Need for the intended development;

(b) Benefits of the intended development;

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(c) Impacts of the development on rangeland health, and fish and wildlife habitat and historical and cultural resources; and

(d) Whether the development is permitted by the county's acknowledged comprehensive plan and land use regulations.

(4) The Division reserves the right to provide financial assistance to a lessee for a portion or all of a development to/on a leasehold upon application to the Division using a form provided by the Division.

(5) Division financing of any part or all of a proposed development authorized in the RMP or OAR 141-110-120(3) is contingent on the availability of funds and the need for the proposed action as determined by the Division in the RMP.

(6) The Division may only assist a lessee in the financing of any developments to/on state land if the Division determines that the proposed action:

(a) Will result in increased revenue over the short-term to the Common School Fund at least equal to or greater than what could be obtained by investing the same funding in other financial instruments over the same period of time;

(b) Increases or prevents a decline in the value of the subject parcel for future exchange or sale, or as a site for other uses;

(c) Improves the Division's ability to more efficiently manage the subject leasehold;

(d) Is determined necessary under a Division approved RMP; or

(e) Improves the rangeland health of the leasehold.

(7) Regardless of the source of financing:

(a) All developments to/on a leasehold shall be maintained by the lessee in good working order (as appropriate to the type of development);

(b) If a lessee fails after receipt of written notification from the Division to maintain developments within the time period set by the Division, the Division may perform the required maintenance and assess the costs incurred to the lessee;

(c) The lessee shall take whatever steps are necessary to ensure that a development does not pose a danger to public safety.

(8) If the Division decides to loan funds to a lessee to finance a development, the lessee shall pay interest on the amount loaned over the term of the loan at a rate determined by the Division after consultation with the Oregon State Treasurer.

(9) The following provisions apply to water resource developments.

(a) Except as provided for in ORS 537.545, any development authorized by the Division including, but not limited to the diversion, pumping, and storage of water must also be reviewed and approved in advance of its development by the Oregon Water Resources Department and other appropriate agencies;

(b) If water permits or rights are required for the proposed project, such permits or rights shall be applied for and issued in the name of the Division;

(c) Except when the Division initiates water resource developments on state land, the lessee will be responsible for paying all fees required to obtain the required Water Resources Department approval (for example, a water right);

(d) Water resource developments shall be designed to:

(A) Utilize water beneficially for grazing live-

stock, conservation use, or other lease-authorized practices without waste by taking into account the best available technology applicable to site conditions;

(B) Enhance native fish and wildlife populations; and

(C) Maintain or enhance rangeland health.

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825.

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Compensation for Developments

141-110-130 (1) If a lease is awarded to a person other than the prior lessee, the new lessee must compensate the prior lessee for the remaining undepreciated value of any Division-approved developments within the leasehold owned by the prior lessee not subject to OAR 141-110-140(1).

(2) The value of Division-approved developments shall be established on a negotiated basis between the new lessee and the prior lessee.

(3) If the former lessee and the new lessee are unable to agree on the reasonable value of the subject developments, such value shall be fixed by an independent appraiser appointed by the Division.

(4) The costs of all appraisals conducted under OAR 141-110-130(3) shall be paid in equal shares by the applicant and the prior lessee, or by other such arrangement as is mutually acceptable to them.

(5) If a development, such as a fence, is jointly constructed or financed by adjacent landowners and/or lessees, or by the State of Oregon, only that share of the development belonging to the prior lessee shall be assigned a prorated value for compensation purposes.

(6) The Division may purchase some or all developments on state land from a prior lessee.

(7) Any leasehold development debt(s) of a former lessee owed the Division shall become the responsibility of the new lessee pursuant to the same terms and conditions governing those debts.

(8) If a lease is terminated by the Division for reasons not relating to a default by the lessee, the Division may, at its option:

(a) Allow the lessee to remove the non-permanent development(s); or

(b) Compensate the lessee for the undepreciated value of both Division approved permanent and non-permanent development(s).

(9) If the Division and the lessee are unable to agree on the value of said developments, the value will be determined in the same manner as described in OAR 141-110-130(3).

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Removal of Developments and Material

141-110-140 (1) Upon the expiration or termination of a lease, the Division shall notify the lessee in writing to advise him/her of what, if any, developments or material s/he must remove.

(2) Unless otherwise agreed to:

(a) The prior lessee shall remove any or all developments as directed by the Division within

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sixty (60) calendar days of the date of termination of the lease unless they are subject to appraisal and purchase as described in OAR 141-110-130;

(b) Any developments remaining on the leasehold after the sixty (60) day period shall become the property of the Division.

(3) Removal of such developments or material shall be at the lessees expense.

(4) If the lessee refuses to remove the subject developments or material, the Division may remove the developments and charge the lessee for doing so.

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Insurance and Bonds

141-110-150 (1) The Division may require a lessee to obtain insurance in a specified amount for a planned development which, in the opinion of the Division, constitutes a risk to public safety, or to the State of Oregon.

(2) The Division may request that the applicant or lessee provide information concerning the development to the Risk Management Division of the Oregon Department of Administrative Services, which may assist the Division in determining the appropriate amount of insurance coverage based on the nature of the development.

(3) The Division may, at its discretion, require that a lessee obtain a surety or bid bond in an amount specified by the Division (or a cash deposit or certificate of deposit which has an equivalent face or cash-in value as the surety bond and which names the State of Oregon as co-owner) to secure performance of all terms and conditions of a lease.

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Termination of a Lease For Default

141-110-160 (1) If a lessee fails to comply with these rules, the RMP or other lease terms and conditions, or otherwise violates laws covering the use of his/her leasehold, the Division shall notify the lessee in writing of the default and demand correction within a specified time frame.

(2) If the lessee fails to correct the default within the time frame specified, the Division may:

(a) Modify or terminate the lease; and/or

(b) Request the Attorney General to take appropriate legal action against the lessee.

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Appeals

141-110-170 (1) An applicant, lessee or any other person adversely affected by a rangeland lease decision of the Division may appeal the decision to the Director.

(a) Such an appeal shall be received by the Director no later than thirty (30) calendar days after the date of delivery of the decision.

(b) The Director shall decide the appeal within

sixty (60) calendar days after the date of delivery of the appeal.

(c) The Director may affirm the decision, issue a new or modified decision, or request the appellant to submit additional information to support the appeal.

(d) The Director shall not stay a decision made by the Division pursuant to these rules for which an appeal has been received.

(2) Where an applicant, lessee, or other person is entitled by law to a contested case hearing, they may request such a hearing only after exhausting the informal appeal provided for in OAR 141-110-170(1).

Stat. Auth.: ORS 273.045 & 273.051

Stats. Implemented: ORS 273.805, 273.815 & 273.825

Hist.: LB 4-1994, f. & cert. ef. 8-2-94; LB 3-1995, f. & cert. ef. 10-13-95

Appeals

141-110-180 (1) An applicant, lessee or any other person adversely affected by a rangeland lease decision of the Division may appeal the decision to the Director. Such an appeal shall be an informal process and not a contested case hearing.

(2) An appeal shall be received by the Director no later than thirty (30) calendar days after the date of delivery of the decision.

(3) The Director shall decide the appeal within sixty (60) calendar days after the date of delivery of the appeal.

(4) The Director may affirm the decision, issue a new or modified decision, or request the appellant to submit additional information to support the appeal.

(5) The decision on an appeal by the Director shall be the final administrative decision of the Division.

(6) The Director shall not stay a decision made by the Division pursuant to these rules for which an appeal has been received.

Stat. Auth.: ORS 274.045, 273.051, 273.805 - 273.825

Stats. Implemented: ORS

Hist.: LB 4-1994, f. & cert. ef. 8-2-94

DIVISION OF STATE LANDS

DIVISION 67

RULES GOVERNING THE SALE, EXCHANGE AND PURCHASE OF LAND

141-067-0130

Purpose and Applicability

These rules:

(1) Establish procedures for the sale, exchange, and purchase of all types and classifications of land and interests in land managed by the State Land Board and the Division of State Lands in order to comply with all Constitutional and statutory requirements including, but not limited to: Oregon Constitution Article VIII, Section 5(2), and ORS 270, 271, 272, 273, and 274.

(2) Do not pertain to the leasing of lands nor the granting of easements across lands managed by the State Land Board and the Division of State Lands

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0140

Policies

(1) The State Land Board through the Division has a Constitutional responsibility to manage "the lands under its jurisdiction with the object of obtaining the greatest benefit for the people of this state, consistent with the conservation of this resource under sound techniques of land management" pursuant to Article VIII, Section 5(2) of the Oregon Constitution.

(2) In order to achieve the Constitutional mandate described above and to maximize the financial return to the Common School Fund from Trust Lands, the Division will seek to obtain the full fair market value for any land or interests in land sold or exchanged.

(3) Trust Lands will be sold or exchanged in a manner that complies with state law while ensuring absolute adherence to both Constitutional and Admission Act trust responsibilities as determined by the State Land Board and subject to review by the courts.

(4) The State Land Board may at any time direct the Division of State Lands as to the purchase, sale or exchange of Trust and/or Non-Trust Lands in accordance with these rules and/or the Asset Management Plan.

(5) Any Trust Land or interest in Trust Land may be exchanged for other land or interest in land, of equal or superior value. The newly acquired land or interest in land shall be regarded as Trust Land.

(6) The State Land Board may purchase, sell or exchange lands in any such parcel size or configuration or class (e.g. forest, agriculture, commercial).

(7) The State Forester may initiate and process land exchanges involving Common School Forest Lands under its management as allowed in the management agreement between State Land Board, the Division of State Lands and the State Forester. Such land exchanges require the approval of the State Land Board.

(8) The State Land Board and the Division will thoroughly evaluate opportunities to sell or exchange state land, particularly non-performing Trust Land and, in some cases, Non-Trust Lands. Purchases, sales and exchanges may be pursued on a case-by-case basis to:

(a) Meet a management prescription as identified in the Division's Asset Management Plan;

(b) Increase the net operating income from a parcel or class of land;

(c) Increase the financial contributions to the Common School Fund;

(d) Reduce land management costs associated with a particular parcel; or

(e) Increase the efficiency of management of a particular parcel or group of parcels.

(9) Public review and State Land Board approval of proposed land sales and acquisitions (either by purchase or exchange) will be sought at key decision points as determined by the Director. The criteria for evaluating any land sale or acquisition will include the following:

(a) Current and future estimate of value and income potential;

(b) Location, accessibility and manageability;

(c) The potential for alternative income-generating uses;

(d) The level and intensity of expressed interest in a sale, exchange or purchase; and

(e) Whether the land is classified as Trust or Non-Trust land.

(10) The Division shall recover all appraisal, survey and advertising costs of sales and exchanges from the buyer or exchange applicant unless agreed to otherwise in advance, or prohibited by law or these rules.

(11) Qualified persons and agencies may apply to purchase or exchange state land or interests in state land at any time. An application fee, as required by these rules, shall be included with each application. The Division reserves the right to prioritize land sale and exchange projects according to available agency funds and income potential.

(12) The State Land Board will not sell or exchange state-owned submerged lands except to facilitate the legal disposal of hazardous materials as part of a plan approved by the appropriate state and/or federal environmental agencies. In instances when the State Land Board may sell or exchange submerged lands under circumstances as stated in these rules, such sale or exchange shall occur: (1) only upon a finding that the transaction will accrue a net gain in public trust values to the people of Oregon; and (2) only when the public trust uses are not significantly impaired as a result of the transaction. The State Land Board may sell or exchange historically filled land and new lands in the manner provided by law.

(13) The State Land Board may exchange submersible lands upon a finding by the Board that the transaction will accrue a net gain of public trust values to the people of Oregon.

(14) The State Land Board authorizes the Director or his/her designee to issue such certificates of sale, deeds or conveyances as are necessary to carry out the land transactions approved by the Board in conformance with these rules. Such instruments shall include, but not be limited to bargain and sale deeds with limited warranty and quitclaims, and be drawn in a manner to fully transfer all rights and interests to the buyer/exchange partner that the Division has full confidence in conveying.

(15) Land or interest in land sold to another state agency or political subdivision under the provisions of ORS 270.100 or a federal agency shall be used for public purpose or benefit, and not be for resale to a private purchaser. Such restrictions shall be included in the deed and be enforceable through such terms as, but not limited to, reversion clauses.

(16) The State Land Board shall recognize and adhere to all terms and conditions of valid existing leases and easements as they affect proposed land sales or exchanges.

(17) The State Land Board shall retain all mineral interest ownership unless:

(a) A mineral and geologic evaluation (including an appraisal of values as required by the Director) reveals no or extremely limited mineral potential in any lands being considered for sale or exchange;

(b) The State Land Board deems that the disposal of mineral interests is in the long term best interests of the Trust; and

(c) The State Land Board approves of the disposal. Minerals may be exchanged based on a showing that all parcels have roughly equivalent mineral potential. All mineral interests included in any sale shall be accorded a monetary value and the Division shall be compensated for their sale.

(18) These rules shall apply to all land transactions (for example, sales, exchanges, and purchases) for the South Slough National Estuarine Research Reserve as established in ORS 273.553.

(19) The Division will seek certification of these rules by Department of Administrative Service (DAS) as permitted under OAR 125-045-0195. It is the intent of these rules to carry out the Division's land transactions in a manner consistent with DAS rules for the Disposition and Acquisition of Real Property Interests (OAR 125-045). According to ORS 270.100(4), the Division of State Lands is exempt from having to secure DAS approval for land sales unless the land and/or interests in land are to be sold at less than the appraised value.

(20) Land sale and exchange applications pending with the Division on the effective date of these rules (July 1, 2002) shall be processed in accordance with these rules. Every effort shall be made to give due consideration to the processing work already accomplished for any applications pending on the effective date of these rules.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0150

Definitions

- (1) "Abutting" means immediately adjacent to and facing.
- (2) "Agricultural Lands" are Trust or Non-Trust Lands classified for active commercial farming, nursery or agricultural production of all types.
- (3) "Apparent Successful Purchaser" is the person who is the highest acceptable bidder and who has agreed to the terms and conditions of a land sale prior to the final approval of the sale by the State Land Board.

(4) "Applicant" is any person who requests to purchase or exchange state land or interests in land.

(5) "Appraisal" or "Appraisal Report" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of the lands or interests in lands as of a specific date(s), supported by the presentation and analysis of relevant market information.

(6) "Asset Management Plan" means the plan required by ORS 273.245 and adopted by the Land Board.

(7) "Bargain" is a process by which the Division and parties attempt to agree to a final sale price of state land or interests in state land.

(8) "Bargain and Sale Deed" is a form of a deed that conveys real property from a seller to a buyer but does not guarantee clear title.

(9) "Bid" means a written or oral monetary commitment to purchase land or interest in land offered at the specified time and place by a person eligible to participate in an auction process as specified by the Division in accordance with OAR 141-067-0220 of these rules.

(10) "Deed" means a written, legal instrument that conveys an estate or interest in real property when it is properly executed and delivered.

(11) "Director" means the Director of the Division of State Lands or the Director's designee.

(12) "Division" means the Division of State Lands.

(13) "Division Estimate of Value" is the monetary value of a land parcel established by the Division and approved by the State Land Board based on a critical review of the appraisal report, any review appraisal information, and supporting data. The value may, in the discretion of the Director, include the cost of appraisal, advertising and related pre-sale costs as identified by the Division.

(14) "Easement" is an authorization granted by the Division that gives a person the use of a specifically designated parcel of state-owned land for a specific purpose and length of time. The Division offers three (3) types of easements: temporary, term, and permanent. An easement does not convey any proprietary or other rights of use to the holder other than those specifically granted in the easement authorization.

(15) "Economic Analysis" means a review of the revenue, expenditures and valuation trend for a specific parcel or parcels.

(16) "Environmental Review" means an investigation of the past uses and physical character of a property to determine the extent, if at all, that hazardous materials may be present.

- (17) "Forestlands" are Trust or Non-Trust Lands classified for management for the production of commercial forest products.
- (18) "Hazardous Materials" means any substance or material that is governed or regulated by any statute, regulation or rule, order, finding or directive promulgated, issued or enacted by a federal, state or local government entity and that relates to industrial hygiene or environmental protection, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C.A. Sections 6901-9675 (West 1983) and any successor provisions, and the Resources Conservation and Recovery Act (RCRA), 42 U.S.C.A. Sections 6901-6992 (West 1983) and any successor provisions.
- (19) "High Bid" means the highest monetary commitment to pay to purchase land offered by a person eligible to participate in a land sale auction.
- (20) "Highest and Best Use" means an appraiser's supported opinion of the most probable and legal use of property, based on market evidence, as of the date of valuation.
- (21) "Historically Filled Lands" means those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian land on the same side of the body of water, which have been created prior to May 28, 1963 upon state-owned submerged and submersible lands by artificial fill or deposit and not including bridges, wharves and similar structures constructed upon state-owned submerged and submersible lands by other than artificial fill or deposit.
- (22) "Individual person" means, for the purposes of OAR 141-067-0230, a single human being and does not include such entities as a corporation, public agency, political subdivision or association.
- (23) "Industrial/Commercial/Residential Lands" are a wide variety of Trust and Non-Trust Lands classified for management for a broad range of commercially viable uses including, but not limited to: manufacturing, restaurants, and multi-family housing.
- (24) "Land Exchange" means a simultaneous conveyance of land or interest in state land for land or interest in land of another entity of equal value (either appraised or Division-estimate of value).
- (25) "Lease" means a valid enforceable contract between the Division and another party for the use of a specific area of state land for a specific use under specific terms and conditions.
- (26) "Market Value" or "Fair Market Value" means the most probable price in cash, or terms equivalent to cash, which land or interests in land should bring in a competitive and open market under all conditions requisite to a fair sale, where the buyer and seller each acts prudently and knowledgeably, and the price is not affected by undue influence.
- (27) "Mineral Lands" are Trust and Non-Trust Lands classified for management for commercial mineral extraction and production due to the existence of valuable,

commercially extractable minerals including, but not limited to: metallic, non-metallic and industrial minerals, natural gas or sand and gravel.

(28) "Mineral Potential Analysis" is an analysis of the subsurface mineral interests of a parcel to determine if any minerals exist in commercially valuable and extractable abundance.

(29) "Minimum Bid" is the lowest monetary commitment to pay to purchase land offered from a person eligible to participate at a land sale auction that the Division will accept.

(30) "Natural, Recreational and Cultural Resources Review" or "Resources Review" means a written report, compiled by the Division or its agent, of the water, fish, wildlife, plant, soil, geologic, scenic, recreational, historic, cultural and tribal resources present on a particular land parcel or group of parcels. The review includes consultation with various agency, private and tribal interests with knowledge and expertise of the specific resources and resource values.

(31) "New Lands" means the same as in ORS 274.905(1); those lands protruding above the line of ordinary high water, whether or not connected with the adjoining or opposite upland or riparian land on the same side of the body of water, which have been created (before, on or after May 28, 1963) upon state-owned submersible or submerged lands by artificial fill or deposit and not including bridges, wharves and similar structures constructed upon state-owned submersible or submerged lands by other than artificial fill or deposit.

(32) "Non-Performing Asset" means a parcel or class of land for which the net operating income during a specific period is negative or where the rate of return is significantly less than expected from similarly classed land.

(33) "Non-Trust Lands" or "Statutory Lands" are both classifications of lands listed in ORS 273.251(5), (6) and (7).

(34) "Outstanding Interests/Encumbrances" are rights or interests in land held by an entity other than the Division.

(35) "Person" is an individual at least eighteen (18) years old, a political subdivision or public agency, or any corporation, association, firm, partnership, joint stock company, or quasi-public corporation registered to do business in the state of Oregon.

(36) "Pre-Exchange Agreement" is a non-binding agreement between the Division and an exchange applicant that sets out the terms of the exchange proposal and the responsibilities of each party to complete the exchange. The agreement, at a minimum, describes the lands to be exchanged; assigns responsibility for completion and payment of appraisals, advertising, closing and any special studies including environmental audits; and establishes a reasonable time schedule for completion.

(37) "Public Body" means the same as in ORS 274.905(2); a state agency or any port organized under the laws of Oregon or dock commission of any city of this state.

(38) "Quitclaim Deed" is a form of deed in which any interest the grantor possesses in the property described in the deed is conveyed to the grantee without warranty of title.

(39) "Rangelands" means Trust and Non-Trust Lands that are classified for management primarily for livestock grazing largely on uncultivated forage with limited improvements or development.

(40) "Reserved Price" means an amount of money stipulated by the Division as the amount to be paid for a parcel in the event there are no bidders.

(41) "Reserved Interest" means an interest in the land that is retained by the Division from a conveyance of the title to the state land.

(42) "Resource Values" means any of the various commodity values or non-commodity values, such as, but not limited to fish and wildlife habitat, historical features, recreational attraction, that are contained within the state land interests, surface and subsurface.

(43) "South Slough National Estuarine Research Reserve" is a component of the National Estuary Reserve System situated at South Slough (Coos County) established under ORS 273.553.

(44) "South Slough Management Commission" is the public body established in ORS 273.554 for the purpose of directing the management of the South Slough National Estuarine Research Reserve.

(45) "Special Interest Lands" are Trust and Non-Trust Lands classified for special management due to unique, special, or significant natural, recreational, scenic, historic, cultural or other resource value or economic value.

(46) "State Forester" is as described in ORS 526.005(03).

(47) "State Land" or "Land" means real property, including improvements, or any interest in real property (for example, timber or minerals) managed by the State Land Board and the Division of State Lands as Trust or Non-Trust Land.

(48) "State Land Board" or "Board" means the constitutionally created body consisting of the Governor, Secretary of State and the State Treasurer that is responsible for managing the assets of the Common School Fund as well as for additional functions placed under its jurisdiction by law. The Division of State Lands is the administrative arm to the State Land Board.

(49) "Subsurface Mineral Interests" are mineral interests that exist below the surface of the land such as, but not limited to oil; gas; energy, metallic, non-metallic and industrial minerals; and geothermal resources. Subsurface mineral interests do not include such materials as sand and gravel, common rock, topsoil, and other such materials found at or near the surface of the ground.

(50) "Trust Lands" or "Constitutional Lands" are all classifications of state lands listed in ORS 273.251(1), (2), (3), (4)(a), (b) and (c), and (8).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0160

Eligibility to Apply to Purchase or Exchange Land

Unless otherwise indicated in these rules, any person who is at least 18 years of age and who is a citizen of the United States or who has declared an intention to become a citizen, may apply to purchase or exchange state land.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0170

Land Exchanges

(1) The Division may exchange any lands or interests in lands for any other lands for the purpose of accumulating larger and contiguous tracts of land and to meet objectives of the Asset Management Plan or the South Slough National Estuarine Research Reserve Management Plan. Exchanges may be made on the basis of value or acreage and the Division may accept a monetary payment as part of the consideration to the extent required for a fair transaction.

(2) Any person, as defined in these rules and who is eligible to do so, may submit an application to the Division to initiate a land exchange. The application shall be submitted on a form provided by the Division and shall clearly state the location of the state land to be acquired and the location of the applicant's land offered for exchange to the Division. The following additional information shall also be submitted:

(a) The total acres of land of each party within the exchange proposal;

- (b) A listing of the adjacent landowners along with their current mailing address;
- (c) Estimate of value of the applicant's land;
- (d) A preliminary title report of the applicant's land;
- (e) A listing of any leases in force on the applicant's land;
- (f) A complete listing of any improvements on the applicant's land; and
- (g) A waiver of permission allowing the Division or its authorized agent to enter upon the applicant's land for inspection and appraisal. The application shall be accompanied by the appropriate non-refundable application fee as required by OAR 141-067-0280 of these rules.

(3) The Division shall notify the applicant (by registered or certified mail) of receipt of the exchange application. Within not more than sixty (60) calendar days of receipt of the exchange application, the Director may either reject the application, accept the application for further processing or request more information and later determine the merit of the application based on the information submitted. A rejected application shall be returned to the applicant with the reasons for its rejection clearly stated. An additional non-refundable application fee shall not be required for an application that is resubmitted within one-hundred twenty (120) calendar days of its rejection.

(4) Following initial acceptance of the exchange proposal, the Division shall:

- (a) Report the exchange proposal to the State Land Board;
- (b) Enter into a pre-exchange agreement with the applicant;
- (c) Complete a natural, recreational and cultural resource report (as described in OAR 141-067-0150(29) of these rules) and economic analysis (as described in OAR 141-067-0150(14) of these rules) of the lands involved in the exchange (these reports may be completed by the applicant, its agent or an agent of the Division as agreed to in the pre-exchange agreement);
- (d) Complete an environmental review, as described in OAR 141-067-0150(16) of the lands to be acquired from the applicant;
- (e) Complete the applicable elements of the public interest review process as described in OAR 141-067-0180 of these rules.

(5) The Division reserves the right to prioritize the processing of land exchange proposals according to the availability of funds, staffing, public benefit and income potential (for Trust Lands). The Division may group together similar land exchange applications for more efficient processing. The willingness of applicants or other interested parties to pay for or share in the cost of appraisals, surveys, public notices or other expenses may be a factor in the Division's prioritization of land exchange proposals.

(6) The Director shall, based on the results of the resources review, economic analysis, environmental review and public interest review (OAR 141-067-0180) determine whether or not to proceed with the land exchange proposal as presented; modify the land exchange in a mutually agreeable manner; or drop the proposal from further consideration.

(7) The Director shall present the final land exchange proposal to the State Land Board for approval prior to completing the transaction.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0180

Public Interest Review Process; Public Meetings and Hearings

To fully carry out the policies of this rule relating to public review of land sales and exchanges, the Division will do the following:

(1) Notify, in writing, all affected lessees (by registered or certified mail) and adjacent lessees and landowners (from a list provided by the applicant). Give such notice as soon as possible following the acceptance of an application. Lessees of lands considered for exchange shall be notified by certified or registered mail and be given notice that if a written protest is submitted to the Division within twenty (20) calendar days of the mailing a public hearing will be held on the exchange proposal. Such a hearing will be held in the manner described in OAR 141-067-0180(6) and (7) of these rules.

(2) Notify, in writing, as early as possible following acceptance of an application, all affected school districts, city and county governments, particularly the county governing body. The notice will specifically request each affected county's comment and concurrence with the application.

(3) Notify, in writing, as early as possible following acceptance of an application, those individuals and public interests groups that have indicated an interest in such proposals.

(4) Notify the Department of Administrative Services as described in OAR 141-067-0190 of these rules.

(5) Within thirty (30) calendar days of completing a pre-exchange agreement as defined in OAR 141-067-0150(33), advertise the proposed land exchange as a public notice in a newspaper of general circulation within the county within which the exchange lands are located and on the agency website. The notice shall be published at least once per week

for a period of three (3) consecutive weeks and include a description of the exchange proposal as depicted in the pre-exchange agreement; request public comment on the merits of the proposal; and identify the agency contact person.

(6) The Division may hold a public meeting at any time prior to final approval of the transaction by the State Land Board to present for public comment any land sale or exchange proposal. The Division shall give adequate notice of any such meeting(s) including invitations to interested parties, agencies and local governments and press releases and/or public notices in newspapers of general circulation within the county in which the proposal is located.

(7) When a lessee's written protest to a land exchange proposal has been received in accordance with OAR 141-067-0180(1) of these rules, the Division will hold a public hearing on the proposal. The hearing will be held at least forty-five (45) calendar days after the written protest has been received by the Division and all lessees of land considered for exchange will be notified by certified or registered mail. All comments by the lessees or their representatives and all other interested parties will be recorded and compiled in the hearing record.

(8) The State Land Board shall review and approve final land sale and exchange transactions at a Land Board meeting open to the public. The public shall be given an opportunity to testify to the Land Board.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0190

Compliance with the Department of Administrative Service (DAS) Rules for the Disposition and Acquisition of Real Property

(1) Before acquiring any land by purchase or exchange or offering for sale any land or interests in land, except as listed in OAR 141-067-0190 (3) of these rules, the Division will notify the Department of Administrative Services (DAS) as required by OAR 125-045. DAS will then notify other state agencies and political subdivisions.

(2) Prior approval from DAS is necessary for the sale of land when the sale is for less than the appraised value of the land or interest in land.

(3) The Division will seek certification of these rules (OAR 141-067) as permitted by OAR 125-045-0195.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0200

Sale of Submerged and Submersible New Lands

(1) New lands will be sold only on a case-by-case basis upon a thorough review of each application and only after the State Land Board determines that the public interest or public trust values of the new lands need not be preserved. These rules do not apply to submerged, submersible or new lands fronting upon the Pacific Ocean.

(2) Any public body or person, as defined in these rules and who is eligible to do so, with rights (as described in OAR 141-067-0200(9) and (11) of these rules) to purchase new lands shall submit an application on a form provided by the Division. An applicant applying to purchase submersible land will be required to acknowledge the character of the land being applied for and the title of the Division in the land; and to waive all claims against the Division for the return of the purchase price in the event that all or any part of the land are determined to not belong to the Division. A non-refundable application fee in the amount shown in OAR 141-067-0280 shall be included with the application. Incomplete applications or those from ineligible applicants shall be returned.

(3) Following receipt of a complete and eligible application, the Division shall:

(a) Notify the applicant of the status of the application;

(b) Complete a resources review including an analysis of the public trust values of the new land parcel and immediate proximity;

(c) Complete the applicable elements of the public interest review including notifying DAS in accordance with OAR 141-067-0190; and

(d) Complete the market value analysis and establish a preliminary estimate of the purchase price.

(4) Following notice of the commencement of processing of the application by the Division, the applicant shall have prepared, at the applicant's expense, a survey of the land area included in the application. A registered land surveyor must complete the survey. The Division must give written approval of the surveyor prior to the start of the survey work. The survey must connect and conform to adjacent surveys acceptable to the

Division, so far as practicable. The survey and map submitted by the applicant's surveyor to the Division must be notarized.

(5) The Division shall report to the State Land Board the results of the analysis of OAR 141-067-0200(3) and make a recommendation on whether or not to sell, lease or otherwise retain the new lands. The Division shall not proceed to dispose of the new land without the approval of the State Land Board. The Division shall notify the applicant and all interested parties of the Land Board meeting.

(6) Whenever an agency of the United States, while engaged in the promotion of navigation, creates new land and the adjoining or opposite upland or riparian land on the same side of the body of water is owned by a public body, the public body has the right to purchase the new lands as provided in OAR 141-067-0200 of these rules.

(7) The public body shall pay compensation to the Division for the new lands. The compensation shall be a sum equal to the difference between the market value of the subject parcel, consisting of the new lands and adjoining or opposite upland on the same side of the body of water, and the market value of the adjoining or opposite upland before the creation of the new land plus the administrative fee as required in OAR 141-067-0280 of these rules. The payment shall be made within one calendar year after notice by the Division of the creation of the new land. If the public body fails to make payment following the notice, the Division may dispose of the new land in accordance with these rules.

(8) If the public body and the Division fail to agree on the market value of the new land as determined in OAR 141-067-0200(7), the market value shall be determined by three (3) appraisers, one appointed by the public body, one by the Division, and the third by the first two appraisers. The determination of the three appraisers shall be final. The cost of the third appraiser shall be borne equally by the Division and the public body.

(9) In cases as in OAR 141-067-0200(2) where the new land and the adjoining or opposite upland or riparian land on the same side of the water body is owned by a person other than a public body, as defined in these rules, the person has the right to purchase the new lands in same manner as OAR 141-067-0200(7) and (8), except the person shall have six (6) calendar months to make payment after which the Division may dispose of the new land in accordance with these rules.

(10) In the event that a public body creates new land, the public body shall pay the Division the market value of the submerged and submersible land within one (1) calendar year of the notice by the Division of the creation of the new land. If the public body fails to make the payment within the time allowed the Division may dispose of the new land in accordance with these rules. Any disputes over the market value between the Division and the public body shall be resolved in the same manner as described in OAR 141-067-0200(8).

(11) When the new land is created by a person other than a public body or federal agency engaged in promoting navigation, such person has the right to purchase the new land. The

purchase price shall be the market value of the pre-filled submerged and submersible land and a reasonable portion of the private benefit realized from the creation of the new land as an addition to the adjoining or opposite upland in front of the new land that has been created. The person shall pay the appropriate administrative fee as required in OAR 141-067-0280. If the person in this subsection fails to make payment within six (6) calendar months of the Division's notice, the Division may dispose of the new land in accordance with OAR 141-067-0220 of these rules.

(12) The Division will not convey any rights to minerals, oil, gas or sulfur on new lands.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0210

Sale of Historically Filled Lands

(1) Historically Filled lands will be sold only on a case-by-case basis upon a thorough review of each application and only after the State Land Board determines that the public interest or public trust values of these lands need not be preserved. These rules do not apply to submerged, submersible or historically filled lands fronting upon the Pacific Ocean.

(2) In the event that the Division decides to sell historically filled lands, it may negotiate a sale price based upon the fair market value of the land discounted, when necessary and appropriate, to reflect the relative strength of the state's claim. The State Land Board must approve any sale made under OAR 141-067-0210.

(3) Any public body or person, as defined in these rules and who is eligible to do so, to purchase historically filled lands shall submit an application on a form provided by the Division. An applicant applying to purchase historically filled land will be required to acknowledge the character of the land being applied for and the title of the Division in the land; and to waive all claims against the Division for the return of the purchase price in the event that all or any part of the land are determined to not belong to the Division. A non-refundable application fee in the amount shown in OAR 141-067-0280 shall be included with the application. Incomplete applications or those from ineligible applicants shall be returned.

(4) Following receipt of a complete and eligible application, the Division shall:

(a) Notify the applicant of the status of the application;

(b) Complete a resources review including an analysis of the public trust values of the parcel and immediate proximity;

(c) Complete the applicable elements of the public interest review including notifying DAS in accordance with OAR 141-067-0190; and

(d) Complete the market value analysis and establish a preliminary estimate of the purchase price.

(5) Following notice of the commencement of processing of the application by the Division, the applicant shall have prepared, at the applicant's expense, a survey of the land area included in the application. A registered land surveyor must complete the survey. The Division must give written approval of the surveyor prior to the start of the survey work. The survey must connect and conform to adjacent surveys acceptable to the Division, so far as practicable. The survey and map submitted by the applicant's surveyor to the Division must be notarized.

(6) The Division shall report to the State Land Board the results of the analysis of OAR 141-067-0210(4) and make a recommendation on whether or not to sell, lease or otherwise retain the new lands. The Division shall not proceed to dispose of the historically filled land without the approval of the State Land Board. The Division shall notify the applicant and all interested parties of the Land Board meeting where the transaction is to be discussed.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0220

General Procedures for Land Sales (Except OAR 141-067-0200 and 0210)

(1) The Division may sell any lands or interests in lands, in order to meet objectives of the Asset Management Plan and the policies of these rules (OAR 141-067-0140). The general procedures described in OAR 141-067-0220 of these rules apply to the sale of all Trust and Non-Trust lands classified as rangelands, agricultural lands, forestlands, industrial/commercial/residential lands, mineral lands or special interest lands except as described in OAR 141-067-0200 and 0210. Refer to OAR 141-067-0230 for additional requirements for the sale of rangelands.

(2) Any person, as defined in these rules and who is eligible to do so as described in OAR 141-067-0160, may submit an application to purchase state land. All applications to

purchase state land must be submitted on a form prescribed by the Division and contain a correct and precise description of the parcel(s) included in the land sale proposal. A boundary survey of the parcel(s) to be acquired may be required. The appropriate non-refundable application fee (as required in OAR 141-067-0280) must be submitted with the application in order to be considered a complete application. Incomplete applications or those received from ineligible applicants will be returned and the application fee refunded.

(3) Upon receipt of the application, and in order to determine the disposition of the land sale proposal, the Division shall initiate a preliminary review of the land sale application, including but not limited to:

(a) A determination if the parcel(s)/lot(s) described in the land sale application are legal lots as described in ORS 92;

(b) A determination, based on a preliminary title report conducted by the Division or its agent, of the Division's rights and interests in the land or interests in land described in the land sale application; and

(c) A determination that the proposal is consistent with the policies set forth in OAR 141-067-0140 of these rules.

(4) The Division shall notify, by registered or certified mail, the applicant and the lessee if applicable, of receipt of the land sale application. Within not more than sixty (60) calendar days of receipt of the sale application, the Director shall, based on the determinations as described in OAR 141-067-0220(3) of these rules:

(a) Reject the application;

(b) Accept the application for further processing, including but not limited to, the public interest review; or

(c) Request more information and later determine the merit of the application based on the information submitted. A rejected application shall be returned to the applicant with the reasons for its rejection clearly stated. An additional non-refundable application fee shall not be required for an application that is resubmitted within one hundred twenty (120) calendar days of its rejection.

(5) The Division reserves the right to prioritize the processing of land sales proposals according to the availability of funds, staffing and income potential. The Division may group together similar land sale applications for more efficient processing and to attract more buyer interest. The willingness of applicants or other interested parties to pay for or share in the cost of appraisals, surveys, advertising or other expenses may be a factor in the Division's prioritization of land sales proposals.

(6) Following initial acceptance of the land sale proposal, as described above in OAR 141-067-0220(4) of these rules, the Division shall determine if the land or interests in

land should be classified as "available for sale," based upon but not limited to, the results of the following:

(a) A natural, recreational and cultural resource review (as described in OAR 141-067-0150(30) of these rules) and/or economic analysis (as described in OAR 141-067-0150(15) of these rules) of the lands involved in the land sale proposal;

(b) The DAS notice process as described in OAR 141-067-0190 of these rules; and

(c) The applicable elements of the public interest review process as described in OAR 141-067-0180 of these rules.

(7) The Director shall determine, based on the results of the resources review, economic analysis, DAS notice process, public interest review and county government comment to:

(a) Classify as "available for sale" the land parcel(s) under consideration; or

(b) Not classify the lands as "available for sale." In the event the decision is to not classify the lands as "available for sale" the Division will terminate further processing of the land sale proposal. As soon as possible after the Director's determination, the Division shall notify the applicant and, if applicable, the lessee (by registered or certified mail) of the decision of the Director.

(8) Once the lands are classified as "available for sale":

(a) The Director shall determine the method of sale as described in OAR 141-067-0270 of these rules and notify the State Land Board;

(b) The Division or its agent shall take such action as is necessary to prepare a legal lot/parcel as described in ORS 92 or to otherwise prepare the land for sale by notifying the lessee or exercising the Division's authorities under any applicable lease contract provisions;

(c) The Division or its agent shall complete a land appraisal in accordance with the provisions of OAR 141-067-0310 of these rules; and

(d) The Division shall determine its estimate of land value (called the Division Estimate of Value) and submit it to the State Land Board for final approval as the minimum bid, reserve price or final purchase price, as applicable, depending on the approved method of sale. Any additional costs or sale terms and conditions, if known, shall also be reported to the State Land Board.

(9) The Division shall conduct the sale in accordance with the method of sale established by the Director in OAR 141-067-0270 of these rules and approved by the State Land Board.

(10) The Division shall give public notice of the proposed land sale by publication in a local newspaper of general circulation within the county where the proposed land sale is located and on the Division's website for at least one (1) day per week for at least three

(3) consecutive weeks. The Division shall notify all landowners and lessees of land adjacent to the land being offered for sale of the sales procedure and all pertinent information concerning the proposed land sale.

(11) In the event the land sale is conducted by oral auction or sealed bid, the Division will accept the deposit of the apparent successful purchaser and return the deposits of all other auction participants. The Division will issue an earnest money agreement with the apparent successful purchaser to validate receipt of the deposit.

(12) All sales of land or interests in land are subject to final approval of the State Land Board. The Division may, at any time prior to the State Land Board's final approval, withdraw from the sale process any or all of the lands subject to the land sale. If lands are withdrawn from sale under these rules, any monetary deposit on the land is to be refunded to the owner.

(13) The successful purchaser shall enter into a sales agreement with the Division within thirty (30) calendar days of the State Land Board's final approval of the sale transaction.

(14) The Division shall issue a deed to the purchaser, as allowed in OAR 141-067-0250, as soon as all the terms and conditions of the sales agreement have been met. The failure of the purchaser to fulfill the sales agreement will void the sales.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0230

Sale Procedures for Rangelands/Common School Grazing Lands

(1) Once rangeland is classified by the Director as "available for sale" as described in OAR 141-067-0220, if a lessee has not already done so, a lessee may apply, on a form prescribed by the Division, to purchase the lands as described in OAR 141-067-0220 of these rules.

(2) A lessee is qualified to purchase rangeland under the provisions of OAR 141-067-0220 of these rules if the lessee meets all of the following requirements:

(a) The lessee is an individual person;

(b) The lessee is a resident of Oregon;

(c) The lessee owns, in fee simple, land immediately adjacent to the land classified as "available for sale" (lands are considered to be adjacent if their boundaries are common or intersect at a common point); and

(A) The lessee is in "good standing" with all lease terms and conditions; or

(B) The lease affords the lessee an opportunity to purchase the leasehold.

(3) Based on the lessee's representation of eligibility as shown on the application form, the Director shall certify that the lessee is qualified to purchase rangeland under OAR 141-067-0230(2) of these rules. The Division shall promptly notify the lessee of the Director's decision by registered or certified mail. The Director shall advise the lessee of deficiencies in the event the lessee is not certified as eligible in the land sale process as described in OAR 141-067-0230(2) of these rules.

(4) If a qualified eligible lessee does not respond to the Division's notice as described in OAR 141-067-0220(4) within ninety (90) calendar days of the sending date of the registered or certified mail notice, then the lessee shall be ineligible to participate in the land sale process described in OAR 141-067-0270(2)(d).

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0240

Final Land Sale Terms and Conditions; Closing

(1) The Director, subject to the approval of the State Land Board, shall determine the final terms and conditions of all sales or exchange of land or interest in land. The Oregon Department of Justice, if required by law, shall review and approve the final terms and conditions of the sale or exchange.

(2) At the discretion of the Division, and after consultation with the purchaser/land exchange partner, the final closing of the transaction in accordance with the sale agreement or pre-exchange agreement, as applicable, may be conducted by a title and escrow firm licensed to do business in Oregon. The Division shall issue the closing instructions to the closing agent. Payment of closing costs and fees is discretionary for the Division and subject to negotiation between the interested parties

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS

273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985
Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985
Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0250

Type of Deed; Issuance of Deed; Certificates of Sale; Assignments; Recording

- (1) Depending on the type of transaction, the Division shall offer the type of deed (for example: quitclaim deed or bargain and sale deed) that is the most legally defensible and best represents the known rights and interests held by the State Land Board in the land or interest in land being conveyed in the transaction.
- (2) When the land sale process has been completed, including the payment of the purchase price or terms of the sale agreement have been fulfilled, the Director shall execute and deliver to the purchaser a deed in a manner and form prescribed by these rules and conveying all rights, title and interests in the land that the State Land Board has represented.
- (3) All acts and decisions of the Division as to the legal title and the right of any person to a land sale agreement or deed from the Division are final.
- (4) When a purchaser of land (other than rangeland) desires to make payments in installments as described in OAR 141-067-0290 of these rules, the Division shall, upon receipt of one-fifth or twenty percent (20%) of the purchase price of the land, deliver to the purchaser a certificate that the purchaser has contracted to purchase the land. Upon performance under the contract or payment of three-fifths or sixty percent (60%) of the purchase price and the receipt and documentation of a note or loan, and upon surrender of the certificate of sale, the purchaser, or their heirs or assigns of the purchaser, shall be issued a deed for the property by the Division.
- (5) When a purchaser of Rangeland desires to make payments in installments as described in OAR 141-067-0290 of these rules, the Division shall upon receipt of all installments payments and any other fees, deliver to the purchaser or the heirs or assigns of the purchaser a bargain and sale deed for the purchased lands.
- (6) All assignments of certificates of sale shall be executed and acknowledged in the same manner as a deed to land or real property. All requests for assignment of certificates shall be in writing. Written consent of the Division is required. The Division shall issue the deed to the assignee upon full payment of the purchase price or the remaining balance of the land sale contract, and receipt of the certificate of sale.
- (7) The Division will record, in the appropriate county office, any and all deeds it receives as a result of a land exchange. The land purchaser or the land exchange partner shall be

responsible for recording with the appropriate county records office any and all deeds it receives from the Division.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0260

Disposition of Funds Received for Trust Land Sales and Funds from Trust Land Exchanges

The proceeds of any Trust land sale or from land exchange equalization payments for Trust lands shall be deposited in the land revolving fund of the Common School Fund as established in ORS 273.413, unless directed otherwise by the Director.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0270

Methods for Conducting Land Sales

(1) The Director shall establish the appropriate method for conducting a land sale based upon the policies described in OAR 141-067-0140 and as set forth in these rules.

(2) The following methods shall be used:

(a) Direct sale at Division-estimated value. This method is generally reserved for the sale of: new lands, as directed in OAR 141-067-0200 of these rules and ORS 274.925, 274.929, 274.932, 274.937; historically filled lands as described in OAR 141-067-0210 of these rules; and certain Trust and Non-Trust land transactions involving agencies of the federal government with powers of eminent domain.

(b) Direct sale at Division-estimated value with reversionary rights, existing leases or other reserved interests, limitations and encumbrances. This method is reserved principally for land sales to state agencies and political subdivisions and is aimed at assuring that the land, once transferred, will continue to be used for public purposes.

(c) Direct sale, as provided by ORS 270.010(2), to: a qualified lessee, or if not applicable, to an adjacent landowner at a sale price based on a Division-estimated value. This method is reserved for Non-Trust lands.

(d) Sale to the highest bidder via oral or sealed bid auction or combination thereof; minimum bid or reserve price approved by the State Land Board based on Division-estimate of value. This method is reserved for all classes of Trust and Non-Trust land except as otherwise described in these rules.

(e) Sale to the highest bidder via oral or sealed bid auction with an eligible lessee having the right to bid last to exceed the final high bid; minimum bid or reserve price approved by the State Land Board based on Division-estimate of value. This method is reserved for qualified rangeland lessees as described in OAR 141-067-0230 or for those lessees with lease contract terms and conditions that clearly and explicitly provide this opportunity.

(f) Negotiated sale. This method allows for the Division to negotiate or bargain for the highest sale price possible from among interested parties. This method is reserved for rare circumstances when other sale methods have failed to elicit sufficient buyer interest to stimulate a sale (for example: a land parcel totally enclosed within the ownership of a single private party and no public access is available to the property) and a sale of the land is deemed to be in accordance with the policies set forth in OAR 141-067-0140 of these rules.

(3) The Division reserves the right, but not the obligation, to offer all property to lessees, followed by adjacent landowners and others as required by ORS 270.010(2) when the Director determines that doing so will provide the greatest benefit for the people of the state and not conflict with the Division's constitutional and statutory obligations.

(4) Prior to commencing the land sale process, the Director shall report to the State Land Board the land sale method chosen for each sale and the reasons supporting the choice of sale method. The State Land Board shall approve the land sale method.

(5) In the event the sale method selected involves an auction, the Division shall establish the sale procedures to be followed including, but not limited to: the form and schedule for sealed bid submittals; the amount of deposit required; the time and location of the bid openings and/or oral auction; the minimum bid or reserve price; preliminary terms and conditions of sale; payment options and any additional costs to be borne by the successful purchaser. The Division shall fully disclose these procedures and all other pertinent information to the public as well as give ample advance public notice of the auction.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040,

ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0280

Application Fees

(1) The application fee for all land sales or land exchanges, except new lands, historically filled lands and formerly submerged and submersible land, is two hundred and fifty dollars (\$250) per application. A single application may include multiple land parcels; however, the Director may determine if additional application fees are necessary.

(2) The application fee for land sales involving new lands, historically filled lands and formerly submerged and submersible lands is five hundred dollars (\$500) per application.

(3) All application fees are non-refundable except as noted in these rules.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0290

Payments for Land Purchases; Payments for Land Exchanges; Contracts; Default

(1) The purchaser of land sales approved by the State Land Board shall pay, in full, the purchase price of the land or interest in land sold to the purchaser in accordance with the terms and conditions of the sale agreement.

(2) A land exchange partner shall pay, in full, any payment required as a part of a State Land Board-approved land exchange in accordance with the terms and conditions of the deed or binding land exchange agreement.

(3) Any purchaser may enter into a land sale contract with the Division for a period not exceeding five (5) calendar years beginning from the date of issuance of the certificate of sale. The payment schedule and the interest rate to be charged on the deferred payments shall be established by the Division and shall be based on the prime rate plus two percent (2%).

(4) Any purchaser of rangeland deemed eligible under OAR 141-067-0230 may pay at least ten percent (10%) of the purchase price at the time of purchase, and may then enter into a ten (10) year land sale contract with the Division to pay the remainder in ten (10) equal annual installments with the interest rate fixed by the Division in accord with ORS 327.425.

(5) If any installment payment, including principal or interest, remains unpaid for one (1) year after the payment is due, the sale contract shall be canceled by the Division; all payments forfeited; and the land considered available for sale or lease as if it had not been previously contracted to be sold.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0300

Procedures for Resolving Claims to Formerly Submerged or Submersible Land (does not apply to lands described in OAR 141-067-0200 or 0210)

(1) The State Land Board authorizes the Division to issue quitclaim deeds to resolve a cloud of ownership over formerly submerged and submersible land. Such lands may be disposed of only after the Division has completed a thorough and complete review of the facts and determined the extent, if any, of the state's ownership interest in the disputed land parcel. Such disputed lands may be, but are not limited to, parcels that once were submerged and/or submersible land but due to accretion or avulsion are no longer connected to or a part of a state-owned navigable waterway. In some cases, the Division may have relinquished its ownership interest long ago but the local government continues to carry it on the tax rolls as state-owned.

(2) In exchange for a quitclaim deed to disputed parcels of formerly submerged and submersible lands, the Division shall, where feasible and in the best interests of the public to do so, require the quitclaim grantee to issue a similar quitclaim to the Division for the existing submerged and submersible land fronting and abutting the grantee's land on the waterway as it exists at the time of the transaction.

(3) The Division shall notify the Department of Administrative Services prior to completing any transaction authorized by OAR 141-067-0300.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040,

ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0310

General Requirements for Appraisals

Appraisals conducted either for land sales, purchases or exchanges shall comply with the requirements set forth as follows:

- (1) Be conducted in accordance with the most current Uniform Appraisal Standards for Federal Land Acquisitions if required;
- (2) Be conducted by a State of Oregon-licensed appraiser who is deemed by the Division and all involved parties to be competent, reputable, and impartial and has the training and experience in appraising property similar to the property involved in the appraisal assignment.
- (3) Unless directed otherwise by the Division and involved parties, the appraisal shall estimate the fair market value of the property subject to appraisal based on its highest and best use, taking into account the contributory value of any and all interest in lands such as water rights, minerals, or timber to the extent that such interests are consistent with the highest and best use of the property.
- (4) The appraisal report shall include sufficient description of the property, highest and best use analysis, valuation methodology and support materials to fully document and justify the estimate of fair market value.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0320

Procedures for Evaluating Mineral Potential

- (1) When subsurface mineral interests are to be included in a proposed land sale or land exchange the Division or its agent shall conduct a thorough investigation of the mineral potential of the parcels in order to determine if any mineral potential exists.
- (2) The Department of Geology and Mineral Industries may conduct the mineral potential analysis for the Division.
- (3) For proposed land exchanges, the mineral potential of both the land exchange partner's land and the Division's land are to be evaluated.
- (4) When the Division deems it necessary an actual mineral appraisal may be required for a land exchange or land sale.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0330

Procedures for Land Purchases including Donations

- (1) Except for the purchase of Trust lands, the Division shall adhere to the requirements and procedures described in the Department of Administrative Service's rules for the Disposition and Acquisition of Real Property Interests (OAR 125-045).
- (2) Lands to be acquired for addition to the South Slough National Estuarine Research Reserve shall be approved by the South Slough Commission and the State Land Board.
- (3) Lands to be acquired by the Division through either purchase or donation shall be approved in advance by the State Land Board and shall be consistent with the policies set forth in the Asset Management Plan and OAR 141-067-0140 of these rules.
- (4) In acquiring land by purchase, the Division shall pay an amount equal to the price a prudent purchaser would pay under similar circumstances.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985
Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

141-067-0340

Appeals

A land exchange or land sale applicant or any other person directly affected by a decision of the Division or the Land Board may request reconsideration of the decision.

(1) The request shall be received by the Director no later than thirty (30) calendar days after the delivery of the decision.

(2) The Director shall review the request within sixty (60) calendar days after the date of delivery of the request.

(3) The Director may recommend to the Land Board either that the decision be modified based on the merits of the request, or that the Land Board authorize initiation of a contested case proceeding.

(4) There is no opportunity to request reconsideration of a land sale or land exchange once the transaction has occurred and title has passed from the State of Oregon to the purchaser or land exchange partner.

(5) If the Director recommends that the Land Board initiate a contested case proceeding, the Land Board shall select a hearing officer and proceed pursuant to ORS 183.413 through 183.470.

Stat. Auth.: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Stats. Implemented: OAR 141-167-0005 – OAR 141-067-0120, OAR 125-045, ORS 270.005 – ORS 270.190, ORS 273.045, ORS 273.245 – ORS 273.247, ORS 273.251 – ORS 273.311, ORS 273.316 – ORS 273.321, ORS 273.413 – ORS 273.456, ORS 274.040, ORS 274.905 – ORS 274.940, ORS 274.960 – ORS 274.985

Hist.: DSL 2-2002, f. 4-12-02, cert. ef. 7-1-02

DIVISION OF STATE LANDS
EASTERN REGION
2004 FORAGE LEASES

<u>LEASE NO.</u>	<u>LESSEE NAME/ADDRESS</u>	<u>ACRES</u>	<u>AUM'S</u>	<u>RATE</u>	<u>RENTAL</u>	<u>EXPIRES</u>	<u>COMMENTS</u>
FL-16308-CR (GR-172-CR)	BREESE, DOUG 101962 Bull Boulevard Prineville, OR 97754 (541) 447-5003	320.00	32	\$4.32	\$ 138.24	02/28/15	Constitutional
FL-16309-HA (GR-174-HA)	CATTERSON, FRANK 64806 S. Harney Rd. Burns, OR 97720	1,920.00	185		799.20	02/28/15	Constitutional
FL-16310-HA (GR-182-HA)	VAN GRAZING COOPERATIVE, INC. c/o Barbara Howard PO Box 115 Drewsey, OR 97904 (541) 493-2603	320.00	22		100.00	02/28/15	Constitutional
FL-16311-LA (GR-183-LA)	LX RANCH, INC. Lane, Tom - Pres. PO Box 56 17160 Island Rd. Adel, OR 97620 (541) 947-2834	695.67	50		216.00	02/28/15	Constitutional
FL-16312-MA (GR-187-MA)	HUJETER, CALVIN/LYNN 3057 Little Valley Rd. Harper, OR 97906	640.00	38		164.16	02/28/15	Constitutional
FL-16313-HA (GR-188-HA)	SEELY RANCH Seely, Melvita PO Box 243 Burns, OR 97720 (541) 493-2624	1,440.00	115		496.80	02/28/15	Constitutional

LEASE NO.	LESSEE NAME/ADDRESS	ACRES	AUM'S	RATE	RENTAL	EXPIRES	COMMENTS
FL-16314-MA (GR-194-MA)	IRONSIDE ASSOCIATES LTD PARTNERSHIP 1050 Sansome St San Francisco, CA 94111	797.88	71	\$4.32	\$ 306.72	02/28/15	Constitutional
FL-16315-HA (GR-203-HA)	HOUCK CATTLE COMPANY Houck, Scott/Noel 70984 Reed Road Burns, OR 97720	1,037.96	120		518.40	02/28/15	Constitutional
FL-16316-MA (GR-206-MA)	MCBRIDE, TIMOTHY S. 4230 Halliday Rd. Vale, OR 97909 (541) 473-3020	520.00	35		151.20	02/28/15	Constitutional
FL-16317-HA (GR-212-HA)	ROARING SPRINGS RANCH, INC. 985 NW 2 nd Street Kalama, WA 98625 (541) 495-2325; (360) 673-2825	656.20	64		276.48	02/28/15	Constitutional
FL-16318-HA (GR-214-HA)	LONE PINE RANCH Box 1025 Burns, OR 97720 (541) 573-3128	360.00	30		129.60	02/28/15	Constitutional
FL-16319-LA (GR-221-LA)	THE POPLARS RANCH INC. Parks, Alan HC 61 Box 9606 Silver Lake, OR 97638 (541) 576-2651	640.00	45		194.40	02/28/15	Constitutional
FL-16320-DE (GR-224-DE)	MILTENBERGER, DONALD W. 63560 Johnson Ranch Market Rd. Bend, OR 97701 (541) 382-5456; (541) 389-7007	320.00	22		100.00	02/28/15	Constitutional

<u>LEASE NO.</u>	<u>LESSEE NAME/ADDRESS</u>	<u>ACRES</u>	<u>AUM'S</u>	<u>RATE</u>	<u>RENTAL</u>	<u>EXPIRES</u>	<u>COMMENTS</u>
FL-16327-HA (GR-296-HA)	DRYER, DONALD A. c/o Don Dryer Jr. PO Box 107 Drewsey, OR 97904 (541) 493-2662	320.00	17	\$4.32	\$ 100.00	02/28/15	Constitutional
FL-16328-HA (GR-319-HA)	CARPENTER RANCH LLC 1930 Lewis St SE Salem, OR 97302-1240 (503) 375-9939	240.00	24		103.68	02/28/15	Constitutional
FL-16329-LA (GR-322-LA)	CRON, DANNY/LAURITA 26277 Plush-Adel Road Plush, OR 97637 (541) 947-3039	320.00	50		216.00	02/28/15	Constitutional
FL-16330-HA (GR-325-HA)	CANNADY, BARBARA MANOCK, CAROLINE W. Box 7 Hines, OR 97738 (217) 935-3755; (541) 493-4663 Sub-lessee: THOMPSON RANCH INC. HC 73 Box 3561 Hwy. 78 Princeton, OR 97721	388.13	39		168.48	02/28/15	Constitutional
FL-16331-HA	DRY MOUNTAIN RANCH LLC Evans, Wayne 70194 Silver Creek Rd. Riley, OR 97758 (541) 493-2392	640.00	50		216.00	02/28/15	Constitutional
FL-16332-MA (GR-343-MA)	ANDRE, MARTIN PO Box 205 Arock, OR 97902	640.00	93		401.76	02/28/15	Constitutional

<u>LEASE NO.</u>	<u>LESSEE NAME/ADDRESS</u>	<u>ACRES</u>	<u>AUM'S</u>	<u>RATE</u>	<u>RENTAL</u>	<u>EXPIRES</u>	<u>COMMENTS</u>
FL-16333-HA (GR-350-HA)	NAFTZGER, R. E. dba Whitehorse Ranch 57735 Whitehorse Ranch Ln. Fields, OR 97710	680.00	34	\$4.32	\$ 146.88	02/28/15	Constitutional
FL-16334-HA (GR-374-HA)	KIELY RANCH INC. c/o Tom Kiely 230 North G Street Lakeview, OR 97630	640.00	50		216.00	02/28/15	Constitutional
FL-16335-MA (GR-415-MA)	SNAPP, DANIEL Box 37 McDermitt, NV 89421 (702) 532-8611	640.00	51		220.32	02/28/15	Constitutional
FL-16336-MA (GR-416-MA)	ETCHART, DAVID Box 435 McDermitt, NV 89421 (541) 586-4003, 4005	160.00	213		920.16	02/28/15	Constitutional
FL-16337-DE (GR-426-DE)	ROTH, DAVID/JANETTE PO Box 358 Christmas Valley, OR 97641 (541) 576-2270	634.16	154		665.28	02/28/15	Constitutional
FL-16338-MA (GR-453-MA)	BURNS PAIUTE TRIBES HC 71 100 Pasigo Street Burns, OR 97720	320.00	26		112.32	02/28/15	Constitutional
FL-16340-GR (GR-475-GR)	DAVIDSON, CLYDE HCR 79, Box 12 Monument, OR 97964 (541) 934-2256	40.00	8		100.00	02/28/15	Constitutional

<u>LEASE NO.</u>	<u>LESSEE NAME/ADDRESS</u>	<u>ACRES</u>	<u>AUM'S</u>	<u>RATE</u>	<u>RENTAL</u>	<u>EXPIRES</u>	<u>COMMENTS</u>
FL-16341-GR (GR-476-GR)	COOMBS, JOHN W. Route 2, Box 581 Prairie City, OR 97869	40.00	8	\$4.32	\$ 100.00	02/28/15	Constitutional
FL-16342-KL (GR-478-KL)	KENO SPRINGS LAND & LIVESTOCK CO 3300 Bly Mountain Cutoff Bonanza, OR 97623 Billing to: MUNN, JILL 4A's Ranch 145 Hodencamp Rd. #206 Thousand Oaks, CA 91360 (805) 496-5655	3,043.88	300		1,296.00	02/28/15	Constitutional
FL-16343-GR (GR-482-GR)	ERVIN, GARY L./CHERYL L. 6381 Wainwright Road Prineville, OR 97754	480.00	72		311.04	02/28/15	Constitutional
FL-16344-CR (GR-483-CR)	READE, RUSSELL L. PO Box 759 Pahrump, NV 89041 (541) 447-3421 Sub-lessee: GILBERTSON, LEIF PO Box 310 Prineville, OR 97754	640.00	64		276.48	02/28/15	Constitutional
FL-16345-WO (GR-485-WO)	ASHLEY, LARRY Ashley Wheat & Cattle Ranch 90530 Bakeoven Road Maupin, OR 97037 (541) 395-2529	80.00	13		100.00	02/28/15	Constitutional

<u>LEASE NO.</u>	<u>LESSEE NAME/ADDRESS</u>	<u>ACRES</u>	<u>AUM'S</u>	<u>RATE</u>	<u>RENTAL</u>	<u>EXPIRES</u>	<u>COMMENTS</u>
FL-16351-WH (GR-499-WH)	STREWALT ESTATE, JAMES M. Elizabeth Parke, Special Admin. 7110 SW Fir Loop Suite 170 Portland, OR 97223 (503) 598-7909	1,910.60	154	\$4.32	\$ 665.28	02/28/15	Constitutional
FL-16352-LA (GR-503-LA)	FITZGERALD RANCH INC. c/o Eleanor Utley PO Box 16 Plush, OR 97637 (541) 947-5164	2,308.23	Actual Use			02/28/15	Statutory
FL-16352-LA	CRON, DANNY/LAURITA 26277 Plush - Adel Road Plush, OR 97637 (541) 947-3039		Actual Use			02/28/15	Statutory
FL-16353-LA (GR-505-LA)	LAIRD RANCH PO Box 113 Plush, OR 97637 (541) 947-2453	392.60	50		216.00	02/28/15	Statutory
FL-16354-HA (GR-513-HA)	BECK, RAY 68629 Faye Ln Burns, OR 97720	159.80	14		160.00	02/28/15	Constitutional
FL-16355-GR (GR-516-GR)	BROOKS, ROBERT L. PO Box 487 Mt. Vernon, OR 97865 (541) 932-4540	160.00	10		100.00	02/28/15	Constitutional
FL-16356-GR (GR-517-GR)	MASCALL RANCH Mascall, Bill 42304 Hwy. 26 Dayville, OR 97825	640.00	64		276.48	02/28/15	Constitutional

LEASE NO.	LESSEE NAME/ADDRESS	ACRES	AUM'S	RATE	RENTAL	EXPIRES	COMMENTS
FL-16357-WH (GR-518-WH)	PAUL, RICK/DANIELLE 33561 Parrish Creek Road Mitchell, OR 97750 (541) 462-3283	200.00	20	\$4.32	\$ 100.00	02/28/15	Constitutional
FL-16358-GR (GR-519-GR)	STEUER, MILDRED C/o Betty Wylie Sigler PO Box 157 St. Paul, OR 97137	480.00	72		311.04	02/28/15	Constitutional
FL-16359-HA (GR-527-HA)	DENNY LAND & CATTLE COMPANY 7300 Wells Fargo Way Corning, CA 96021-9011 (541) 573-2878; fax (541) 573-2736	160.00	16		100.00	02/28/15	Constitutional
FL-16360-LA (GR-539-LA)	FLYNN, CON/NORA 421 South G Street Lakeview, OR 97630 (541) 947-2251	1,441.28	385		1,633.20	02/28/15	Statutory
FL-16361-KL (GR-542-KL)	LYON, ROD 20302 Paygr Road Malin, OR 97632	80.00	8		100.00	02/28/15	Constitutional
FL-16362-HA (GR-544-HA)	RANEY, RICHARD/PATRICIA 67337 Silver Creek Rd. Riley, OR 97758 (541) 493-2725 Dba Nelsons Bar X Weatherford, TX 76086 (817) 594-8634	640.00	34		146.88	02/28/15	Constitutional
FL-16363-GR (GR-549-GR)	COLVIN, TOM 37650 Ritter Rd. Ritter, OR 97856	40.00	8	\$4.32	\$ 100.00	02/28/15	Constitutional

<u>LEASE NO.</u>	<u>LESSEE NAME/ADDRESS</u>	<u>ACRES</u>	<u>AUM'S</u>	<u>RATE</u>	<u>RENTAL</u>	<u>EXPIRES</u>	<u>COMMENTS</u>
FL-16364-GR (GR-551-GR)	BORGERSON, JOHN L. PO Box 988 Pendleton, OR 97801	480.00	48		207.36	02/28/15	Constitutional
FL-16365-HA (GR-552-HA)	TOELLE, DON G. 72702 Cow Creek Rd. Burns, OR 97720 (541) 493-2451	1,798.15	216		933.12	02/28/15	Constitutional
FL-16366-KL (GR-556-KL)	WILKINSON, JAMES PHIL 21080 N. Poe Valley Road Klamath Falls, OR 97603 (541) 882-1122	240.00	12		193.00	02/28/15	Constitutional
FL-16367-LA (GR-557-LA)	LX RANCH c/o Tom Lane PO Box 56 17160 Island Rd. Adel, OR 97620 (541) 947-2834	8,658.02	Actual Use			02/28/15	Statutory
FL-16368-HA (GR-559-HA)	CHURCH, HENRY 58191 Hwy 205 Princeton, OR 97721	600.00	35		151.20	02/28/15	Constitutional
FL-16369-KL (GR-560-KL)	LOHNER, MICHELLE & HARE, CHRIS 13383 Harpold Road Klamath Falls, OR 97603	40.00	8		100.00	02/28/15	Constitutional
FL-16370-HA (GR-563-HA)	MOON & SONS, J. F. PO Box 875 Burns, OR 97720 (541) 493-2409	640.00	185	\$4.32	\$ 799.20	02/28/15	Constitutional

LEASE NO.	LESSEE NAME/ADDRESS	ACRES	AUM'S	RATE	RENTAL	EXPIRES	COMMENTS
FL-16371-HA (GR-571-HA)	OTLEY BROTHERS INC. HC 72 Box 31 Diamond, OR 97722 (541) 493-2469	560.00	41		177.12	02/28/15	Constitutional
FL-16372-UN (GR-572-UN)	FORTH, DEAN 41257 Rieth Road Pendleton, OR 97801 (541) 276-1575	606.84	76		328.32	02/28/15	Constitutional
FL-16373-WH (GR-576-WH)	GRINDSTAFF, D. R. 6261 S. Copley Rd. Powell Butte, OR 97753 (541) 447-6150	120.00	20		100.00	02/28/15	Constitutional
FL-16374-GR (GR-581-GR)	RF WILSON TRUST Wilson, RF 45098 Hwy. 26 PO Box 99 Lyons, OR 97358 (503) 859-2134	640.00	40		172.80	02/28/15	Constitutional
FL-16375-MO (GR-586-MO)	WRIGHT, ORIAN A. PO Box 276 Heppner, OR 97836-0276 (541) 676-9734; 9777-9874	40.00	8		100.00	02/28/15	Constitutional
FL-16376-GR (GR-588-GR)	WESTBROOK, JAMES L./SHIRLEY PO Box 13 Ritter, OR 97872	115.00	23		100.00	02/28/15	Constitutional
FL-16377-SH (GR-591-SH)	RECKMANN, JOHN H. C/o Betty Odom 55133 Juniper Flat Rd. Maupin, OR 97037	40.00	8	\$4.32	\$ 100.00	02/28/15	Constitutional

LEASE NO.	LESSEE NAME/ADDRESS	ACRES	AUM'S	RATE	RENTAL	EXPIRES	COMMENTS
FL-16378-GR (GR-592-GR)	HEALY RANCH LLC c/o Kathryn Healy Thorne 67179 Little Butte Creek Road Heppner, OR 97836	734.00	147		635.04	02/28/15	Constitutional
FL-16379-LA (GR-600-LA)	STABB, EDWARD 145 Lakewood Road Walnut Creek, CA 94598 (510) 933-8190	338.18	150		648.00	02/28/15	Statutory
FL-16380-HA (GR-602-HA)	PURDY, WAYNE/CAROL 80943 Purdy Lane Burns, OR 97720	320.00	32		138.24	02/28/15	Constitutional
FL-16382-HA (GR-606-HA)	CLEMENS, TIM & BRADLEY J. 90 W. Adams Burns, OR 97720 (541) 573-2621	960.00	79		341.28	02/28/15	Constitutional
FL-16383-HA (GR-607-HA)	CLEMENS, THOMAS C. & BRADLEY J. 90 W. Adams Burns, OR 97720 (541) 573-6002; 6627	680.00	50		216.00	02/28/15	Constitutional
FL-16385-GR (GR-609-GR)	YOUNG LAND CO., INC., JACK/MERILEE PO Box 576 John Day, OR 97845	80.00	8		100.00	02/28/15	Constitutional
FL-16386-DE (GR-611-DE)	NOBLOCK, FRANK/JOYCE 25184 Alfalfa Market Road Bend, OR 97701 (541) 389-1872	200.00	20	\$4.32	\$ 100.00	02/28/15	Constitutional

LEASE NO.	LESSEE NAME/ADDRESS	ACRES	AUM'S	RATE	RENTAL	EXPIRES	COMMENTS
FL-16387-HA (GR-616-HA)	USDA/ARS Nelson, Jack 800 Buchanan Albany, CA 94710	640.00	50	Flat rate	125.00	02/28/15	Constitutional
FL-16388-CR (GR-620-CR)	RAASCH, RONALD A. Box 11 Powell Butte, OR 97753 (541) 447-1992	520.00	52	\$4.32	224.64	02/28/15	Constitutional
FL-16389-JA (GR-628-JA)	KROUSE, PHILIP R. Krouse Ranch Inc. 15877 N. Applegate Road Grants Pass, OR 97527 (541) 846-6542	200.00	20		100.00	Cancelled	No payment, no lease. Sent 2 nd time 6/10 Sent 3 rd copy of lease with billing for 99 & Late fee request on 2/3/00. Sent 4 th copy Of lease & invoice on 3/7/00. No lease or Pymnt. For 2000 as of 11/7/00.
FL-16390-HA (GR-629-HA)	MOON, GEREN R. PO Box 712 Hines, OR 97738-0712	320.00	16		100.00	02/28/15	Constitutional Constitutional
FL-16391-HA (GR-630-HA)	BRADACH, CHAD/CHARMARIE 65443 Hwy 78 Burns, OR 97720 (541) 493-2366	320.00	40		172.80	02/28/15	Constitutional
FL-16392-HA (GR-631-HA)	KNIERIEM, HAROLD D., JR./ALICE 70014 S. Harney Road Burns, OR 97720 (541) 493-9538	400.00	102		440.64	02/28/15	Constitutional
FL-16393-HA (GR-633-HA)	LeFOR, V. J. 30418 Weaver Springs Lane Burns, OR 97720 (541) 493-2865	758.61	60	\$4.32	\$ 259.20	02/28/15	Constitutional

<u>LEASE NO.</u>	<u>LESSEE NAME/ADDRESS</u>	<u>ACRES</u>	<u>AUM'S</u>	<u>RATE</u>	<u>RENTAL</u>	<u>EXPIRES</u>	<u>COMMENTS</u>
FL-16394-HA (GR-634-HA)	MEYERHOFER, THEODORE J. 3966 Cole School Road Scio, OR 97374-9371	160.00	13		100.00	Cancelled	DECEASED -- SOLD TO REDDING HOG FARMS -- Property to be checked out. 2/2/00 closed in data base.
FL-16395-LA (GR-636-LA)	FLYNN, CONNORA 421 South G Street Lakeview, OR 97630 (541) 947-2251	200.00	20		100.00	02/28/15	Constitutional Constitutional
FL-16396-LA (GR-638-LA)	MAXWELL, LARRY Maxwell Cattle Company 23036 Maxwell Rd. Lakeview, OR 97630 (541) 947-3259	80.00	10		100.00	02/28/15	Constitutional
FL-16398-KL (GR-641-KL)	GRIFFITH, TOM PARKER, DOUGLAS E. 4582 Freshwater Road Williams, CA 95987	819.00	275		1,188.00	02/28/15	Constitutional
FL-16399-HA (GR-642-HA)	DENNY LAND & CATTLE COMPANY 7300 Wells Fargo Way Corning, CA 96021-9011 Mgr. Bob Debraga (541) 573-2742	520.00	26		112.32	02/28/15	Constitutional
FL-16400-LA (GR-643-LA)	CAHILL, TERRY Cahill Ranches, Inc. PO Box 17 Adel, OR 97620 (541) 947-2808	373.55	125		500.00	02/28/15	Statutory
FL-16401-LA (GR-644-LA)	AMARAL, GREG 1606 Amarat Court Fairfield, CA 94534 (707) 864-8000	187.69	112	\$4.32	\$ 483.84	02/28/15	Statutory

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FL-16402-HA (GR-646-HA)	HYLAND, PAUL V/WINGFIELD DARLENE D PO Box 517 Burns, OR 97720 (661) 472-8856	155.67	15		100.00	02/28/15	Constitutional
FL-16403-HA (GR-647-HA)	ROSS-NORDEEN, BETSEY 65335 Lawen Rd. Burns, OR 97720	147.55	16		100.00	02/28/15	Constitutional
FL-16404-CR (GR-648-CR)	DERBY-SMITH PARTNERS 15 SW Colorado Avenue Bend, OR 97702 (541) 382-6691	320.00	32		138.24	02/28/15	Constitutional
FL-16405-LA (GR-656-LA)	MENSCH, RICHARD Mensch Ranch PO Box 628 Christmas Valley, OR 97641 (541) 576-2699	160.00	16		100.00	02/28/15	Constitutional
FL-16406-WA (GR-660-WA)	OREGON DEPT. OF FISH & WILDLIFE Rawlins, C. Wayne PO Box 59 Portland, OR 97207	40.00	8		100.00	02/28/15	Constitutional
FL-16407-UN (GR-661-UN)	SNOW, H. RICHARD/SHIRLEY 33263 Oregon Trail Road Echo, OR 97826-9000 (541) 376-8231	80.00	8		100.00	02/28/15	Constitutional
FL-16408-HA (GR-662-HA)	ARNOLD, PETE 70015 Crane-Buchanan Road Burns, OR 97720	160.15	16	\$4.32	100.00	02/28/15	Constitutional

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FL-16409-WA (GR-664-WA)	LEWIS, DELBERT 307 North Elm PO Box 367 Red Cloud, NE 68970 (402) 746-2511; 3201	80.00	8		\$ 100.00	Cancelled	Constitutional Lessee deceased. Closed in data base 01/20/2004
FL-16410-HA (GR-667-HA)	SITZ RANCH PARTNERSHIP PO Box 206 Drewsey, OR 97904 (541) 493-2363	640.00	68		293.76	02/28/15	Constitutional
FL-16412-HA (GR-669-HA)	PEILA, WILLIAM/LORI PO Box 723 Hines, OR 97738	600.00	50		243.00	02/28/15	Constitutional
FL-16413-LA (GR-670-LA)	TAYLOR, JOHN PO Box 51 Plush, OR 97637	640.00	32		138.24	02/28/15	Constitutional
FL-23836-UN	SEALE, ROBIN & LAURIE PO Box 768 Union, OR 97883 (541) 562-6089	80.00	6		100.00	07/31/15	Constitutional
FL-24361-UM	SHUMWAY, LEONA 415 Parkview Milton-Freewater, OR 97862 (541) 938-7919	160.00	40		172.80	12/31/05	Constitutional